

ATTACHMENTS UNDER SEPARATE
COVER

ORDINARY COUNCIL MEETING
14 MARCH 2023



PORT STEPHENS
C O U N C I L

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DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2022-566-1
Development Description	Semi-detached dwellings, retaining walls, site works and subdivision
Applicant	PORT STEPHENS ENGINEERS
Land owner	MR W P & MRS L M EDWARDS
Date of Lodgement	14/07/2022
Value of Works	\$1,256,000.00
Submissions	0

PROPERTY DETAILS

Property Address	23 Tareebin Road NELSON BAY
Lot and DP	LOT: 102 DP: 1061399
88B Restrictions on Title	<p>Easement for Services – benefiting burdening Lots 101 & 102</p> <p>Easement for Right of Way - benefiting burdening Lots 101 & 102</p> <p>The above easements are located within the private road to the west of the site.</p>
Current Use	Vacant
Zoning	R2 LOW DENSITY RESIDENTIAL
Site Constraints	<p>Bushfire Prone Land – Category 1, Vegetation Buffer</p> <p>Acid Sulfate Soils – Class 5</p> <p>Koala Habitat – Preferred</p> <p>Stormwater Drainage Requirement Areas</p> <p>Combined Corridor Map – Landscape Habitat Link, Local Link</p> <p>Land Slip Area</p> <p>Slope – 20%</p> <p>Height of Buildings – 9m</p>

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021

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

PROPOSAL

The development application seeks consent for the removal existing vegetation on the site, the construction of 2 x semi-detached four-storey dwellings and 1 into 2 lot Torrens title subdivision, as per Figure 1 below. Each dwelling will be provided with a double garage, four bedrooms, internal lift access, open plan living and dining spaces. The dwellings are proposed to be accessed via a shared crossover from the existing private access road along the sites western boundary.

The site has a significant cross fall of 16.5m from the west to the east (start at 92.5m AHD to and falling to 76m AHD). To respond to the topography, the dwellings are proposed to be a stepped design with the fall of the site. To facilitate the development and create suitable building footprints, the proposal requires the construction of retaining walls and earthworks in the form of both cut and fill. A maximum cut of 46.47m³ and 58.41m³ of fill is proposed.

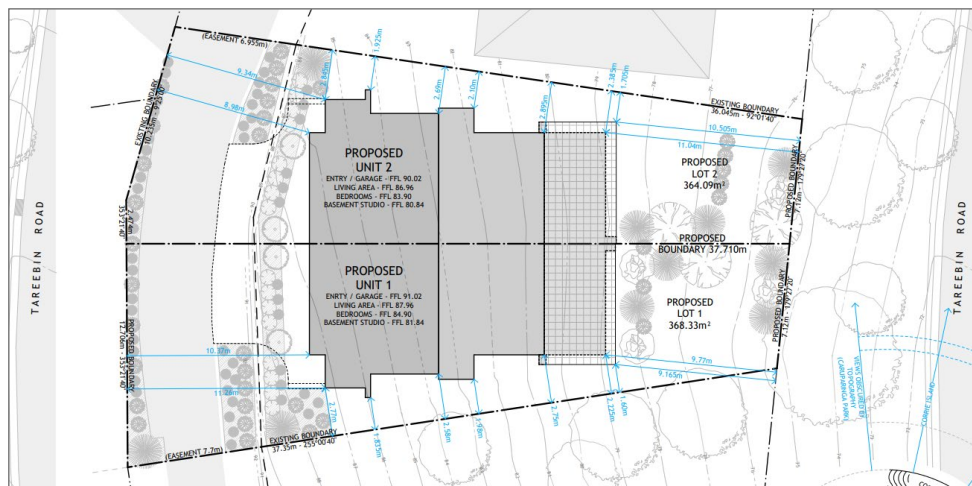


Figure 1. Proposed Site Plan

The proposal will result in the creation of two lots resulting in a single dwelling on each of the lots. The lot details are as follows:

- Proposed Lot 1 – 368.33m²
- Proposed Lot 2 – 364.09m²

In accordance with the Port Stephens Local Environmental Plan 2013 (PSLEP 2013), the maximum height of buildings for the site is 9m. The maximum height of the dwellings is 11.03m and therefore a 22.6% variation is proposed. Given the application proposes a height variation over 10%, the proposal is required to be reported to Council for determination in accordance with the 'Planning Matters reported to Council' policy.

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SITE DESCRIPTION

The subject site is legally identified as Lot 102 DP 1061399 and generally known as 23 Tareebin Road, Nelson Bay. The site has a significant fall from the west to the east and is currently vacant of any structures, refer to Figure 2. The site has two road frontages, one to the east (Tareebin Road) and one to the west (private road).

The site is largely surrounded by low density residential development with Caruparinga Park situated further to the west.



Figure 2. Site Aerial

SITE HISTORY

The subject site has a number of historical applications as outlined in the table below.

Application Type and No.	Proposal	Determination
BA/DA 16-1994-42103-1	18 Lot Subdivision	Approved – May 1995
DA 16-1999-2156-1	Units	Refused – March 2000
DA 16-2000-1111-1	16 Dwellings	Approved – December 2000
DA 16-2002-448-1	Urban Housing Development (8 detached dwellings)	Approved – April 2003
DA 16-2003-993-1	Two Lot Subdivision Torrens	Approved – July 2003
DA 16-2022-202-1 (DA16-2022-202-1 was withdrawn upon the request of Council due to insufficient information being provided to assess the development at the time of lodgement)	Two semi-detached dwellings and 1 into 2 lot Torrens title subdivision	Withdrawn – April 2022

SITE INSPECTION

A site inspection was carried out on 29 July 2022.

The subject site can be seen in Figures 3 - 6 below:

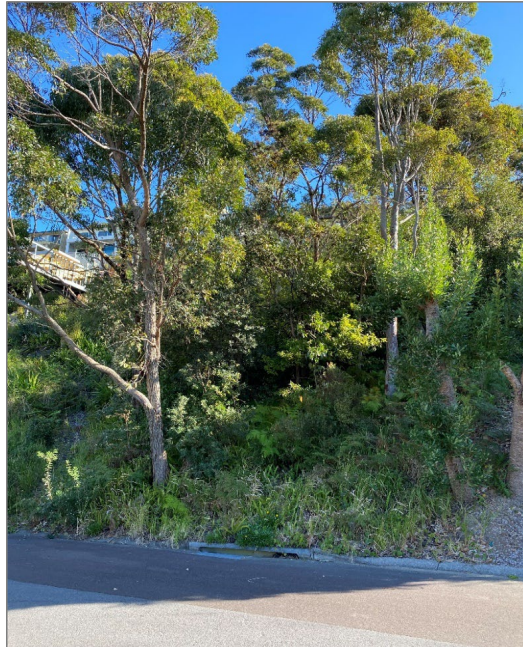


Figure 3. The site from Tareebin Road



Figure 4. Existing vegetation on the site as viewed from the private road



Figure 5. The site from the private road



Figure 6. The site frontage to the private road

ITEM 1 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.**PLANNING ASSESSMENT**

The application was assessed by the following external agencies and internal specialist staff:

Internal

Development Engineer – The proposal was referred to Council's Development Engineer to review the proposed access arrangement and stormwater design. The application was supported subject to conditions, which have been included within the recommended conditions.

Natural Systems – Given the presence of vegetation on the site, the proposal was referred to Council's Natural Systems team for review. Council's Natural Systems Officer conducted a site inspection and found that there were no existing hollows, koala habitat or threatened species on present on the site. A Flora and Fauna Assessment Report prepared by Habitat Environmental Services submitted with the application was also reviewed as a part of the referral. Council's Natural Systems Officer endorsed the conclusions of the Flora and Fauna Assessment Report and advised construction mitigation measures be included as a condition of consent. Overall, the application was supported subject to conditions.

Development Contributions – The application was referred to Council's Development Contributions Officer. It was found that S7.11 contributions apply, and a recommended condition has been provided and included in the recommended conditions.

Spatial Services – Addressing has been allocated by Council's Spatial Services team.

External

NSW Rural Fire Service – The proposed development involves residential subdivision, which is defined as integrated development and requires referral to the NSW Rural Fire Service (RFS) requiring a Bushfire Safety Authority (BSA) under Section 100B of the Rural Fires Act 1997. RFS issued General Terms of Approval, subject to conditions.

Environmental Planning and Assessment Act 1979***Section 4.46 - Integrated development***

Section 4.46 EP&A Act provides that development is integrated development if in order to be carried out, the development requires development consent and one or more other approvals. The proposed development is integrated development and requires the General Terms of Approval (GTA) from the Rural Fire Service, as further detailed in the associated Act below.

Rural Fires Act 1997

The proposed development involves residential subdivision, which is defined as integrated development and requires referral to the NSW Rural Fire Service (RFS) requiring a Bushfire Safety Authority (BSA) under Section 100B of the Rural Fires Act 1997 and General Terms of Approval (GTA) under Division 4.8 of the EP&A Act.

General Terms of Approval (GTAs) were issued by the RFS subject to conditions. These conditions include:

- The western elevation be constructed to BAL 29.
- The remaining elevations of the dwellings to be constructed to BAL 19.
- That all new construction must comply with Planning for Bushfire Protection 2019 (PBP).
- The provision of water, electricity and gas must comply with PBP 2019.
- Landscaping must comply with PBP 2019.

The GTAs have been included in a recommended condition of consent.

ITEM 1 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.***Section 4.15 - Matters for consideration***

The proposal has been assessed under the relevant matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Section 4.15(a)(i) - any environmental planning instrument

An assessment has been undertaken against each of the applicable environmental planning instruments (EPI's), as follows:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) was enacted to ensure that dwellings are designed to utilise less potable water and to minimise greenhouse gas emissions by setting energy and water reduction targets for residential houses and units.

A valid BASIX certificate (certificate no. 1285063M) has been submitted with the development application which demonstrates that the water, thermal comfort and energy requirements for the proposal have been achieved. The proposal is considered to satisfy the relevant provisions of SEPP BASIX.

State Environmental Planning Policy (Biodiversity and Conservation) 2021**Chapter 2 Vegetation in Non-Rural Areas**

Chapter 2 Vegetation in Non-Rural Areas of the Biodiversity and Conservation SEPP aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The chapter works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

Part 2.3 of the chapter contains provisions similar to those contained in the former (now repealed) clause 5.9 of Port Stephens Local Environmental Plan 2013 and provides that Council's Development Control Plan can make declarations with regards to certain matters. The chapter further provides that Council may issue a permit for tree removal.

Approximately 0.05 ha of vegetation clearing will be required for the construction of the proposed dwellings. The removal of the existing trees is supported as the trees have low ecology or amenity value and replacement plantings are proposed by the applicant consistent with Council's landscape technical specifications.

Chapter 4 Koala Habitat Protection 2021

This SEPP aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The site is mapped as containing preferred koala habitat. The Flora and Fauna Assessment prepared by Habitat Environmental Services surveyed the site and found the site does not support any vegetation consistent with 'preferred koala habitat' but rather is comprised of regenerating forms of Plant Community Type (PCT) 1619 which consists of Smooth-barked Apple, Red Bloodwood, Brown Stringybark and Hairpin Banksia. Utilising the findings of journal article "Determining the distribution of Koala habitat across a shire as a basis for conservation: a case study from Port Stephens, New South Wales" the Flora and Fauna Assessment determined the PCT present on the site was more aligned with 'marginal koala habitat'.

Council's Natural Systems Officer conducted a site visit on 5 August 2022 and found that the vegetation type was consistent with that identified in the Flora and Fauna Assessment.

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Furthermore, during the site visit no evidence of koalas being present was observed (scratch or scat).

Considering the above findings, and noting the site being located within a developed residential area, Council's Natural Systems Officer concluded that the proposal is unlikely to result in any impact to koala habitat or movement. The high value and protected quality habitat exists to the south and will not be impacted by the proposal. Accordingly, it is considered that the proposal is compliant with the requirements of this SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

Section 4.6 of Chapter 4 of the Resilience and Hazards SEPP requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.

The NSW list of contaminated sites and list of notified sites published by the EPA does not identify the site as being contaminated, nor has previous record of contamination in Council's system. The land is not within an investigation area, nor are there records of potentially contaminating activities occurring on the site use, per Table 1 of the Contaminated Land Planning Guidelines. Noting this, the proposed development satisfies the requirements of Chapter 4 of this SEPP.

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The site is zoned R2 Low Density Residential in accordance with the PSLEP 2013.

The proposed development is defined as 'semi-detached dwellings', which is a permissible land use with consent in the R2 zone. The proposal is considered to be consistent with the objectives of the zone in that it will provide additional housing within an established residential area and is compatible with surrounding development.

The proposal is consistent with Council's Local Housing Strategy in that it provides infill housing within the Tomaree area and increases diversity of housing choice. The provision of infill housing is also consistent with the Greater Newcastle Metropolitan Plan (GNMP), which has a target for 60% of new dwellings within Greater Newcastle to be infill housing by 2036.

Clause 4.1 – Minimum Subdivision Lot Size

Clause 4.1 outlines the minimum lot size applicable to the subject sites, as identified on the minimum lot size map, to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls.

The minimum lot size applicable to the site is 500m². The proposal seeks to subdivide to a lot size smaller than 500m². Whilst not consistent with Clause 4.1, the proposal is consistent with Clause 4.1C of the PSLEP, as discussed further below.

Clause 4.1C – Exceptions to minimum lot sizes for certain residential development

Clause 4.1C allows for exceptions to the minimum lot size for certain residential development within certain zones. Clause 4.1C applies to the R2 Low Density Residential zone. This Clause notes that development must include:

- (a) the subdivision of land into 2 lots or more lots for the purpose of an attached dwelling, a dwelling house or a semi-detached dwelling,*
- (b) the erection of a dwelling on each lot resulting from the subdivision, if the size of each lot is equal to or greater than—*
 - (i) for the erection of an attached dwelling—200 square metres, or*

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(ii) for the erection of a dwelling house—250 square metres, or

(iii) for the erection of a semi-detached dwelling—250 square metres.

The proposed development seeks to subdivide the land into 2 lots for the purposes of semi-detached dwellings. The proposed lots exceed the minimum 250m² requirement specified in (b) (iii) above, with the proposed lots being 368.33m² (Unit/Lot 1) and 364.09m² (Unit 2/Lot 2) respectively. Therefore, the proposal is compliant with Clause 4.1C.

Clause 4.3 – Height of Buildings

In accordance with the PSLEP Height of Buildings map, the maximum permissible building height on the site is 9m. The proposed development has a maximum height of 11.03 metres measured from the existing ground level, representing a non-compliance with Clause 4.3. The proposed height variation is 22.6% (2.03m) and therefore is required to be reported to Council for determination in accordance with the 'Planning Matters reported to Council' policy.

A Clause 4.6 written request to vary the height development standard has been prepared for the proposal and is provided at Attachment 1 to this report.

Clause 4.6 – Exceptions to development standards

As discussed against Clause 4.3 above, the application includes a proposed variation to the maximum height of buildings. The development standard is 9m and the proposed maximum height is 11.03m, representing at 22.6% (2.03m) variation.

A request to vary the building height development standard has been submitted by the applicant in accordance with Clause 4.6 of the PSLEP. Council staff are satisfied with the proposed height variation on the following grounds:

- (a) the proposed development is considered to be appropriate for the context of the area in that many dwellings located on the ridge have been designed in such a way that responds to the slope of the land (cl 4.6(4)(a)(ii));
- (b) the height variation is restricted to the roof components of the proposed dwellings and does not result in impacts to existing view corridors nor result in adverse amenity or overshadowing impacts to neighbouring properties (cl 4.6(4)(a)(ii));
- (c) the proposed development exceeds the maximum height of building limit due to the steep topography of the land. The dwellings step down with the topography of the land to reduce the scale and overall height of the development which is consistent with other development in the locality and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii));
- (d) the height non-compliance does not result in the building being out of scale in the context of surrounding development and is not likely to have an adverse impact on local amenity and therefore consistent with the objective of the zone and in the public interest (cl 4.6(4)(a)(ii)).

The proposed development is considered satisfy the objectives of Clause 4.6, as the design will achieve a better design outcome in these particular circumstances, noting the objectives of the development standard are achieved notwithstanding the non-compliance. The proposed building is considered to be appropriate in the context of the site.

It is considered that the applicant's written Clause 4.6 variation request adequately demonstrates that there are sufficient environmental planning grounds to justify contravening the maximum building height standard and compliance with the standard is unnecessary in the circumstances of this application. On this basis, the height variation is supported.

A detailed assessment against clause 4.6 can be found at Attachment 1 of this report.

ITEM 1 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.**Clause 5.10 – Heritage conservation**

The site has not been identified as containing a heritage item nor is it within a heritage listed area or within proximity to an item of heritage significance. An AHIMS search was conducted for the site, which did not identify any known Aboriginal sites or places within a 200m radius of the site.

Clause 5.21 – Flood Planning

The subject site has not been identified as flood prone land.

Clause 7.1 – Acid Sulfate Soils

The subject land is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to entail excavations below 5 metres and therefore it is not expected that acid sulfate soils would be encountered during works.

Clause 7.2 – Earthworks

Given the slope of the site earthworks are required to facilitate the proposed development, involving both cut and fill (a maximum cut of 46.47m³ and 58.41m³ of fill is proposed). Given the development is proposed as a stepped design, the earthworks required has been minimised. Conditions have been recommended requiring that all fill is to be Virgin Excavated Natural Material (VENM).

A Geotechnical Assessment was prepared for the proposal prepared by 5QS Consulting Group. A number of recommendations were provided to ensure the development is constructed to an appropriate standard and to minimise impacts on slope hazard, drainage, soil stability and adjoining properties. The recommendations include the requirement for engineering designed retaining walls, excavations and filling. A condition has been recommended that the development be constructed in accordance with the recommendations of the Geotechnical Assessment. Subject to compliance with these conditions, the development is not likely to have a detrimental impact on environmental functions or processes, neighbouring uses or features of the surrounding land.

Clause 7.6 – Essential Services

The subject site is serviced by reticulated water, electricity and sewer. In addition, the application has demonstrated appropriate stormwater management can be achieved in accordance with Council's Infrastructure Specifications. The site has direct access from a private road, providing legal and physical access. Consequently, all essential services are available to the site as required by Clause 7.6.

Section 4.15(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition

There are no draft EPI's relevant to the proposed development.

Section 4.15(a)(iii) – any development control plan**Port Stephens Development Control Plan 2014**

The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

Chapter B1 – Tree Management

This part applies to development that proposes to remove or prune trees or other vegetation within non-rural areas and therefore applies to the site. The proposal seeks to remove the existing vegetation on the site. The application was therefore referred to Council's Natural Systems Officer for review. It was found that the vegetation proposed for removal has low amenity or ecological value and would be unlikely to result in significant impacts on threatened species. The proposed tree removal was therefore supported.

Chapter B2 – Natural Resources

The subject site is not located on land that contains items of environmental significance, nor does the application require biodiversity offsets. The site was not mapped as containing weeds however, the Flora and Fauna Assessment prepared by Habitat Environmental Services found that exotic weeds do exist on the site and standard weed management conditions are required.

As previously discussed, the site is mapped as containing 'preferred koala habitat'. Based on the Flora and Fauna Assessment, the plant community type found on the site was more aligned with what is considered to be 'marginal koala habitat'. Following a site visit, Council's Natural Systems Officer supported this conclusion and noted that no evidence of koala activity was found on site in the form of scat or scratch. It was found that the proposal is unlikely to result in significant impact to koalas as the site is absent of koala feed trees or any koala linkages.

In regard to other species, the Flora and Fauna Assessment found no threatened flora or fauna species present on the site. Council's Natural System Officer targeted two species on their site visit being:

- Squirrel Glider; and
- *Prostanthera densa* (Villous Mint-bush)

These species were not observed on the site. Evidence of macropods (wallabies, kangaroos, etc) in the form of scats was identified. Given the site proximity to Caruparinga Park to the east which consists of high quality habitat, it was concluded that it was possible for highly mobile fauna to traverse through the site on occasion. It was observed that the surrounding habitat was highly fragmented due to existing residential development in the locality. Consequently, it was concluded that further fragmentation from the proposed development would be negligible considering safe passage for terrestrial fauna throughout these areas is already heavily impacted by roads and existing dwellings.

The proposal was supported by Council's Natural Systems Officer subject to conditions. These conditions have been included within the recommended conditions of consent.

Chapter B3 – Environmental Management**Acid Sulfate Soils**

The objective of this DCP Chapter is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. As detailed within clause 7.1 discussion above, the proposed development could be undertaken, subject to conditions of consent, without resulting in adverse impact to ASS. In this regard the development is consistent with the objective and requirements of the DCP.

Noise

The separation distances incorporated into the development will limit any significant impacts on the adjoining development. The impacts of the development during construction could be limited through conditions which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Subject to conditions, the application is satisfactory in regards to noise management.

Earthworks

As discussed at clause 7.2 above, the proposed development involves earthworks in the form of cut and fill including the construction of retaining walls. The impacts of the proposed earthworks can be mitigated through appropriate construction methods as outlined in the Geotechnical Assessment prepared for the site. The proposal is therefore consistent with requirements outlined in the DCP relating to earthworks.

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Chapter B4 – Drainage and Water Quality

A stormwater management plan was submitted with the application and includes adequate quality and quantity controls as required by Councils policy. The stormwater drainage plan has been assessed as being consistent with the Infrastructure Specification.

Chapter B8 – Road Network and Parking

The potential impacts of the development to the local road network have been assessed as being acceptable. The development of two dwellings in a residential area will not significantly increase traffic generation for the locality or reduce the Level of Service (LoS) for major intersections. The proposed access arrangements are considered to be suitable and compliant with Council Infrastructure Specifications.

Figure BU identifies the on-site parking requirements for the development as follows:

Development type	DCP requirement	Parking requirement	Proposed
Semi-detached dwellings	<ul style="list-style-type: none"> 1 car space for one and two bedroom dwellings 2 car spaces for three > bedroom dwellings 	Each dwelling has four bedrooms and therefore 2 car spaces are required in accordance with the DCP.	Each dwelling is proposed to be provided with a double garage and is therefore compliant.

In accordance with the above, the proposal is compliant with the DCP car parking requirements.

Chapter C – Development Types

The proposed development is for the construction of semi-detached dwellings and a one into two lot Torrens title subdivision, therefore the provisions of chapter C1 and C4 are applicable.

Chapter C1 – Subdivision

Reference	Control	Assessment
Objective C1.A Requirement C1.1-C1.4	All subdivision – lot size and dimensions <ul style="list-style-type: none"> To ensure all new lots have a size and shape appropriate to their proposed use, and to allow for the provisions of necessary services and other requirements. 	<p>The proposed lots meet the minimum lot size requirements as per Clause 4.1C of the PSLEP.</p> <p>The plans demonstrated that the lots are capable of supporting appropriate building footprints.</p> <p>No battle axe lots are proposed.</p>
Objective C1.B Requirement C1.5–C1.6	All subdivision – street trees <ul style="list-style-type: none"> To ensure street tree planting is of an appropriate species and undertaken in accordance with Council's guidelines. 	Street trees are not required given the minor nature of the subdivision and the presence of nearby vegetation.
Objective C1.C Requirement C1.7	All subdivision - Solar Access <ul style="list-style-type: none"> To maximise solar access for residential dwellings 	Appropriate solar access is provided to each lot.

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Objectives C1.D Requirement C1.8-C1.10	All subdivision – public scale drainage <ul style="list-style-type: none"> To ensure further guidance is provided for subdivision that is consistent with B4 Drainage and Water Quality and the infrastructure specification – design (where relevant) 	Appropriate drainage is proposed to service the lots, which was supported by Council's Development Engineer.
Objectives C1.E Requirement C1.11-C1.14	Major subdivision – block and street layout <ul style="list-style-type: none"> To ensure local streets are well-connected to the street network with obvious pedestrian and cycle links to higher order streets To ensure priority is provided to residents' needs when designing local streets to encourage usability. To ensure pathways follow desire lines 	N/A - the proposed development is not considered to be a major subdivision.
Objective C1.F Requirement C1.15-C1.19	Major subdivision – public open space <ul style="list-style-type: none"> To provide a hierarchy of public open space in accordance with public open space hierarchy To provide parks that are multi-functional To ensure parks achieve centrality by being located near transport nodes, public buildings, waterfronts, libraries or places of public worship To ensure public open space meets the demands of the local community to encourage usability and critical mass 	N/A - the proposed development is not considered to be a major subdivision.
Objective C1.G Requirement C1.20 – C1.22	Major subdivision – infrastructure <ul style="list-style-type: none"> To ensure detailed consideration is provided to the provision of integrated and quality public infrastructure 	N/A - the proposed development is not considered to be a major subdivision.

Chapter C4 – Dwelling House, Secondary Dwelling, or Dual occupancy

Reference	Control	Assessment
Objective C4.A Requirement	Height <ul style="list-style-type: none"> To ensure the height of buildings is appropriate for the context and 	The proposed development has a maximum height of 11.03 metres, which is non-compliant with the PSLEP requirement of 9 metres. A Clause 4.6 variation has been prepared for the

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C4.1	<p>character of the area</p> <ul style="list-style-type: none"> To ensure building height reflects the hierarchy of centres and land use structure 	<p>proposal and is provided at Attachment 1.</p> <p>Notwithstanding the above, the proposed development is considered to be consistent with the objectives of the DCP in that:</p> <ul style="list-style-type: none"> The proposed development is appropriate for the context of the area in that many dwellings located on the ridge have been designed in such a way that responds to the slope of the land resulting in height variations. The proposed development is for residential development specifically semi-detached dwellings, which are permissible with consent in the R2 zone and is therefore consistent with the intended hierarchy of the land.
<p>Objective</p> <p>C4.B</p> <p>Requirement</p> <p>C4.2-C4.11</p>	<p>Setbacks</p> <ul style="list-style-type: none"> To ensure development provides continuity and consistency to the public domain To ensure development contributes to the streetscape and does not detract from the amenity of the area 	<p><u>C4.2 – C4.5 - Setbacks</u></p> <p>The subject site is located within Nelson Bay West precinct, specifically the area identified as the Hill Tops precinct. Therefore, the proposal is subject to differing front and side setback requirements to those listed within Chapter C4. The front and side setbacks proposed are noted below and discussed in further detail in the assessment against Chapter D6.</p> <p>The proposed dwellings provide for the following setbacks:</p> <ul style="list-style-type: none"> The minimum front setback provided is 8.98m. This is compliant with the Chapter D6 front setback requirement of 6m. The minimum side setback for the ground floor is 1.6m for Unit 1 and 1.7 for Unit 2, which exceeds the 0.9m ground floor setback requirement. The minimum side setbacks for upper floors for both dwellings is 1.83m for Unit 1 and 1.92m for Unit 2. These setbacks are non-compliant with the Chapter D6 requirement of 3m. This is discussed further below <p>Chapter D6 does not provide specific rear setback requirements for the Hill Tops precinct of Nelson Bay West and therefore the rear setbacks noted within Chapter C4 apply. The rear setbacks proposed are as follows:</p> <p><u>Unit 1</u></p> <ul style="list-style-type: none"> The minimum ground floor rear setback

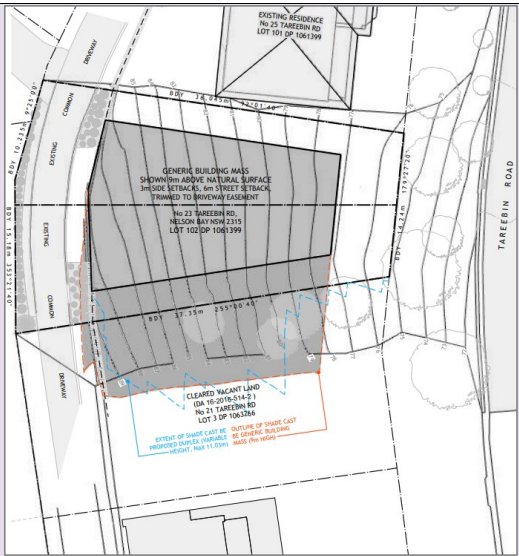
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		<p>to Tareebin Road of 8.6m, which exceeds the 2m DCP setback requirement.</p> <ul style="list-style-type: none"> The minimum upper story rear setback is 8.9m, which exceeds the 6m requirement. <p><u>Unit 2</u></p> <ul style="list-style-type: none"> The minimum ground floor rear setback is 9.5m exceeding the 2m DCP requirement. The minimum upper storey rear setback is 9.8m also exceeding the 6m DCP requirement. <p><u>C4.6 – Garage Setback</u></p> <p>The garages are not setback 1m behind the building line as per the DCP, but rather form the front building line. Given the significant slope of the site and need for a suspended slab driveway, it is considered that the location of the garages is suitable. Furthermore, the private road streetscape that the garages front is characterised by garages of a similar form located within the front setbacks due to the topography of the land.</p>
<p>Objective C4.C</p> <p>Requirement C4.12-4.18</p>	<p>Streetscape and privacy</p> <ul style="list-style-type: none"> To ensure development activates the streetscape to provide passive surveillance and privacy. 	<p>The proposal does not provide habitable rooms to the private street frontage given the garages are located along this frontage. However, habitable rooms front the Tareebin Road frontage providing appropriate passive surveillance to the public street.</p> <p>The proposal is considered to be consistent with surrounding development, particularly those located on the east of Tareebin Road, in that they have also been designed to respond to the slope of the sites. Surrounding dwellings are modern in nature and a similar form to the proposed development. Therefore, the proposal is considered to be sympathetic and compatible with the surrounding development.</p> <p>The dwellings balconies face east towards Tareebin Road and are therefore orientated toward the front of dwellings along elevation. As such, there is limited opportunity for overlooking to the adjacent properties along Tareebin Road.</p> <p>The private open space for the northern neighbouring property is located along its northern elevation and therefore the proposed development does not create any opportunities</p>

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		<p>for overlooking. The proposed window placements also do not create opportunity for overlooking.</p> <p>The site to the south is currently vacant.</p>
<p>Objective C4.D</p> <p>Requirement C4.19-C4.22</p>	<p>Private open space</p> <ul style="list-style-type: none"> To ensure private open space with solar access is provided to allow opportunity for passive and active outdoor recreation 	<p>The principle private open space for each dwelling is provided on Level 3. The deck on Unit 1 has an area of 26m² and the deck on Unit 2 has an area of 27.3m². These dimensions are compliant with control c4.20 of the DCP.</p> <p>The decks have direct access to internal living areas, exceeds the minimum dimensions and are not located within the front setback.</p> <p>The private open space for each dwelling receives a minimum of 2 hours of sunlight between 9am – 3pm mid-winter.</p> <p>The solar access for the private open space of the dwelling to the north of the site is not impacted by the proposed development.</p> <p>The site to the south is currently vacant of development but is largely clear of overshadowing from the proposed development between 9am – 12pm in mid-winter, which is compliant with the DCP. It is noted that the applicant provided a shadow diagram for a compliant height in comparison to the proposed height which demonstrates that overshadowing impacts is not significantly exacerbated as a result of the proposed height variation, refer to Figure 7 below.</p>

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		 <p>Figure 7. Compliant height overshadowing to southern neighbour with proposed height variation shown in blue dotted line.</p>
Objective C4.E Requirement C4.23-C4.25	Car parking and garages <ul style="list-style-type: none"> To ensure car parking caters for anticipated vehicle movements to and from the development and does not adversely impact on building articulation 	Both driveways exceed the minimum width of 3m. Each garage door is 5m in width which is below the 6m maximum.
Objective C4.F Requirement C4.26-C4.30	Landscaping <ul style="list-style-type: none"> To enhance the appearance and amenity of developments through the retention and/or planting of large and medium sized trees To encourage landscaping between buildings for screening To ensure landscaped areas are consolidated and maintainable spaces that contribute to the open space structure of the area 	N/A - the site is within the Hill Tops precinct of Nelson Bay West, therefore the landscape controls contained in Chapter D6 apply.

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	<ul style="list-style-type: none"> To add value and quality of life for residents and occupants within a development in terms of privacy, outlook, views and recreational opportunities To create and enhance vegetation links between natural areas and reduce weed potential to environmentally sensitive areas To reduce energy consumption through microclimate regulation To reduce air borne pollution by reducing the heat island effect To intercept stormwater to reduce stormwater runoff 	
Objective C4.G Requirement C4.31-C4.32	Site facilities and services <ul style="list-style-type: none"> To ensure development provides appropriate facilities and services in the most appropriate site location 	Each dwelling is provided with a drying deck adjacent to the proposed location of laundry facilities. Each dwelling also has sufficient space for waste storage in each garage.

Chapter D6 – Nelson Bay West

The subject site is located within the Nelson Bay West area and therefore Chapter D6 applies. The site is specifically within the 'Hill Tops' area and therefore controls specific for this area is applicable to the proposed development. An assessment against the relevant controls of Chapter D6 is provided below.

Reference	Control	Assessment
Objective D6.A Requirement D6.1	Setbacks <ul style="list-style-type: none"> To ensure development provides continuity and consistency to the public domain 	<p>The proposed dwellings have been provided with the following setbacks:</p> <ul style="list-style-type: none"> The minimum front setback provided is 8.98m. This is compliant with the front setback requirement of 6m. The minimum side setback for the ground floor is 1.6m for Unit 1 and 1.7 for Unit 2, which exceeds the 0.9m ground floor setback requirement.

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		<ul style="list-style-type: none"> The minimum side setbacks for upper floors for both dwellings is 1.83m for Unit 1 and 1.92m for Unit 2. These setbacks are non-compliant with the Chapter D6 requirement of 3m. This is discussed further below. <p>The site widens from the east to the west starting at 14.24m in width at the Tareebin Road (east) frontage and extending to 25.415m at the private road (west) frontage. The varying width and slope of the site has resulted in variations to the 3m setback requirement based on the cadastral and geometrical form of the lot. The side setback variations are considered to be acceptable for the following reasons:</p> <ul style="list-style-type: none"> Given the stepped design and articulation of each dwelling, the encroachments on each level are minor in nature and not a result of excessive dwelling bulk. The cumulative total of elements within the 3m northern side boundary equates to 9.38m² representing only 8.6% of the total side setback area. The cumulative total elements within the 3m southern side boundary equates only to 12.64m² representing 11.2% of the total setback area. These areas are highlighted in yellow on the plans for ease of view. The side setback encroachments do not exacerbate overlooking or overshadowing impacts as a result of the development. Further, limited windows have been provided along the side elevations of each dwelling to further reduce potential overlooking. The reduced side setbacks are not out of character with the existing built environment and do not represent excessive bulk or scale. <p>On the above grounds, the proposed dwelling design is supported and consistent with the objectives of the DCP control.</p>
Objective D6.B	On-site detention <ul style="list-style-type: none"> To regulate the impacts on 	Requirement D6.5 of the DCP notes that sites with an impervious area exceeding 50% in the Hill Tops area are required to

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Requirement D6.5	the capacity of the public drainage system	provide onsite detention. The proposed development has an impervious area of 55% and therefore onsite detention is required. Appropriate on-site detention has been provided and was supported by Council's Development Engineer.
Objective D6.C Requirement D6.6	Landscaping <ul style="list-style-type: none"> To ensure landscaping is within context through the appropriate selection of species and site coverage 	<p>Requirement D6.6 notes that development within the Upper Slopes is to provide 50% of the site for landscaping.</p> <p>As previously noted, the development proposes that 58% of Lot 1 is to be landscaped and 57% of Lot 2, which is compliant with this control. Control D6.C requires that 90% of vegetation used for landscaping is to be native. Council's Natural Systems Officer reviewed the species selection and advised it was compliant with this requirement.</p>

The EP&A Act requires a consent authority to be flexible in applying the provisions of the DCP and to 'allow reasonable alternative solutions' that achieve the objectives of those standards. As addressed in the table above, the proposal is consistent with the objectives of the DCP and where a non-compliance exists, a reasonable alternative solution has been proposed that conforms to the objectives of that respective control.

Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

There are no matters within the regulations that are relevant to the determination of the application.

Section 4.15 (1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Social and Economic Impacts

The proposed development represents a modern residential development and will provide additional infill housing to service the needs of the community which is consistent with the Port Stephens Local Housing Strategy and the Greater Newcastle Metropolitan Plan. The semi-detached dwellings will allow for the development of currently vacant land in an already established residential area. The construction of the proposed development will provide employment opportunities in the locality during the short term and support the local building and development industries. This will have direct monetary input to the local economy, and the increased number of residents in the locality will provide ongoing economic input through daily living activities.

As assessed throughout the report, the proposed development has been designed to respond to the site constraints whilst also reducing potential adverse impacts to neighbouring properties.

Overall, there are no anticipated adverse social or economic impacts as a result of the proposed development.

ITEM 1 - ATTACHMENT 3 PLANNERS ASSESSMENT REPORT.Impacts on the Built Environment

Whilst the height of the dwellings exceeds the maximum height limit, the development has been designed to correspond with the significant slope of the land without requiring significant earthworks or creating in adverse amenity impacts to neighbouring properties. Overall, it is considered that the proposed development will make appropriate use of an existing vacant site with no adverse impacts to the surrounding built environment in terms of bulk or scale.

Impacts on the Natural Environment

The proposed development is not expected to negatively impact the natural environment. As noted throughout this assessment, the site is not located on land that contains any species of environmental significance. The site does contain vegetation, which has not been identified as being of high environmental value and therefore, is supported for removal.

Section 4.15(1)(c) the suitability of the site for the development

The subject site is located within an established residential area with the site currently vacant of any development. Whilst the site does have constraints including a significant cross fall, the site is capable of supporting the proposed residential development through an appropriate design response. As assessed throughout the report, there are no anticipated impacts on adjoining properties or the wider locality as a result of the development. The proposal is compliant with the applicable planning framework and policies, and on these grounds, the site is suitable for the development.

Section 4.15(1)(d) any submissions made in accordance with this act or the regulationsPublic Submissions

The application was exhibited from 22 July 2022 to 5 August 2022 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. No submissions were received during the exhibition period.

Section 4.15(1)(e) the public interest

The proposal is considered to be in the public interest as it involves the construction of two dwellings within an established residential area, which will provide for additional residential accommodation in the locality to service the needs of the community. In addition, the development is not anticipated to have any significant adverse impacts on surrounding properties or the natural environment.

Section 7.11 – Contribution towards provision or improvement of amenities or services (developer contributions)

Development Contributions under S7.11 are applicable to the development. A condition to this effect has been included in the recommended conditions.

DETERMINATION

The application is recommended to be approved by Council, subject to the recommended conditions of consent.

PORT STEPHENS
COUNCILAttachment 1 – Clause 4.6
Assessment Report**Clause 4.6 – Exceptions to Development Standards****CLAUSE OBJECTIVES AND EXCLUSIONS****Clause 4.6(1) – Clause Objectives**

Clause 4.6 provides a mechanism to vary the development standards, such as building height, prescribed within Port Stephens Local Environmental Plan (PSLEP) 2013. The objectives of the clause are to provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6(2) – Exclusions to the operation of clause 4.6

The development standard(s) is not excluded from the operation of clause 4.6 (Refer clauses 4.6(2); 4.6(6); and 4.6(8) of PSLEP 2013).

PROPOSED REQUEST**Clause 4.6(3) – Request to vary development standards**

The development application includes a written request to vary development standard(s) in the PSLEP 2013 (PSLEP).

The relevant development standard(s) and the extent of the proposed variation(s) is:

Development Standard	Proposed Variation	Extent of Variation (%)
Clause 4.3 of the PSLEP	2.03m	22.6%

As the proposed variation is greater than 10%, the development application will be determined by the elected Council.

Clause 4.6(3)(a) – Compliance is unreasonable or unnecessary

Clause 4.6(3)(a) requires the application to justify the contravention of the development standard(s) by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The Clause 4.6 request makes reference to *Wehbe v Pittwater Council* (2007) LEC 827 (Wehbe), to which Chief Justice Preston noted that the starting point with any request for a variation is to demonstrate that compliance with the development standard is unreasonable or unnecessary which should generally be started by showing the proposal can meet the objectives of the development standard.

The Clause 4.6 request notes that that the objectives of the standard are achieved notwithstanding non-compliance with the standard in that:

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- The proposed development exceeds the maximum height of building limit due to the steep topography of the land and requirement to measure height from the natural ground level. The dwellings step down with the topography of the land to reduce the scale and overall height of the development which is consistent with other development in the locality.
- Given the significant fall, there is minimal level ground for development as a result of the historic subdivision pattern making it difficult to maintain 100% compliance with the height development standard. The design is consistent with the adjoining properties along Tareebin Road and surrounding street network. Given the significant fall of the site (and surrounding sites), efficient development of these sites to cater for the changing accommodation preferences and to ensure POS size and amenity is achieved, privacy and views are maintained, along with all other key design principals being achieved, requires variations to the prescribed building standards.
- The height non-compliance does not result in the building being out of scale in the context of surrounding development and is not likely to have an adverse impact on local amenity.
- The siting of the development is not anticipated to result in visual impacts which would significantly obscure views from the western neighbours considering the western elevation is compliant with height control.
- Tareebin Road provides separation from the eastern neighbours which reduces the bulk and presentation of the development to the streetscape as well not resulting in any unreasonable overlooking or privacy impacts.
- The height exceedances is restricted to roof areas that extend forward as the topography falls away, this is identified in Figure 1 below noting that the orange line depicts the 9m height limit.

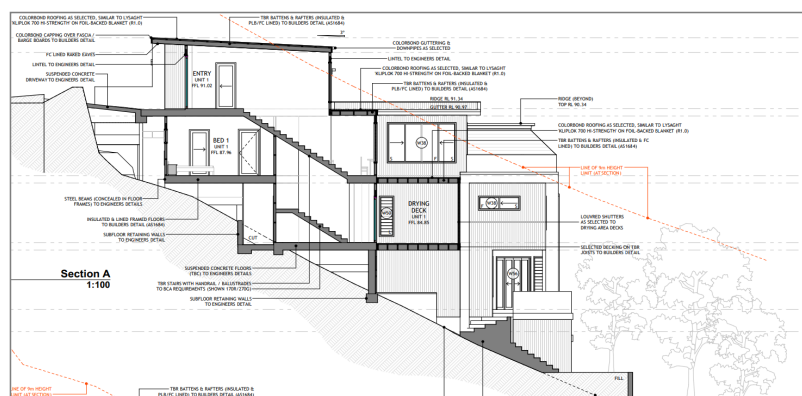


Figure 1. Southern elevation of proposed Unit 1 and the 9m height plane

Clause 4.6(3)(b) – Sufficient environmental planning grounds

Clause 4.6(3)(b) requires an application to justify the contravention of the development standard(s) by demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant notes that strict compliance with the standard is considered unnecessary in that the proposal provides makes good use of a currently vacant site by providing a contemporary architectural design that responds well to the primary site constraint being steep topography

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without compromising the amenity of occupants or neighbouring properties. The applicant submits that the potential environmental planning benefits justify the contravention of the development standard.

ASSESSMENT

Clause 4.6(4) – Assessment of request to vary development standards**Clause 4.6(4)(a)(i) - Adequacy of the applicant's request**

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied the Clause 4.6 Application has adequately addressed the matters set out in clause 4.6(3) of the PSLEP listed above.

As stated in the preceding section, in *Wehbe* the Land and Environment Court identified five ways in which a request to vary a development standard may be determined to be well founded. These reasons include:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard,
2. The underlying objective or purpose of the development standard is not relevant to the development,
3. The objective or purpose of the development standard would be defeated or thwarted if compliance was required,
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard, and
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary as applied to the land.

The applicant's Clause 4.6 variation request asserts that compliance with Clause 4.3 (height of buildings) is unreasonable or unnecessary having regard to the first test set down in *Wehbe*, being that the objectives of the standard are achieved notwithstanding non-compliance with the standard.

Having regard to the first test set down in *Wehbe*, it is noted that the objectives of Clause 4.3 are:

- (a) to ensure the height of buildings is appropriate for the context and character of the area,
- (b) to ensure building heights reflect the hierarchy of centres and land use structure.

Given the slope of the land, the proposed building height is considered to be appropriate for the context and character of the area which is characterised by dwellings that are required to be designed in such a way that responds to the slope of the land, whether it be by stepping the building similar to the proposed development or constructing a suspended slab. Furthermore, many of the dwellings constructed and previously approved along this section of Tareebin Road included building height variations due to the significant fall in the land. The proposed height variations is restricted to the roof components of the dwellings as demonstrated in Figure 2.



Figure 2. 9m height plane demonstrating extent of variation

A recent decision in the Land and Environment Court in *SJD DB2 Pty Ltd v Woollahra Municipal Council* found that adjacent buildings which also exceeded the height controls can be considered when determining desired future character. Importantly, the Commissioner found that it is possible to meet the objectives of the height and FSR controls even if there is a breach of those controls. On this basis, the building height variation is considered appropriate as the building heights for dwellings along Tareebin Road vary with a number being constructed or approved over the 9m height limit, which informs the impact of the proposed development on the existing and future character. This includes an approved dwelling at 21 Tareebin Road (to the sites south) that has an approved height of 11.23m, 17 Tareebin Road that has an approved height of 9.8m and a dual occupancy at 21C Tareebin Road which has an approved height of 11.32m.

The land use structure surrounding the site is generally low-density residential development. The proposed development is defined in the PSLEP as semi-detached dwellings, which are permissible within the R2 Low Density Residential zone. As noted above, the site is surrounded largely by residential dwellings, which differ in size and scale and many of which have had to be designed to respond to the slope of the land. Given the residential nature of the area and similar style dwellings to that proposed, it is considered that the proposal is consistent with the residential land use structure and character.

In addition to the above, taking into considerations the sites slope, surrounding character and that the variation proposed does not impact existing view corridors nor result in adverse amenity or overshadowing impacts to neighbouring properties, it is considered that the variation is acceptable.

The applicant also noted in their variation request that the third and fourth tests set down in *Wehbe* also apply to the proposal. This is not agreed upon for the following reasons:

- In regard to the third test, it is considered that the objective or purpose of the development standard would not be defeated or thwarted if compliance was required.

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- In regard to the fourth, it is considered that the development standard has not been abandoned or destroyed as the objectives of the standard are still relevant notwithstanding non-compliance with the numerical standard. The applicant's variation request also made reference to nearby developments that have exceeded the height limit to justify that the fourth test is relevant. It is noted that height of buildings on each development and variations where proposed are assessed on merit on a site by site basis. Accordingly, there is not sufficient evidence to demonstrate an overwhelming pattern of abandonment. The objectives of the standard are still relevant even when numerical non-compliance is proposed.

The second and fifth tests set down in *Wehbe* are also not considered relevant to the current application, for the reasons set out below:

- The underlying purpose and objective of the maximum building height standard are still relevant to the development.
- The zoning of the subject site is suitable and the proposed development is permissible in the zone.

Clause 4.6(4)(a)(ii) - Public interest – consistency with objectives of the standard and objectives of the zone

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied 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.

As outlined above, notwithstanding the non-compliance with the standard, the objectives of Clause 4.3 are achieved noting that the proposed development is considered to be suitable for the character of the area and will not result in adverse impacts to neighbouring properties.

Clause 4.6(4)(b) - Concurrence of the Secretary

In accordance with the assumed concurrence, notified in Planning Circular PS 08-003, the concurrence of the Secretary has been obtained (Clause 4.6(4)(b) of PSLEP).

CONCLUSION

The proposed height variation is considered to be consistent with the objectives of Clause 4.6, given it will achieve a better planning outcome in these particular circumstances, and the objectives of the height development standard are achieved, notwithstanding the non-compliance. The height variation is considered to be appropriate in the context of the site.

B1

B1 Tree Management

Application

This Part applies to **development** to remove **the removal** or pruning of trees or other vegetation within **non-rural areas**

Note: Clearing of native vegetation in **rural areas** is regulated by the *Local Land Services Amendment Act 2016*

B1.A Non-rural areas

Objective

To give effect to *State Environmental Planning Policy (SEPP) (Vegetation in Non-Rural Areas) 2017 (Biodiversity and Conservation) 2021* by listing those trees or other vegetation that require approval

Development controls

- B1.1 Where any activity specified in Column 2 is proposed, an applicant must attain the corresponding approval type specified in Column 1 ~~except for an activity where no approval is required~~

Note: The tree pruning and removal assessment form available on Council's website can be used to determine what type of Council issued approval (if any) is required prior to tree removal or pruning.

Figure BA: Approval requirements thresholds

Column 1 – Approval type required	Column 2 – Tree management activity
<p>Council approval not required</p> <p>Note: The order of approval types have been changed in Figure BA</p>	<p>Removal or pruning of a tree or other vegetation: No approvals are required for the removal of a tree(s) or other vegetation that is:</p> <ul style="list-style-type: none"> authorised under other legislation, such as vegetation clearing authorised under the <i>Rural Fires Act 1997</i>; or, clearing as part of an approved construction certificate or approved subdivision certificate; or trees and shrubs under 3m in height and diameter is less than 300mm (measured 1.3m from the ground); or, where height exceeds 3m or circumference breast height diameter exceeds 300mm (measured 1.3m from the ground), that is: <ul style="list-style-type: none"> within 5m of the wall of an approved structure being a dwelling, shed, attached garage, pools or retaining wall measured from the wall to the trunk of the tree (excluding driveways); or, a tree grown for fruit or nut production; or, a species listed in NSW Weedwise that is not otherwise listed as requiring Council approval. an undesirable species; or not otherwise listed as requiring Council approval; or that requires urgent removal on account of immediate failure when Council is provided with a tree removal notification post-event; or

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HOUSEKEEPING.

DEVELOPMENT CONTROL PLAN 2014 -

B1

Column 1 – Approval type required	Column 2 – Tree management activity
	<ul style="list-style-type: none"> where there is a risk to human life or property, when Council is provided with a tree removal notification 10 days prior to removal; or where it is dead or dying and it is not required as the habitat of native animals, when Council is provided with a tree removal notification 10 days prior to removal. <p>Note: The onus of proof is on the landowner and photos should be taken before and after removal. Landowners are encouraged to seek the advice of a qualified arborist in determining the direct threat of any tree.</p> <p>Note: No approvals are required when pruning less than 10% foliage of a tree or other vegetation within a 12 month period when completed in accordance with Australian Standard (AS) 4373– Pruning of amenity trees.</p> <p>Note: an approved structure is development such as a dwelling, garage, pool or retaining wall that required development consent (that is not exempt or complying development).</p>
Notification to Council	<p>Removal or pruning of a tree, not otherwise listed as requiring Council approval, can occur in instances where Council is satisfied that:</p> <ul style="list-style-type: none"> there is a risk to human life or property not related to leaf/flower/fruit drop, or the tree(s) are dead or dying and it is not required as the habitat of native animals. <p>Note: where urgent removal or pruning over 10% of a tree is required due to risk of immediate failure, Council requires a tree removal notification within 10 days of the removal.</p> <p>Note: notification must be provided by completing the tree pruning and removal assessment form available on Council's website.</p>
Council issued permit	<p>A tree permit is required for the removal or pruning over 10% of a tree or other vegetation where height exceeds 3m or circumference breast height diameter exceeds 300mm (measured 1.3m from the ground) and poses no risk to life or property.</p> <p>A tree permit is required for the removal or pruning of a tree or other vegetation, irrespective of the location or risk that is:</p> <ul style="list-style-type: none"> a NSW Christmas Bush (<i>Ceratopetalum gummiferum</i>); a Cabbage Tree Palm (<i>Livistona australis</i>); a species listed under the <i>Biodiversity Conservation Act 2016</i>; listed under the register of significant trees³; or part of a heritage item, heritage conservation area, Aboriginal object or Aboriginal place of significance, which Council is satisfied: <ul style="list-style-type: none"> is of a minor nature or is for the maintenance of that item, area, object or place; and will not adversely affect the significance of that item, area, object or place <p>Note: a tree permit can be requested by completing the tree pruning and removal assessment form available on Council's website.</p>
Council issued development consent	<p>Development consent from Council is required for the removal or pruning of a tree or other vegetation that forms part of a heritage item, heritage conservation area, Aboriginal object or Aboriginal place of significance, which Council is not satisfied:</p> <ul style="list-style-type: none"> is of a minor nature or is for the maintenance of that item, area, object or place; and will not adversely affect the significance of that item, area, object or place <p>Note: A development application will need to be lodged.</p>

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Column 1—Approval type required	Column 2—Tree management activity
Native vegetation panel approval	Clearing of native vegetation that is subject to the biodiversity offset scheme as specified in the <i>Biodiversity Conservation Act 2016</i>
Threatened Species Licence	Removal or pruning of vegetation that poses no risk to life or property and is likely to result in: <ul style="list-style-type: none"> harm to an animal that is a threatened species or part of a threatened ecological community; or picking a plant that is a threatened species or part of a threatened ecological community; or damage to the habitat of a threatened species or threatened ecological community; or damage to a declared area of outstanding biodiversity value.
Fisheries and Marine park Permit	Removal or pruning of Mangrove and marine vegetation, irrespective of the size, location or risk.

Note: Applicants for tree clearing and removals will also need to consider the provisions of other legislation including but not limited to the following:

- *Biodiversity Conservation Act 2016 (NSW)* - A licence may be required if tree removal would also harm the animals listed in this Act. Contact NSW Environment, Energy and Science.
- *Biosecurity Act 2015 (NSW)* - clearing of weeds. Contact ~~NSW Local Land Services (LLS) - Hunter:~~ **Port Stephens Council's Invasive Species Team.**
- *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* - protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places. Contact the Commonwealth Department of the Environment.
- *Fisheries Management Act 1994 (NSW)* - prohibits cutting of mangroves. Contact the NSW Department of Primary Industries (**DPI**).
- *Heritage Act 1977 (NSW)* - sites under conservation orders, relics, etc. Contact NSW Environment, Energy and Science.
- *Local Land Services Act 2013 (NSW)* - clearing of native vegetation, regional vegetation management plans, property agreements. Contact NSW Local Land Services (**LLS**) - Hunter.
- *National Parks and Wildlife Act 1974 (NSW)* - Regulates works in Aboriginal places or impacting Aboriginal objects. Contact the National Parks and Wildlife Service at NSW Environment, Energy and Science.
- *Rural Fires Act 1997 (NSW)* - '10/50 Vegetation Clearing Code of Practice for NSW', and authorised removal of fire hazards. Contact the NSW Rural Fire Service.

B1.B Assessment requirements

Objective

To ensure adequate consideration is provided to the relevant matters for the removal or pruning of trees or other vegetation

ITEM 4 - ATTACHMENT 2 DEVELOPMENT CONTROL PLAN 2014 - HOUSEKEEPING.

B1

Development controls

B1.2	<p>Council assessment of tree notifications applications to remove or prune trees or other vegetation has regard for:</p> <ul style="list-style-type: none"> the level and likelihood of risk posed by the vegetation based on current arboricultural practises whether the tree is dead and provides habitat
B1.3	<p>Council assessment of permits and development applications to remove or prune trees or other vegetation has regard for:</p> <ul style="list-style-type: none"> the level and likelihood of risk posed by the vegetation based on current arboricultural practises damage to an existing structure or utility service substantiated by a qualified person impacts resulting from the approval of the development impact on threatened species, populations or ecological communities and their habitats retention value under the tree technical specification¹ other relevant circumstances, as per the tree technical specification¹ threatened by a development consent consistency with a flora, fauna or conservation strategy the tree is interfering, or likely to interfere, with the provision of a public utility or road/driveway construction, provided the impact on the trees has been considered in the design phase
B1.4	<p>Council assessment of applications to remove or prune trees or other vegetation has no regard for the removal or pruning of trees:</p> <ul style="list-style-type: none"> due to leaf/flower/fruit drop to enhance view interfering with a solar photovoltaic/hot water system <p>Note: the tree technical specification¹ details circumstances where the removal or pruning of trees for the installation of solar photovoltaic/hot water systems may be considered</p> <ul style="list-style-type: none"> interfering with the amenity of a habitable room dwelling located further than 3m from a driveway. Any trees located closer to driveways must be shown to be interfering, or likely to interfere with the integrity of a driveway

B1.C Supporting information

Objective

To ensure adequate information is provided to determine the application for the removal of trees or vegetation

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B1

Development controls

B1.35	<p>An arborist report consistent with tree technical specification¹ is required:</p> <ul style="list-style-type: none"> • for a tree or other vegetation listed under register of significant trees³ • to assess the impact on existing trees as part of a development application as per AS 4970 – Protection of trees on development sites, where they are within 5m of the development footprint, (including any ancillary development or associated excavation), or otherwise proposed to be removed • to support reassessment of applications for tree removal on a technical basis • to support the release of a tree bond
B1.4	<p>A tree bond consistent with the tree technical specification¹ is imposed where Council deems a public tree is at risk</p>
B1.56	<p>A request to remove 20¹⁰ or more trees requires a vegetation management plan prepared by a suitably qualified professional, consistent with vegetation technical specification²</p> <p>Note: An application to remove 20¹⁰ or more trees, where tree height exceeds 3m or circumference breast height diameter exceeds 300mm (measured 1.3m from the ground), may require a referral to be provided to Hunter Water by the assessing officer in accordance with the 'Guidelines for developments in the drinking water catchments'</p>
B1.67	<p>Compensatory planting consistent with the tree technical specification¹ may be required when council approval to remove trees is provided</p>
B1.78	<p>A hollow tree assessment is required to remove hollow bearing trees:</p> <ul style="list-style-type: none"> • Two replacement hollows are provided for each hollow tree identified by the hollow tree assessment tree technical specification¹ • Salvaged hollows are preferred over nest boxes, which are consistent with the nest box technical specification⁵ tree technical specification¹ <p>Note: B2.1 requires a hollow tree assessment and replacement or salvaged hollows if a flora and fauna survey report proposes their removal</p>

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B2

B2 Natural Resources

Application

This Part applies to **development** that:

- Is located on land or is within 500m of land that contains items of **environmental significance**; such as threatened species or communities, listed migratory species, wildlife corridors, **wetlands** or **riparian corridors** and has the potential to impact biodiversity; or
- Is seeking to use **biodiversity offsets**; or
- Is located on land containing **noxious weeds** **biosecurity risks**; or
- Is located on or is in proximity to land that contains **koala habitat**.

Note: *The Biodiversity Conservation Act 2016* was enacted on the 25 August 2017 which repealed the provisions of *Threatened Species Conservation Act 1995* (**TSC Act**). Transitional arrangements for developments have been put in place to ensure a smooth transition to the new legislation. These are set out in the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*.

B2.A Environmental significance

Objective

To ensure adequate consideration is provided to the protection and conservation of items of **environmental significance**

Development controls

- | | |
|------|---|
| B2.1 | <p>Development located on land or is within 500m of land that contains items of environmental significance, such as threatened species or communities, listed migratory species, wildlife corridors, wetlands or riparian corridors and has the potential to impact biodiversity provides:</p> <ul style="list-style-type: none"> • a flora and fauna survey to inform the assessment of significance, <ul style="list-style-type: none"> - The flora and fauna survey is in accordance with: <ul style="list-style-type: none"> - NSW Department of Environment and Conservation. 2004, 'Threatened Species Survey and Assessment: Guidelines for development and activities'⁸ - Hunter and Central Coast Regional Environmental Management Systems. 2002, 'Lower Hunter and Central Coast Regional Fauna and Flora Guidelines'⁹ - If development poses a significant effect under 5A of the EP&A Act or if development is on land which is, or is part of, critical habitat then a species impact statement (SIS) is required |
|------|---|

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B2

Development controls

- If **development** does not pose a **significant effect** under 5A of the **EP&A Act**, but proposes unavoidable vegetation impacts then a **vegetation management plan (VMP)** that is consistent with the **vegetation technical specification² tree technical specification¹** is required

Note: Under section 5.5 of the **EP&A Act** the determining authority has a duty to consider the environmental impact of proposed activities

- If the **flora and fauna survey** proposes the removal of hollow bearing trees then a **hollow tree assessment** is required:
 - Two replacement hollows are provided for each hollow tree identified by the **hollow tree assessment**
 - Salvaged hollows are preferred over nest boxes that are consistent with the **nest box technical specification⁵ tree technical specification¹**

Note: This is consistent with B1.7⁸ that requires a **hollow tree assessment** to remove hollow bearing trees on land to which B1 applies

- A proposed **buffer** on the land subject to the **development** is provided to items of **environmental significance**. The width of the **buffer** is recommended by the **flora and fauna survey** report based and is based on taking into account the following parameters:
 - The condition of the item of **environmental significance**
 - Proposed methods of mitigating adverse impact
 - Possible external effects, such as weed encroachment or domestic animals and their potential to cause impact
 - Where the vegetation of **buffers** are proposed, the vegetation is established along the relevant boundaries prior to the issuing of the relevant **subdivision** or **occupation certificate**

Note: C4.11 nominates a suitable buffer for residential accommodation adjoining land used for agricultural purposes

B2.B Biodiversity offsets

Objective

To provide further guidance for the use of **biodiversity offsets** within the Port Stephens local government area

Development control

- B2.2 If **biodiversity offsets** are employed as a suitable compensatory measure under the **TSC Act** then they are:
- calculated in accordance with the **bio-metric terrestrial biodiversity assessment tool**
 - consistent with the **vegetation technical specification² tree technical specification¹**
 - in a secure tenure ownership
 - located on land to which this Plan applies

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B2

B2.C Noxious Biosecurity risks (weeds)**Objective**

To reduce the negative impact of **noxious-biosecurity risks (weeds)** on the economy, community and environment by eliminating or restricting their geographical spread

Development control

- B2.3 **Development** situated on land that contains **noxious weeds**, as identified by a section 64 certificate under the *Noxious Weeds Act 1993* will seek to prevent, eliminate or restrict the spread of **noxious weeds** in accordance with the **biosecurity technical specification* noxious weeds technical specification⁶**

Note: NSW Weedwise is an online tool to identify weeds available on the Department of Primary Industries website

B2.D Koalas**Objective**

To encourage the proper conservation and management of areas of natural vegetation that provide **koala habitat** to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline

Development control

- B2.4 **Development** located on or in proximity to land identified as **koala habitat** complies with the *Port Stephens Comprehensive Koala Plan of Management¹⁰* through consideration to the performance criteria, being:
- Minimising the removal or degradation of **native vegetation** within **preferred koala habitat** or **supplementary koala habitat**
 - Maximising the retention and minimising degradation of **native vegetation** within **supplementary habitat**, habitat buffers and habitat linking areas
 - Minimising removal of any individual preferred koala feed trees
 - Where appropriate, restore and rehabilitate **koala habitat**/buffers and linking areas
 - Removal of **koala habitat** is off-set by a net gain of **koala habitat** on-site or adjacent
 - Make provision for long-term management of both existing and restored **koala habitat**
 - Not compromise the safe movement of koalas, through:
 - Maximisation of tree retention
 - Minimising barriers for movement, such as fences
 - Restrict **development** to defined building envelopes
 - Minimising the threat to koalas from dogs, motor vehicles and **swimming pools**
 - **Development** demonstrates consideration to the performance criteria within the **statement of environmental effects (SEE)** by providing the following:
 - Assessment of **koala habitat** in accordance with Appendix 6 – Guidelines for Koala Habitat Assessment of the *Port Stephens Comprehensive Koala Plan of Management¹⁰*

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B2

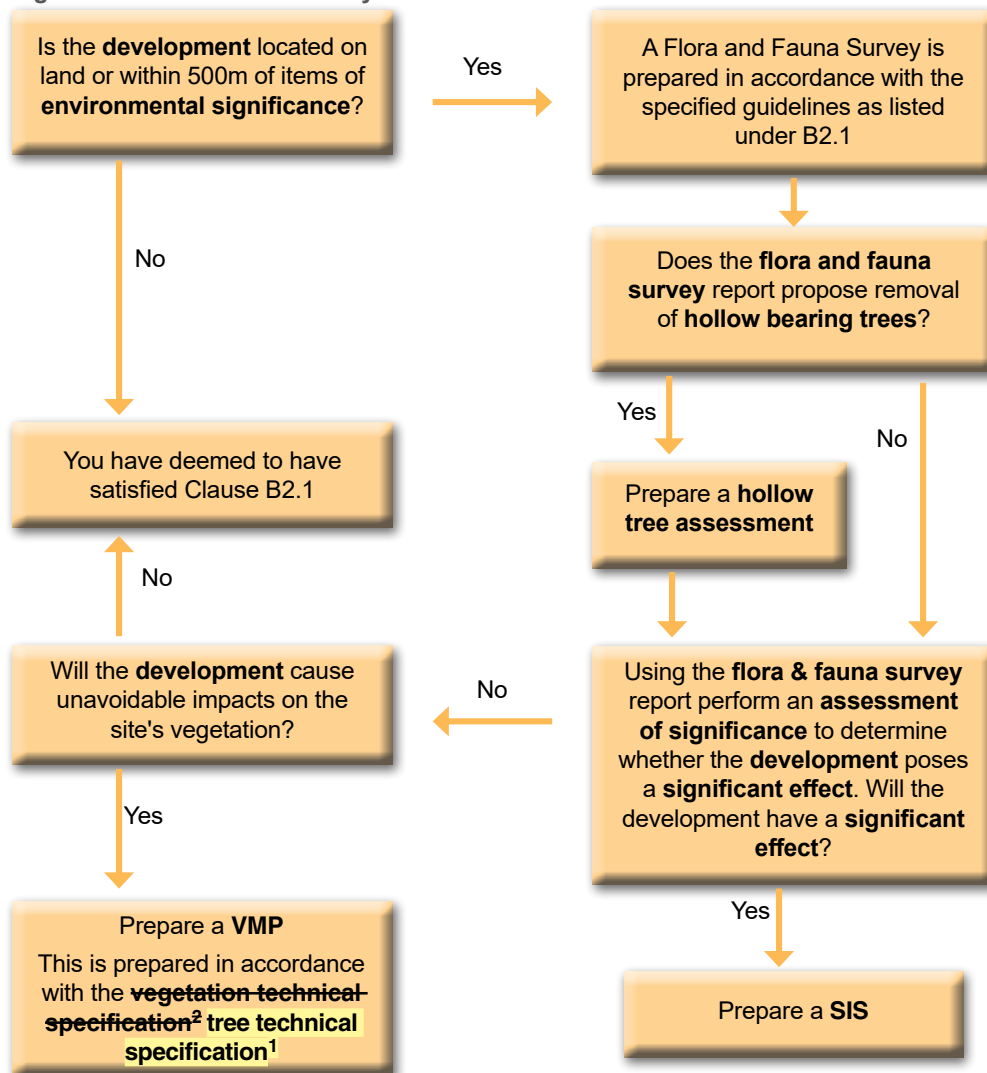
Development control

B2.4

- **Site analysis plan** indicates vegetation to be disturbed, cleared or retained
- Illustration of the **Asset Protection Zone (APZ)**
- Proposed measures for the safe movement of koalas, such as fencing or traffic control measures
- Details of any programs to monitor koala populations

Note: The *Port Stephens Comprehensive Koala Plan of Management*¹⁰ applies through the application of the **SEPP (Koala Habitat Protection) 2019 (Biodiversity and Conservation) 2021**

Figure BB : Flora & fauna survey flow-chart



B3

B3 Environmental Management

Application

This Part applies to **development** that:

- Is located on land that contains **acid sulfate soils**; or
- Has the potential to produce **air pollution** (such as dust or odour); or
- Has the potential to produce adverse **offensive noise**; or
- Involves **earthworks**.

~~B3.A Acid sulfate soils~~

~~Objective~~

To ensure that **development** does not disturb, expose or drain **acid sulfate soils** and cause environmental damage

Development controls

- B3.1 **Development** located on **acid sulfate soils (ASS)** as identified on the Acid Sulfate Maps of the ~~*Local Environmental Plan*~~ adheres to the ~~*Local Environmental Plan*~~ requirements by taking one of the following three paths:
1. Accept that **ASS** is present and prepare a **development application** and an **ASS management plan** as set out in the **NSW ASS Manual**⁴⁰; or
 2. Provide a framework for the on-going management and monitoring of the impacts throughout the **development**, in your **ASS management plan**. There is no set formula for managing **ASS** and each case must depend on the particular circumstance. Please refer to the **NSW ASS Manual**⁴⁰ for details; or
 3. Undertake a preliminary assessment as set out in the **NSW ASS Manual**⁴⁰, to determine whether **ASS** is present and whether the proposed works are likely to disturb or oxidise these soils or lower the water table.
- If **ASS** is present, Council must consider the following matters before **development consent** is granted:
- The likelihood of the proposed **development** resulting in the discharge of acid water
 - The adequacy of the **ASS management plan** prepared for the proposed **development** in accordance with the **NSW ASS assessment guidelines**

B3.B Air quality

Objective

To ensure air quality is not negatively impacted on by dust and odour in recognition of the associated human health impacts

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B4

Development controls

- B4.2 **On-site detention / on-site infiltration** is required in **stormwater requirement areas** where:
- the post-development flow rate or volume exceeds the pre-development flow rate or volume; or
 - impervious surfaces** exceed the total percentage of **site area** listed under Figure BC; or
 - it is identified under Section D Specific Areas of the **DCP**.
- Note: A map of **stormwater requirement areas** is published on Council's website.
 Note: Pre-development is prior to any development occurring on the land.
- B4.3 **On-site detention / on-site infiltration** is to be:
- sized so that the post-development flow rate and volume equals the pre-development flow rate and volume for all storm events up to and including the 1% **annual exceedance probability (AEP)** storm event
 - provided by either underground chambers, surface storage or a combination of the two and are generally positioned:
 - under grassed areas for any **cellular system** (which can be easily maintained)
 - under hardstand areas such as **driveways** for any concrete tank structures
- Note: A neutral or beneficial effect (**NorBE**) on water quality must be designed for all storm events.
- B4.4 Details of the **on-site detention / on-site infiltration** concept design must be provided in the **stormwater drainage plan** and the written description and must include information on:
- the location and type of detention / infiltration system
 - demonstrated flow rate / volume for all design storm events up to the **1% AEP**
 - pipes, pits, **overland flow** and discharge point
 - surface grates and maintenance access points
 - orifice type, location and screening facility
 - slope/gradient of the land
 - post-development flow rate and volume for the site equal to pre-development flow rate and volume for the site
- Note: B4.8 states that **on-site detention / on-site infiltration** may not be required for **dual occupancy development** if the water quality requirements under Figure BE have been satisfied.

Figure BC: Maximum impervious surface table

Land-use zone	Maximum impervious surface area (%)
E4C4, R5, RU1, RU2 & RU3	Refer to Figure BD (below)
E1C1, E2C2, E3C3, IN4, RE1, RE2, SP1, SP2, W1 & W2	merit-based approach
R1, R2 & RU5	60
R3	75
B5, B7, IN1 & IN2	90
B1, B2, B3 & B4	100

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B4

Figure BD: Lot area impervious surface table

Lot area (m ²)	Maximum impervious surface area (%)
>5000	7.5
2000 to 5000	30
900 to 2000	40
<900	60

Note: Figure BD above only applies to land zoned E4C4, R5, RU1, RU2 and RU3

B4.C Water quality

Objectives

- To ensure **development** does not detrimentally impact on water quality through the use of water quality modelling, such as small scale stormwater water quality model (**SSSQM**) or **model for urban stormwater improvement conceptualisation (MUSIC)**, and subsequent **water sensitive urban design (WSUD)** measures
- To safeguard the environment by improving the quality of stormwater run-off
- To ensure water quality is protected and maintained during the construction phase through the conditioning of appropriate measures
- To provide further guidance to clauses in the local environmental plan relating to water quality for **development** in **drinking water catchments**

Development controls

B4.5 **Development** is to provide **stormwater quality improvement devices (SQIDs)** in accordance with Figure BE: Water quality table, unless:

- a **WSUD** strategy that applies to the land has been approved by Council and is listed on Council's website for the purposes of this requirement.
- the **development** is a **dwelling house**, semi-detached **dwelling**, **secondary dwelling**, and/or **ancillary structure** to residential **development**, or;
- the **development** is for alterations and additions to a **dwelling house**, semi-detached **dwelling**, **secondary dwelling**, and/or **ancillary structure** to residential **development**, or;
- the development is for other minor alterations and additions on a lot of less than 250m²

A document listing approved **WSUD** strategies is available on Council's webpage.

Where an approved **WSUD** strategy applies to the land, details are to be provided which demonstrate that any requirements outlined in the list of approved **WSUD** strategies have been incorporated into the development.

Note: The list of approved **WSUD** Strategies should be consulted for the purpose of determining whether **SQIDs** are required for a complying development proposal.

B4.6 **Stormwater quality improvement devices (SQIDs)** are designed to be taken off-line from minor and major drainage systems.

B4.7 **Development** submits **modelling to demonstrate** the evidence of how the water quality targets have been achieved (eg **SSSQM** Certificate, **MUSIC** or **MUSIC-Link** report).

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Development controls

B4.8	On-site detention / on-site infiltration may not be required for dual occupancy development if the water quality requirements under Figure BE for sites less than 2,500m ² have been satisfied
B4.9	Erosion and sediment measures are provided during the construction phase in accordance with the issued conditions of consent
B4.10	Development that, in the opinion of the Council, has the potential to significantly adversely affect the water quality of the drinking water catchment will be referred to Hunter Water under section 51 of the <i>Hunter Water Act 1991</i> . Development or activities which pose unacceptable risks to a drinking water catchment are not likely to be supported by Hunter Water. Note: Refer to Hunter Waters' document 'Guidelines for developments in the drinking water catchments' for development types that will likely trigger referral to Hunter Water.

Figure BE: Water quality table

Type of development or site area	Water quality targets		Tool used to achieve target
	Development within a drinking water catchment	Development outside a drinking water catchment	
Dwelling house, semi-detached dwelling, secondary dwellings, and ancillary structures to residential development	No water quality measures are required	No water quality measures are required	-
Alterations and additions to dwelling house, semi-detached dwelling, secondary dwellings, and ancillary structures to residential development	No water quality measures are required	No water quality measures are required	-
Other minor alterations and/or additions on a lot with a site area less than 250m ²	No water quality measures are required	No water quality measures are required	-

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B4

Type of development or site area Subdivision lot size	Water quality targets		Tool used to achieve target
	Development within a drinking water catchment	Development outside a drinking water catchment	
Lots with a site area greater than 250m ² and less than 2,500m ²	Before water is released into public drainage , the water quality outcomes shall achieve: <ul style="list-style-type: none"> • NorBE; or • Council's water quality stripping targets whichever achieves the better water quality outcome.	Before water is released into public drainage it must achieve Council's water quality stripping targets	Either: <ul style="list-style-type: none"> • Water quality modelling, such as SSSQM or MUSIC; or • Compliance with a standard drawing produced by Council for the purposes of development control B4.5 published on Council's website
Lots with a site area equal to or greater than 2,500m ²	Before water is released into public drainage , the water quality outcomes shall achieve: <ul style="list-style-type: none"> • NorBe; or • Council's water quality stripping targets whichever achieves the better water quality outcome.	Before water is released into public drainage it must achieve Council's water quality stripping targets	Water Quality Modelling, such as MUSIC Modelling

B4.D Riparian corridors**Objective**

To protect and retain **riparian corridors** as localities of environmental importance

Development controls	
B4.11	<p>Development involving a controlled activity within waterfront land (within 40m from the highest bank of the river, lake or estuary) adheres to the <i>Water Management Act 2000</i></p> <p>Note: Council can advise on the location and order of waterfront land</p>
B4.12	<p>Development provides the following buffers to riparian corridors that are generally consistent with the recommendations of the NSW Office of Water. 2012, 'Guidelines for riparian corridors on waterfront land'¹⁵:</p> <ul style="list-style-type: none"> • 50m buffer from 3rd order water courses or above with a 40m vegetated riparian zone and 10m vegetated buffer • 30m buffer from 1st-2nd order water courses with a 20m vegetated riparian zone and 10m vegetated buffer
B4.13	<p>Riparian corridors are dedicated as public open space when Council agrees to take ownership of that land</p>

B5

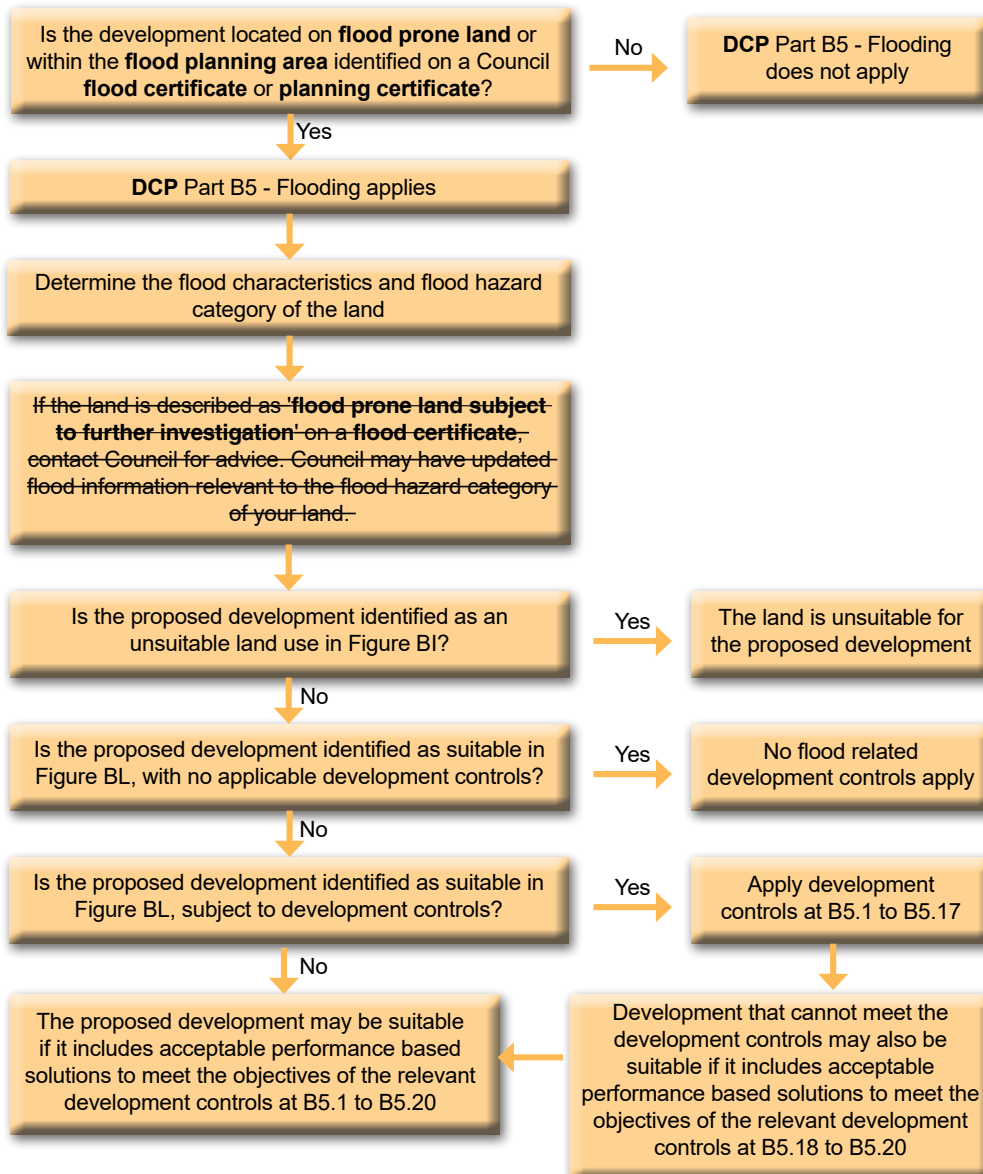
B5 Flooding

Application

This Part applies to all development on **flood prone land**.

Refer to the flow chart at Figure BF to determine the assessment pathway for new development.

Figure BF: Determine the assessment pathway



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B5

How flood impacts are assessed

A **flood certificate** identifies the flood category and flooding characteristics of the land to inform the assessment of proposed development.

The **flood certificate** will describe the highest flood category applicable to the land (a combination of the **flood hazard** and the **hydraulic category**), as well as various flood levels (such as the **flood planning level** and the **probable maximum flood level**). Figure BG shows the possible flood categories and Figure BH shows how flood categories and flood levels reflect the landscape and the relationship between water depth and water velocity in a flood.

Land in the hydraulic categories **flood fringe**, **flood storage** and **floodway** will generally make up the visible **floodplain**, whilst **overland flow paths** feed into the **floodplain**.

Consequently, the characteristics of **overland flow paths** are considered separately from other flood categories and are not detailed in Figure BH below.

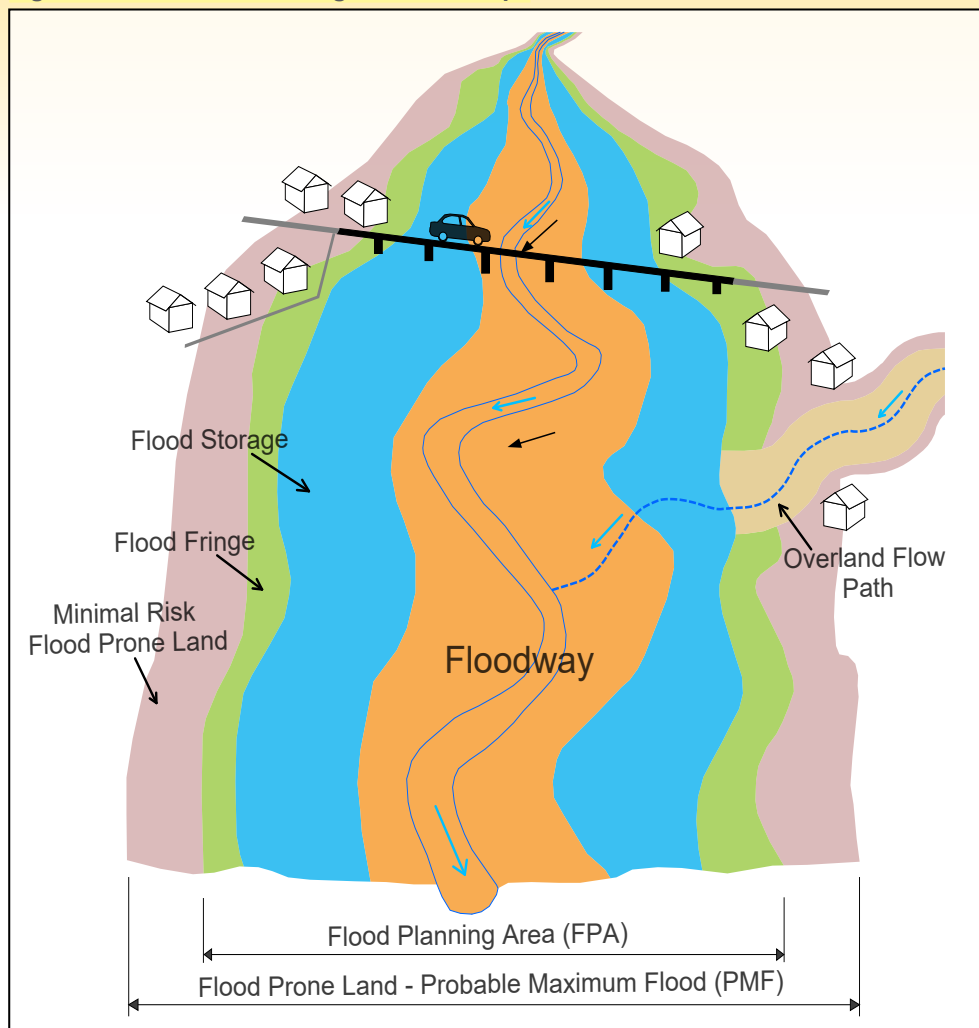
A **flood certificate** may also identify land as '**minimal risk flood prone land**' where only minimal impacts are anticipated, or as '**flood prone land subject to further investigation**' when Council does not hold detailed flood information. The requirements that apply to these categories are detailed in this Part.

Figure BG: Flood categories

Hydraulic category	Flood hazard	
	Low hazard	High hazard
Flood Prone	Minimal Risk Flood Prone Land	
Flood Fringe	Low Hazard Flood Fringe	High Hazard Flood Fringe
Flood Storage	Low Hazard Flood Storage	High Hazard Flood Storage
Overland Flow Path	Low Hazard Overland Flow Path	High Hazard Overland Flow Path
Floodway	Low Hazard Floodway	High Hazard Floodway

B5

Figure BH: Flood hazard categories: landscape



Determining development suitability

Figure BI below sets out whether or not different types of new development are considered suitable on land designated a particular flood hazard category (as identified on a **flood certificate**).

Most new development proposed on **flood prone land** will need to address the development controls in this Part to mitigate risks and be considered suitable (Refer to Figure BI below).

Where risks are assessed as low, such as where land is identified as '**minimal risk flood prone land**' on a **flood certificate**, the requirements for new development will be minimal and most new development on that land is considered suitable (Refer to Figure BI below).

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B6

Development type	Indoor design average maximum sound level dB(A)
commercial buildings, offices & retail premises	
private offices & conference rooms	55
drafting & open offices	65
typing & data processing	70
shops, supermarkets & showrooms	75
industrial	
inspection, analysis & precision work	75
light machinery, assembly & bench work	80
heavy machinery, warehouse & maintenance	85

B6.B Indoor noise

Objective

To ensure acceptable levels of indoor noise in accordance with the relevant Australian Standards

Development controls

B6.2	Development must satisfy the maximum internal sound levels specified in Figure BM by providing an acoustic report
B6.3	Noise attenuation levels that comply with Figure BM are not considered to be reasonable or practicable for a dwelling when seeking to achieve noise reduction greater than: <ul style="list-style-type: none"> 35 dB(A) for sleeping areas 30 dB(A) for habitable spaces

B6.C Alterations & additions

Objective

To facilitate alterations and additions of existing **development** within the **2025 ANEF**

Development controls

B6.4	Additions and/or alterations less than 40% of gross floor area of an existing building must be constructed to the same indoor sound levels as the existing building
B6.5	Additions and/or alterations greater than 40% gross floor area of an existing building requires noise attenuation measures consistent to meet the indoor noise levels listed in Figure BM

B6.D Impacts on operation of aircraft

Objective

To ensure that the operational needs of the Williamstown **RAAF** Base are considered

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B7

B7.D Aboriginal heritage**Objective**

To ensure due diligence is followed before carrying out **development** that may harm Aboriginal objects

Development controls

- B7.5 Where **development** involves **ground disturbing works** significant ~~cut~~, being greater than 2m, under B3.4 of the **SEE** addresses the following matters:
- A statement indicating the results of the Aboriginal heritage information management system (**AHIMS**) database search and any other sources of information
 - A statement indicating whether there are landscape features that indicate the presence of Aboriginal objects
 - A statement indicating whether the proposed **development** is likely to harm Aboriginal objects
 - A statement indicating whether an **Aboriginal heritage impact permit (AHIP)** is required. When required:
 - Prepare an Aboriginal cultural heritage assessment to assess the impact of the proposed **development** on Aboriginal cultural heritage consistent with the Office of Environment & Heritage. N/A, 'Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW'²⁵

Note: Section 90 of the *National Parks and Wildlife Act 1974* requires an **AHIP** where harm to an Aboriginal object or Aboriginal place cannot be avoided. An **AHIP** can be issued under Part 6 of the *National Parks and Wildlife Act 1974*

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B8

Development controls

B8.4 Except as required by B8.5, B8.6, or B8.7, all **development** that has the potential to create demand for on-site parking must provide parking in accordance with Figure BU

Note: Where a development proposes ancillary uses, additional parking is to be provided in accordance with that development type as required in Figure BU

Figure BU: On-site parking requirements

Development type	Parking requirements	Accessible parking
Commercial premises		
bulky goods specialised retail premises	<ul style="list-style-type: none"> 1 car space per 55m² floor area 1 bicycle space per 20 employees 	<ul style="list-style-type: none"> 1 car space per 30 parking spaces
entertainment facilities and function centres	<ul style="list-style-type: none"> A traffic impact study is required 1 bicycle space per 20 employees 1 bicycle space per 20 visitors 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
food and drink premises, including restaurants, cafes and take-away drink premises	<ul style="list-style-type: none"> 1 car space per 2025m² floor area within commercial premises (where no seating is provided) 1245 car spaces per 100m² floor area or 1 car space per 43 seats (whichever is greater) outside of commercial premises Minimum queuing area of 5 cars for drive-thru 1 bicycle space per 200m² 	<ul style="list-style-type: none"> 1 car space per 30 parking spaces
garden centre and plant nursery	<ul style="list-style-type: none"> 1 car space per 130m² nursery area 	<ul style="list-style-type: none"> 1 car space
hardware building supplies and industrial retail outlets	<ul style="list-style-type: none"> 1 car space per 55m² floor area 	No requirement
market	<ul style="list-style-type: none"> 2.5 car spaces per stall 	No requirement
motor showroom and vehicle sales or hire premises	<ul style="list-style-type: none"> 0.75 car spaces per 100m² vehicle display area 1 bicycle space per 20 employees 	<ul style="list-style-type: none"> 1 car space per 30 car spaces
office premises and business premises	<ul style="list-style-type: none"> 1 car space per 40m² floor area 1 bicycle space per 200m² floor area 	<ul style="list-style-type: none"> 1 car space per 30 car spaces
pub and registered clubs	<ul style="list-style-type: none"> 1 car space per 7m² of floor area within commercial centres 1 car space per 10m² courtyard / beer garden within commercial centres 1 car space per 3.5m² of floor area outside of commercial centres 1 bike space per 25m² bar area 1 bike space per 100m² courtyard / beer garden 1 car space per 10m² of public or licenced floor area 1 car space per accommodation unit 1 bicycle space per 20 accommodation units rooms 	<ul style="list-style-type: none"> 1 car space per 20 parking spaces

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Development Type	Parking Requirements	Accessible Parking
roadside stall	<ul style="list-style-type: none"> 4 car spaces 	No requirement
rural supplies, timber yards, landscaping material supplies and wholesale supplies	<ul style="list-style-type: none"> 1 car space per 130m² of supplies area 1 bicycle space per 20 employees 	No requirement
service station	<ul style="list-style-type: none"> 4 car spaces per work bay 1 car space per 20m² floor area 1 bicycle space per 15 employees 	<ul style="list-style-type: none"> 1 car space
sex services premises	<ul style="list-style-type: none"> 2 car spaces per room used for prostitution 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
shop	<ul style="list-style-type: none"> 1 car space per 20m² floor area 	<ul style="list-style-type: none"> 1 car space per 30 car spaces
veterinary premises and health consulting rooms	<ul style="list-style-type: none"> 3 car spaces per practitioner 1 car space per 2 employees not a practitioner 2 bicycle spaces per 10 practitioners and other employees not practitioners 	<ul style="list-style-type: none"> 1 car space per 10 car spaces
Industry		
heavy industrial storage establishments, heavy industry and general industry	<ul style="list-style-type: none"> 1 car space per 100m² floor area or 4 space per work bay 1 bicycle space per 20 employees 	<ul style="list-style-type: none"> 1 car space per 30 car spaces
light industry	<ul style="list-style-type: none"> 1 car space per 100m² or 1 car space for each per employee (whichever is greater) 1 bicycle space per 20 employees 	No requirement
rural industries	<ul style="list-style-type: none"> Merit-based approach 1.3 per 100sqm 	No requirement
vehicle body repair workshops and vehicle repair stations	<ul style="list-style-type: none"> 4 car spaces per work bay 	No requirement
warehouse or distribution centres, storage premises and depots	<ul style="list-style-type: none"> 1 car space per 200m² 1 bicycle space per 20 employees 	<ul style="list-style-type: none"> 1 car space
Infrastructure		
bowling alley	<ul style="list-style-type: none"> 3 car spaces per bowling alley 1 bicycle space per 15 employees 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
bowling green	<ul style="list-style-type: none"> 30 car spaces for first bowling green, then 15 for each additional bowling green 1 bicycle space per 15 employees 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
charter and tourism boating facilities	<ul style="list-style-type: none"> 4.5 car spaces per 100m² floor area or 1 space per 10 passengers 	<ul style="list-style-type: none"> 1 car spaces per 20 car spaces
child care centre	<ul style="list-style-type: none"> 1 car space for every 4 childcare places 	<ul style="list-style-type: none"> 1 car space
community facilities	<ul style="list-style-type: none"> Merit-based approach 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
educational establishment	<ul style="list-style-type: none"> 1 car space per employee 1 car space per 8 senior high school students 1 bicycle space per 10 employees and students 	<ul style="list-style-type: none"> 1 car space per 20 car spaces

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B8

Development type	Parking requirements	Accessible parking
gymnasium	<ul style="list-style-type: none"> 5 car space per 100m² 1 bicycle space per 15 employees 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
indoor soccer/cricket/netball	<ul style="list-style-type: none"> 15 car spaces per pitch/court 1 bicycle space per 15 employees 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
marina	<ul style="list-style-type: none"> 0.6 spaces per wet berth 0.2 spaces per dry storage berth 0.2 spaces per swing mooring 0.5 spaces per marina employee 1 bicycle space per 15 employees <p>Note: Additional car parking is to be provided for the uses carried out as part of, or ancillary to a marina which are identified in this Figure and car parking is to be provided for those uses in accordance with the relevant rates set out in this Figure.</p>	No requirement
medical centres	<ul style="list-style-type: none"> 1 car space per 25m² floor area 	<ul style="list-style-type: none"> 1 car space per 10 car spaces
passenger transport facility	<ul style="list-style-type: none"> Merit-based approach 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
place of public worship	<ul style="list-style-type: none"> Merit-based approach 1 car space per 5 seats or 5m² (which ever is greater) 1 bicycle spaces per 10 employees and visitors 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
squash/tennis courts	<ul style="list-style-type: none"> 3 car spaces per tennis court 1 bike space per 15 employees 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
Residential Accommodation		
boarding houses, secondary dwellings , supported accommodation and group homes	<ul style="list-style-type: none"> Refer to State SEPP (Affordable Housing) 2009 (Housing) 2021 1 car space per 20 rooms 	Refer to SEPP (Affordable Housing) 2009 (Housing) 2021
dwelling house, dual occupancy and semi-detached dwellings	<ul style="list-style-type: none"> 1 car space for one and two bedroom dwellings 2 car spaces for three > bedroom dwellings 	No requirement
home business or home industry	<ul style="list-style-type: none"> 1 car space, plus 1 car space for each per employee 	No requirement
hostels	<ul style="list-style-type: none"> 1 car space per 10 beds 1 car space per for every 2 employees 1 parking space for services and deliveries 	No requirement
residential flat buildings , attached dwellings, multi dwelling housing and shop-top housing	<ul style="list-style-type: none"> 1 car space for one and two bedroom dwellings 2 car spaces for three > bedroom dwellings 1 visitor space for every three dwellings 	No requirement
seniors housing	Refer to SEPP (Housing for Seniors or People with a Disability) 2004 (Housing) 2021	

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B8

Development type	Parking requirements	Accessible parking
Tourist and Visitor Accommodation		
backpackers accommodation	<ul style="list-style-type: none"> 1 car space per 10 beds or 1 space per 5 rooms 1 car space per 2 employees 	<ul style="list-style-type: none"> 1 space per 20 parking spaces
bed and breakfast establishment and farm stay	<ul style="list-style-type: none"> 1 car space per guest room 	No requirement
camping ground and caravan park	<ul style="list-style-type: none"> 1 car space per site 1 visitor space for every 10 sites 	No requirement
hotel or motel accommodation, serviced apartments and eco-tourist facilities	<ul style="list-style-type: none"> 1 car space for each per accommodation unit 1 car space per 2 employees 1 bicycle space per 20 accommodation units 	<ul style="list-style-type: none"> 1 space per 20 parking spaces
serviced apartments	Refer to LEP 7.13 Serviced apartments SEPP 65 Design Quality of Residential Apartment Development (2002)	

Note: Accessible parking can be provided within the total parking requirements.

Development controls

B8.5	Where the parking requirements for B8.4 cannot be provided for on-site in accordance with Figure BU, Council may consider alternative off-site arrangements for parking demand, such as providing parking on another site in proximity to the development or providing a courtesy bus for patrons.
B8.6	<p>A reduction in the number of spaces required in accordance with Figure BU may be considered when supported by a TIA in the following circumstances:</p> <ul style="list-style-type: none"> Parking has a negative visual impact on heritage; The current land use has been approved with a parking shortfall and the proposed parking concession does not exceed the current shortfall for the approved use calculated in accordance with Figure BU; Peak demand between commercial and residential development types is shared ; An upgraded public transit facility, such as a bus stop, is provided in proximity to the site; Where it can be demonstrated that ancillary uses carried out as part of, or ancillary to a marina do not generate demand for on-site parking, consistent with the relevant rate prescribed in Figure BU.

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B8

Figure BV: Entry, exit and driveway separation widths

Step 1. Determine class of parking						
Class	Examples of uses					Required door opening
A	All-day parking - resident, employee, commuter parking and universities					Front door, first stop
B	Medium-term parking - long-term city and town centre parking, sports facilities, entertainment centres, hotels, motels and airport visitors					Front door, second stop
C	Short-term parking - town Centre parking, shopping centres, department stores, supermarkets, hospitals and medical centres					Rear door, full-opening
Step 2. Determine ingress/egress category						
		Number of Parking Spaces				
Class	Street Hierarchy	<25	25-100	101-300	301-600	>600
A	Arterial	1	2	3	4	5
	Local	1	1	2	3	4
B	Arterial	2	2	3	4	5
	Local	1	2	3	4	5
C	Arterial	2	3	4	4	5
	Local	1	2	3	4	4
Step 3. Determine entry, exit and driveway separation widths						
Ingress / Egress Category	Entry width		Exit width		Driveway separation	
1	Single maximum: 3m Double maximum: 4m		Combined		-	
2	6-9m		Combined		-	
3	6m		4-6m		1-3m	
4	6-8m		6-8m		1-3m	
5	Direct connection from a dedicated public road via controlled intersection					

Development controls

Ingress/Egress dimensions may need to be increased to 6.5m for the first 6m inside the property boundary when:

- ingress/egress exceeds 30m in length
 - Ingress/Egress exceeding 30m in length provides passing bays at 30m intervals, **or**
- sight distance in accordance with Figure BW cannot reasonably be achieved, **or**
- **development** provides direct access to an **arterial road**

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C1

Figure CB: Battle-axe lot requirements

	Entry width	Max length	Misc.	Torrens
Dwelling house Dual occupancy	3.6m	30m	Max 2 dwellings	Max 3
Multi dwelling housing Residential flat building	6m	50m	-	-
Business Industrial	10m	-	-	Max 3
Rural - less than 2 lots or less	6.5m	200m	-	Max 3 ²
Rural - greater than 3 lots	10m	200m	-	Max 3

Development controls

Splay corners

C1.4 **Splay corners** are provided for corner lots and must be a minimum of:

- 4m x 4m for residential zones
- 8m x 8m for commercial and industrial zones
- 6m x 6m or **merit-based approach** for other zones

C1.B All subdivision - street trees

Objective

To ensure street tree planting is of an appropriate species and undertaken in accordance with Council's guidelines

Development controls

Street tree requirements

- C1.5 Street trees are required as a component of the road reserve for the following:
- residential **subdivisions**
 - commercial **subdivisions**
 - industrial **subdivision** creating 10 or more lots
 - Street trees are provided in accordance with the **tree technical specification**¹
 - Tree Planting Guidelines of the **tree technical specificaiton**¹ provides guidance to the application of the **vegetation technical specification**²-**tree technical specification**¹ to determine the total number of trees to be provided

Street tree replacement

- C1.6 Where street trees are required to be removed to facilitate development, they must be replaced in a practical location, in accordance with Section 4.6 of the **tree technical specification**¹

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C3

C3 Industrial

Application

This Part applies to **development** defined as **industry** and/or **development** within the zone B5 Business Development

C3.A Height

Objectives

- To ensure the height of buildings is appropriate for the context and character of the area
- To ensure **building heights** reflect the hierarchy of centres and land use structure

Development controls

Building height

C3.1	Maximum height limit of 15m or a merit-based approach is taken where no height limit is specified under the Local Environmental Plan clause 4.3 Development must not exceed a height of 15m Note: The Local Environmental Plan clause 4.3 Height of buildings overrides this requirement, if a height is specified
------	---

C3.B Building siting and design

Objective

To ensure **development** is situated within an appropriate building envelope

Development controls

Front setback

C3.2	Maximum 6m front setback from the front property line or in line with the existing average building line
C3.3	Single storey offices and display rooms within the front setback must: <ul style="list-style-type: none"> • not exceed 50% of the front setback area • ensure sightlines are maintained for pedestrian and vehicle movement

Side setback

C3.4	Side boundary setbacks are to be in accordance with the Building Code of Australia (BCA)
------	--

Rear setback

C3.5	Merit-based approach to rear setback with a 1.5m buffer zone provided to drainage reserves
------	---

C5

C5 Multi Dwelling Housing or Seniors Housing

Application

This Part applies to development that is defined as **multi dwelling housing** or **seniors housing**

Note: **Development** defined as a **residential flat building** should refer to **SEPP No 65 – Design Quality of Residential Apartment Development** and the **Apartment Design Guide***

C5.A Landscaping

Objectives

- To enhance the appearance and amenity of **developments** through the retention and/or planting of large and medium sized trees
- To encourage landscaping between buildings for screening
- To ensure landscaped areas are consolidated and maintainable spaces that contribute to the **open space** structure of the area
- To add value and quality of life for residents and occupants within a **development** in terms of privacy, outlook, views and recreational opportunities
- To reduce energy consumption through microclimate regulation
- To reduce air borne pollution by reducing the heat island effect
- To intercept stormwater to reduce stormwater runoff

Development controls

Landscaping coverage

C5.1 Landscape area is provided as follows:

- 15% of the **site area** consisting of deep soil planting where the lot is equal to or less than 250m² and zoned R1 General Residential or R2 Low Density Residential; or
- 20% of the **site area** consisting of deep soil planting where the lot is greater than 250m² and zoned R1 General Residential or R2 Low Density Residential; or
- 10% of the **site area** consisting of deep soil planting when the site is zoned R3 Medium Density Residential or B4 Mixed Use; and

Note: The canopy coverage of specimen trees can be used to calculate deep soil landscaping

- 50% of the landscaped area must be located behind the building line to the primary road; and
- 30% shading over uncovered car park areas

C5

C5.C Setbacks

Objectives

- To ensure **development** provides continuity and consistency to the **public domain**
- To ensure adequate space between buildings to enable effective landscaping
- To alleviate impacts on amenity including privacy, **solar access**, acoustic control and natural ventilation
- To reduce the visual bulk of buildings from the street
- To maintain the rhythm and built form on the street

Development controls

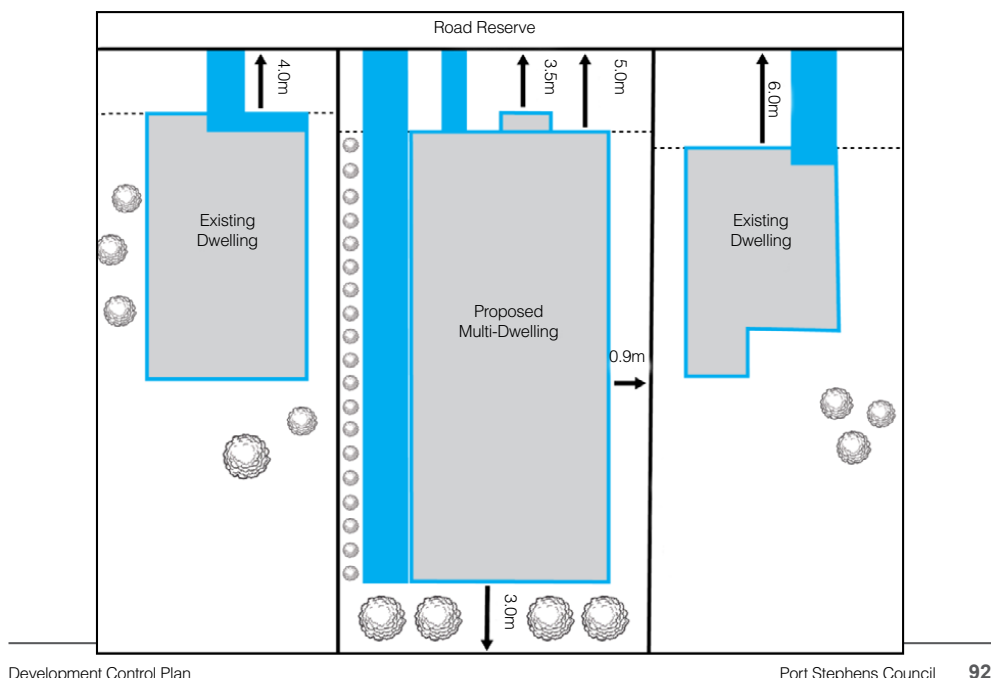
Front setback

- C5.6 Minimum 4.5m front setback from the **front property line** or the existing **average building line** (whichever is less) for 75% of the building facade.
The remaining 25% of the facade may allow a 2m encroachment provided the encroachment contains **habitable rooms**, terraces, balconies or bay windows.
- C5.7 **Podium** structures and basement car parks are not to be within the front setback area
- C5.8 Setback areas are not to be used for at grade parking.
- C5.9 Minimum 5.5m front setback from the **front property line** for a garage to enable a parked car to be situated in front of the garage.

Front setback encroachment

- C5.10 Maximum 1.5m encroachment of front setback for architectural features, such as an entry porch or deck

Figure CL: Ground level (finished) setbacks for the existing average building line



Development Control Plan

Port Stephens Council 92

C8

C8 Ancillary Structures ~~Sheds,~~ ~~Swimming Pools, Fencing,~~ ~~Retaining Walls and Shipping~~ ~~Containers~~

Application

This Part applies to **development** that is defined as **ancillary structures**, including sheds, **carports**, swimming pools, fencing, retaining walls and shipping containers

C4.H Ancillary structures

Objectives

- To provide further guidance for **ancillary structures** to ensure consistent and desired amenity is attained
- To ensure **ancillary structures** do not **adversely impact** upon the amenity of the surrounding area
- To ensure **ancillary structures** are consistent in terms of height, bulk and scale with the surrounding area

Development controls

Sheds (residential)

C8.1	<p>Except as provided for in C8.2, development in a residential zone (except R5 Large Lot Residential) adheres to a:</p> <ul style="list-style-type: none"> • maximum gross floor area of 72m²; • maximum height of 3.6m; • minimum side and rear setback of 0.9m; and • minimum 1m behind the building line or setback <p>Note: SEPP (Exempt and Complying Development Codes) 2008, Subdivision 9 Cabanas, cubby house, ferneries, garden sheds, gazebos and greenhouses generally classifies a shed to a maximum floor area of 20m² in a residential zone to be exempt development</p>
------	---

Exceptions for residential sheds (except on land zoned R5 Large Lot Residential)

C8.2	<p>Development for the purposes of a shed in a residential zone (except R5 Large Lot Residential) may exceed the limits in C8.1 where the following can be demonstrated:</p> <ul style="list-style-type: none"> • The shed does not unreasonably impact the amenity of an adjoining property, such as by reason of bulk and scale, privacy or overshadowing
------	---

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C8

Development controls

- The shed is of a similar bulk and scale to surrounding sheds
- The shed is consistent with the context and character of the area
- Must not be a shipping container

Sheds (Rural)

C8.5 **Development** in a rural zone adheres to a:

- minimum 10m **side boundary** and rear setback;
- minimum 5m setback from another building; and
- colour scheme consistent with the existing character of the area.

Note: **SEPP** (*Exempt and Complying Development Codes*) 2008, Subdivision 9 Cabanas, cubby house, ferneries, garden sheds, gazebos and greenhouses generally classifies a shed to a maximum floor area of 50m² in a RU1, RU2, RU3, RU4, RU6 or R5 zone to be **exempt development**

Carports

C8.6 Except as provided for in C8.12, carports should be located a minimum of 1m behind the **building line**

C8.7 Minimum side and rear **setback** of 0.9m

Note: Carports may be located within 0.9m of the boundary where they do not unreasonably impact the amenity of an adjoining property, such as by reason of bulk and scale or overshadowing

C8.8 Maximum height of 3.6m, or if attached to a single storey **dwelling**, be no higher than the roof gutter line

C8.9 If the carport fronts the street, the opening must not exceed more than 6m or 50% of the building frontage, whichever is less

C8.10 The design of carport must be integrated with the existing **dwelling**

C8.11 Carports are to have at least two open sides and not less than one-third of its perimeter open

C8.12 Carports may be located in the front **setback** where the following can be demonstrated:

The carport cannot be reasonably located behind the building line

The carport is set back 2m from the front boundary

The design of carport is consistent with the existing **dwelling**

The carport is connected to a driveway

The carport does not impact sight lines for pedestrians or other vehicles, does not obscure any view from a habitable room to the street, and has at least 3 open sides

Swimming pools

C8.13 The water edge must be setback at least 1m from the side and rear boundaries

C8.14 Maximum decking height of 1.4m in height if the pool is located more than 600mm above the **ground level (finished)**

D10

D10 Pacific Dunes - Medowie

Application

This Part applies to the land identified in Figure DR as Pacific Dunes - Medowie

D10.A Lodgement Requirements

Objectives

- To ensure **development** is informed by an analysis of its setting
- To provide for **development** that is dominated by native planting that complements the existing vegetation of the area and enhances natural attributes

Development controls

Landscape plan

- D10.1 A **development application** is accompanied by a **Landscape Plan**, which provides consideration to:
- Native trees, shrubs, groundcovers, mulched and planted areas within the front and rear vegetated zones in accordance with the Precinct Design Guidelines³⁷

D10.B Flooding

Objectives

- To satisfy the provisions of the **Local Environmental Plan** relating to flooding, such as minimising the flood risk to life and property associated with the use of land
- To provide for resident safety and amenity by ensuring that minimum floor levels are set above the **flood planning level**

Development controls

Flood planning level

- D10.2 The habitable floor level of any dwelling is constructed to the **flood planning level**. Flood data is available via Council's online **flood certificate** application process. The habitable floor level of any **dwelling** is constructed 500mm above the **1%-Annual Exceedance Probability (AEP)** of 9.5m as contained within the Pacific Dunes Flood Assessment Report³⁸

D10.C Setbacks

Objectives

- To ensure **development** provides continuity and consistency to the **public domain**
- To provide a consistent **setback** to encourage street activation

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D11

D11.I Flood hazard

Objective

- To ensure that **development** within the **flood planning area** does not contribute to the flood hazard
- To satisfy the provisions of the **Local Environmental Plan** relating to flooding, such as minimising the flood risk to life and property, which are associated with the use of land

Development controls

Flood hazard Planning Area

D11.22 **Development** is to be constructed to 5.3m **AHD** The habitable floor level of any dwelling is constructed to the **flood planning level**. Flood data is available via Council's online **flood certificate** application process.

D11.J Drainage and water quality

Objective

To effectively manage stormwater to ensure downstream impacts are minimised

Development controls

Retention basin

D11.23 Land indicatively drawn on Figure DU is reserved for the purpose of a retention basin

D12

D12 Richardson Road - Raymond Terrace

Application

This Part applies to the land identified in Figure DV as Richardson Road - Raymond Terrace

D12.BA Street layout and transport network

Objectives

- To ensure that a well-planned and connected street layout for the area is delivered and not compromised by **development** on a single site.
- To achieve efficient and equitable pedestrian, cycle, public transport and private vehicle connectivity between lots and precincts, the local centre and nearby service areas.
- To ensure the street layout limits access to the Pacific Highway and Richardson Road.

Development controls

Street layout

D12.13 Street layout is generally consistent with the locality controls map at Figure DW.

D12.2 No additional direct **driveway** access to and from Richardson Road is permitted.

5m Road dedication

D12.4 Lots abutting Richardson Road dedicate 5m to the **road reserve** when access is provided at stage 1

Stage 2

D12.5 Stage 2 provides the following:

- 4m sealed pavement with shoulders, under road pipeline crossings and the roadside table drains on the northern side of the road centreline for Halloran Way
- Passing bays at 200m spacing
- Upgrade Halloran Way as required

Note: C1.12 requires streets to comply with Infrastructure Specification—Design¹¹

Connectivity

D12.3 The **subdivision** of a lot that proposes a road layout that prevents the effective connectivity of the wider street network will not be supported. **Development applications** must provide for wider street network connectivity in a grid-like structure.

D12.4 **Subdivisions** that propose street networks are to be informed by road connections to future **subdivisions** on adjoining land. **Development applications** shall identify future road connections to adjacent land where necessary.

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D12

Development controls

Transport movement hierarchy

D12.5 Local roads connecting to Richardson Road, Halloran Way and Baluster Street are constructed as bus routes in accordance with Council's Infrastructure specification.

D12.6 Pedestrian and shared paths are provided in accordance with Council's Infrastructure specification.

Road connections to Richardson Road

D12.7 Access to Richardson Road must be provided in accordance with Figure DW.

Street trees along Richardson Road

D12.8 **Landscaping plans** for **subdivisions** along Richardson Road must provide for an attractive and low maintenance landscape along the road frontage, and in accordance with the **tree technical specification**¹.

Note: This requirement is in addition to the requirements under Part C1.

D12.AB Staging

Objective

To ensure that the staging of **subdivision** is informed by site analysis and infrastructure provision

Development controls

Staging 1

D12.91 Stage 1 is completed prior to stage 2 commencing.

Stage 2

D12.10 Stage 2 can occur prior to stage 1, if:

- continuous road construction is provided to the **western** intersection of Benjamin Lee Drive and Richardson Road
- ~~stormwater and sewerage connection to~~ **public infrastructure** is provided

Note: The **Local Environmental Plan** requires a staging plan

D12.11 Stage 3 must:

- provide continuous road construction to Baluster Street; and
- demonstrate the Halloran Way and Richardson Road intersection has adequate capacity to support traffic generated by the **development**.
- ~~Note: development~~ that exceeds the intersection capacity must provide a continuous road connection to Stage 4 and can only be completed once the eastern intersection at Benjamin Lee Drive and Richardson Road identified in Figure DW is operational.

D12.12 Stage 4 must provide continuous road construction to **Richardson Road in accordance with Figure DW** and the eastern intersection of Benjamin Lee Drive and Richardson Road must be operational ~~in accordance with Figure DW~~.

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D12

~~D12.C Essential services~~~~Objectives~~

- To ensure sewerage is provided
- To ensure drainage is informed by **site analysis**

~~Development controls~~~~Drainage~~

D12.6 Sewerage is not required at stage 1

D12.7 Provide **drainage reserves** in accordance with Figure DW and the Halloran Way Reports

D12.D Aircraft noise

Objective

- To ensure **development** satisfies the requirements of the **Local Environmental Plan**, clause 7.5
- To ensure appropriate consideration is given to land burdened by aircraft noise

Development controls

Aircraft noise

D12.13 ~~Note:~~ Richardson Road is located within the 20-25 and 25-30 **ANEF** contour.~~Note:~~ B6.1 details what is to be considered when **development** is located within the aircraft noise planning area, which includes the 20-25 **ANEF** contours.

D12.D Stormwater drainage and water quality

Objectives

- To ensure environmentally sustainable and affordable water management solutions are implemented on a catchment-wide basis and not compromised by development on a single site.
- To safeguard nearby sensitive wetlands by improving the quality of stormwater runoff.
- To improve or maintain water quality within the Grahamstown Dam Drinking Water Catchment.
- To ensure that stormwater from **development** is adequately managed to provide for common stormwater management infrastructure.

Development controls

Stormwater drainage

D12.14 **On-site detention / on-site infiltration** is required for all new development where impervious areas are proposed.

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Development controls

D12.15 The **on-site detention / on-site infiltration** is to be:

- Sized so that the post-development flow rate and volume equals the pre-development flow rate and volume for all storm events up to and including the **1% Annual Exceedance Probability (AEP)** storm event; and,
- Provided by underground chambers, surface storage or a combination of the two.

Note: Part B4 provides further consideration towards **on-site detention / on-site infiltration**.

Note: Pre-development is prior to any development occurring on the land.

Drainage reserves

D12.16 **Drainage reserves** are located generally in accordance with the locality controls map at Figure DW.

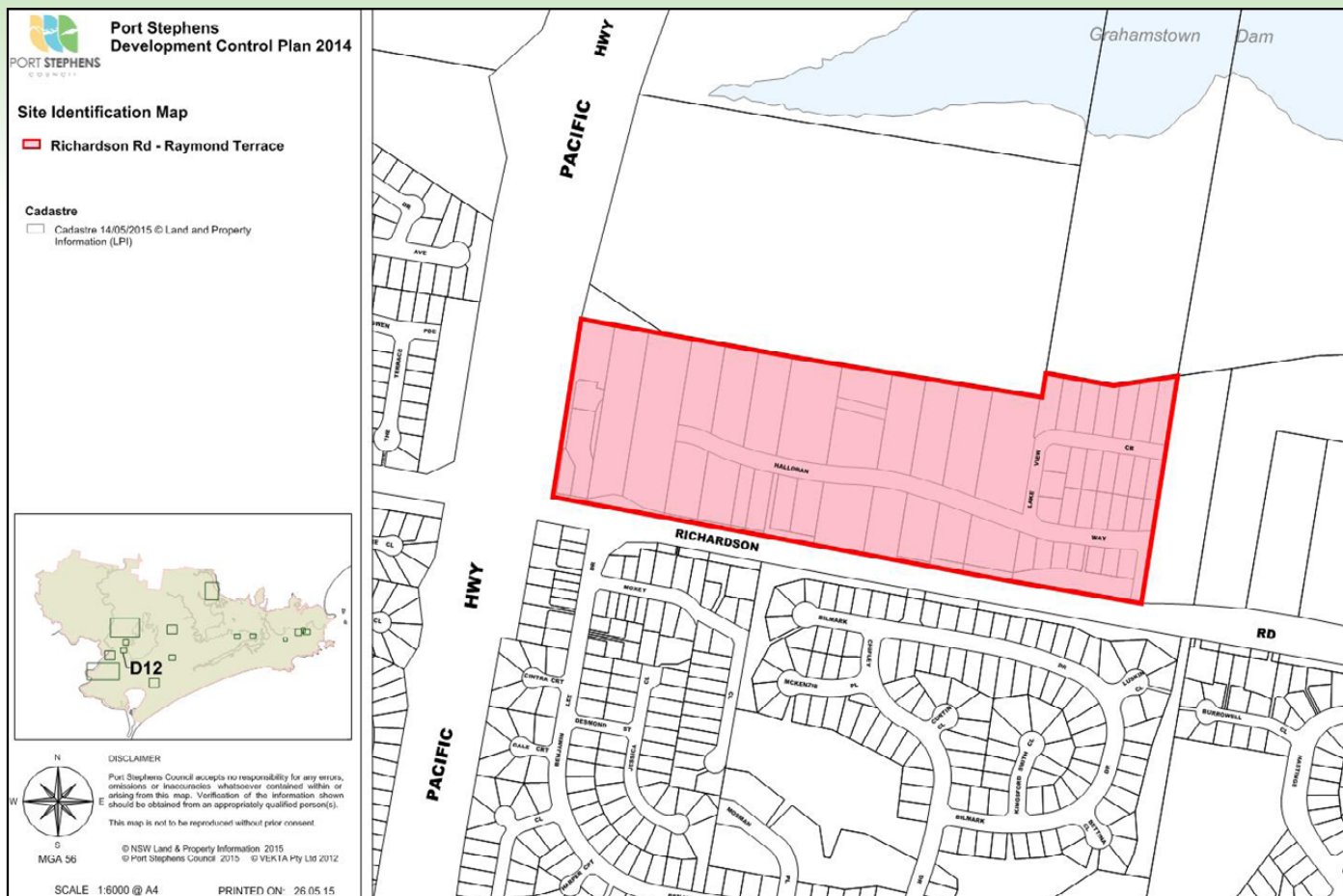
D12.17 All new **developments** must demonstrate that there would be no adverse impact on the operation of the **drainage reserve** or adjoining land on which stormwater is discharged.

Water quality

D12.18 When a **development application** is received for subdivision greater than three lots or would result in an impervious area greater than 60% of the site area, it must demonstrate that the quality of water that is released into public drainage achieves Council's **water quality stripping targets** for the area.

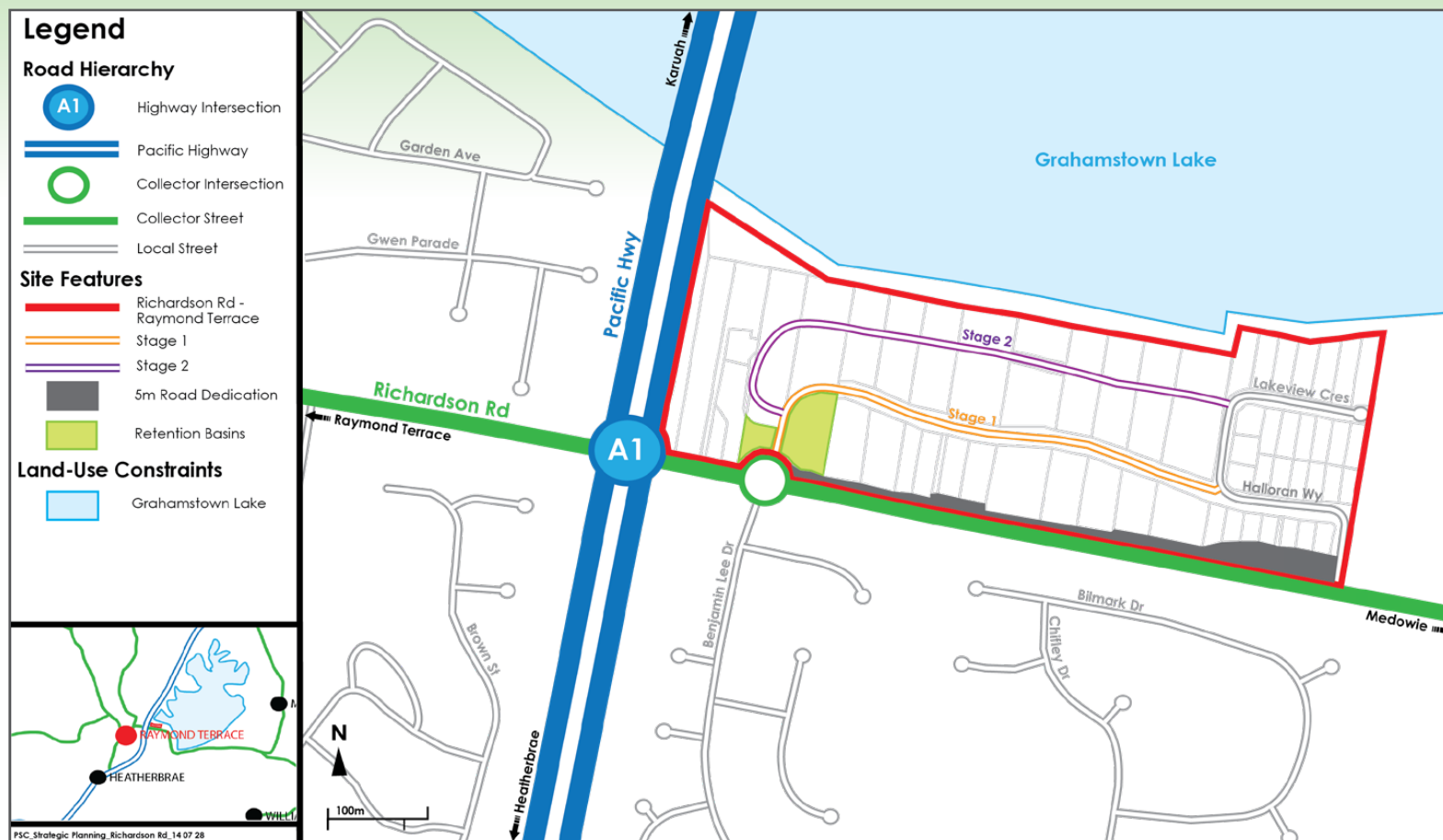
D12

Figure DV: Richardson Road - Raymond Terrace land application map



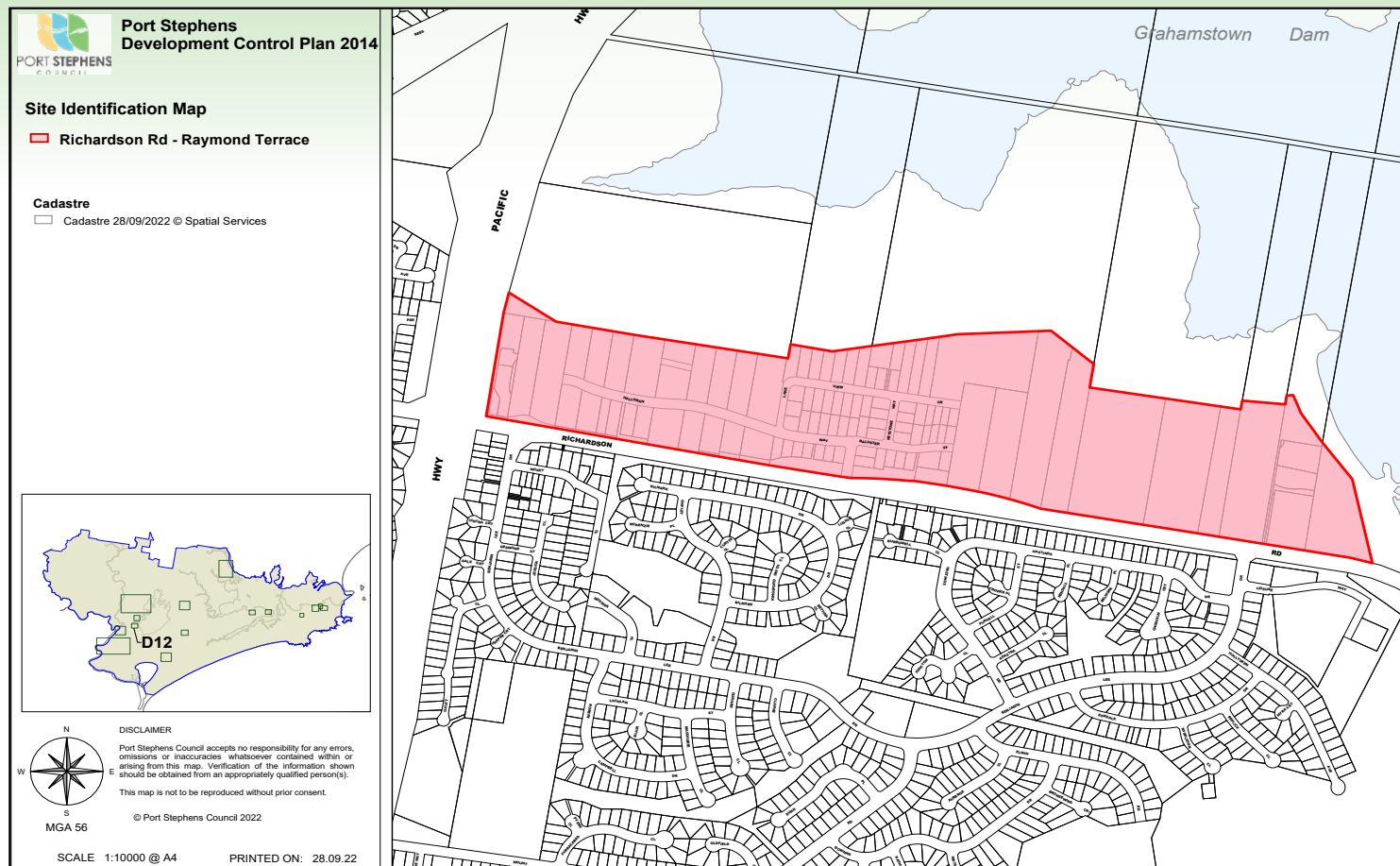
D12

Figure DW: Richardson Road - Raymond Terrace locality controls map



D12

Figure DV: Richardson Road - Raymond Terrace land application map



D12

Figure DW: Richardson Road - Raymond Terrace locality controls map Pre-exhibition



D12

Figure DW: Richardson Road - Raymond Terrace locality controls map Post exhibition



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D13

Development controls

Stormwater drainage

D13.11 **On-site detention / on-site infiltration** is required for all new development where impervious areas are proposed.

D13.12 The **on-site detention / on-site infiltration** is to be:

- Sized so that the post-development flow rate and volume equals the pre-development flow rate and volume for all storm events up to and including the **1% Annual Exceedance Probability (AEP)** storm event; and,
- Provided by underground chambers, surface storage or a combination of the two.

Note: Part B4 provides further consideration towards **on-site detention / on-site infiltration**.

Note: Pre-development is prior to any development occurring on the land.

Drainage reserves

D13.13 **Drainage reserves** are located generally in accordance with the locality controls map at Figure DY.

D13.14 All new **developments** must demonstrate that there would be no adverse impact on the operation of the **drainage reserve** or adjoining land on which stormwater is discharged.

Water quality

D13.15 When a **development application** is received for subdivision greater than three lots or would result in an impervious area greater than 60% of the site area, it must demonstrate that the quality of water that is released into **public drainage** achieves Council's **water quality stripping targets** for the area.

Water quality stripping targets are to be in accordance with the Landcom stretch water quality targets (Landcom Water Sensitive Urban Design Book 2 Planning and Management 2009) below:

- Total nitrogen retention post-development load: 65%
- Total phosphorus retention post-development load: 85%
- Total suspended solids post-development load: 90%

Note: These requirements exceed and supersede those under Part B4.

D13.D Recreation and visual amenity

Objectives

- To ensure the provision of an adequate area of public open space is provided for the amenity of residents.
- To provide an attractive and low maintenance landscape along Rees James Road.

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E1

biosecurity impact has the same meaning as in the *Biosecurity Act 2015*

biosecurity risk means the risk of a biosecurity impact occurring

Note: **biosecurity risk** has the same meaning as in the *Biosecurity Act 2015*

habitable room as defined by the ~~NSW Floodplain Development Manual 2005~~ and the current Building Code of Australia means a room used for normal domestic activities, and -

- a. In a residential situation: a living or working area, such as a lounge room, dining room, rumpus room, kitchen, music room, television room, sewing room, study/office, playroom, family room, home theatre room, and sunroom, bedroom or workroom: includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room, home theatre and sunroom; but
- b. In an industrial or commercial situation: an area used for offices or to store valuable possessions susceptible to flood damages in the event of a flood: excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods.

Note: the **habitable room** definition excludes areas such as a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods: the NSW Floodplain Development Manual 2005 provides the following definition for industrial and commercial situations: an area used for offices or to store valuable possessions susceptible to flood damages in the event of a flood.

non-rural areas for the purposes of Part B1 – Tree Management means the following land-use zones under the **Local Environmental Plan** and as specified in *SEPP (Vegetation in Non-Rural Areas) 2017* (*Biodiversity and Conservation*) 2021:

- RU5 Village
- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B7 Business Park
- IN1 General Industrial
- IN2 Light Industrial
- IN4 Working Waterfront
- RU5 Village
- SP1 Special Activities
- SP2 Infrastructure
- RE1 Public Recreation

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E1

- RE2 Private Recreation
- E2C2 Environmental Conservation
- E3C3 Environmental Management
- E4C4 Environmental Living

noxious weeds is a plant declared by an order under section 7 of the *Noxious Weeds Act 1993* to be a noxious weed. Note: **noxious weeds** has the same meaning as in the *Noxious Weeds Act 1993*

NSW Weedwise refers to the Department of Primary Industries database which provides key information to identify weeds

pest has the same meaning as in the *Biosecurity Act 2015*

bulky goods specialised retail premises has the same meaning as specialised retail premises in the *Local Environmental Plan*

undesirable species means the following:

- Tree of Heaven — *Alionthus altissima*
- Camphor Laurel — *Cinnoamomum camphora*
- Cotoneaster — *Cotoneaster spp.*
- Coral Tree — *Erythrina spp.*
- Rubber Tree — *Ficus elastica*
- Privet — *Ligustrum spp.*
- Oleander — *Nerium oleander*
- Slash pine — *Pinus elliotii*
- Radiata pine — *Pinus radiata*
- Willow — *Salix babylonica*, *Salix matsudana tortuosa* and *Salix spp*
- Umbrella Trees — *Schefflera spp*
- Cocos Palm — *Syagrus romanzoffianum*
- Rhus Tree — *Toxicodendron succedameum*

vegetation management plan (VMP) means a **vegetation management plan** as described under the Port Stephens Council **vegetation technical specification² tree technical specification¹**

vegetation technical specification means the Port Stephens Council Vegetation Technical Specification. The Specification is available from the Port Stephens Council Website.

weeds means a plant that is a pest

Note: **weeds** has the same meaning as in the *Biosecurity Act 2015*