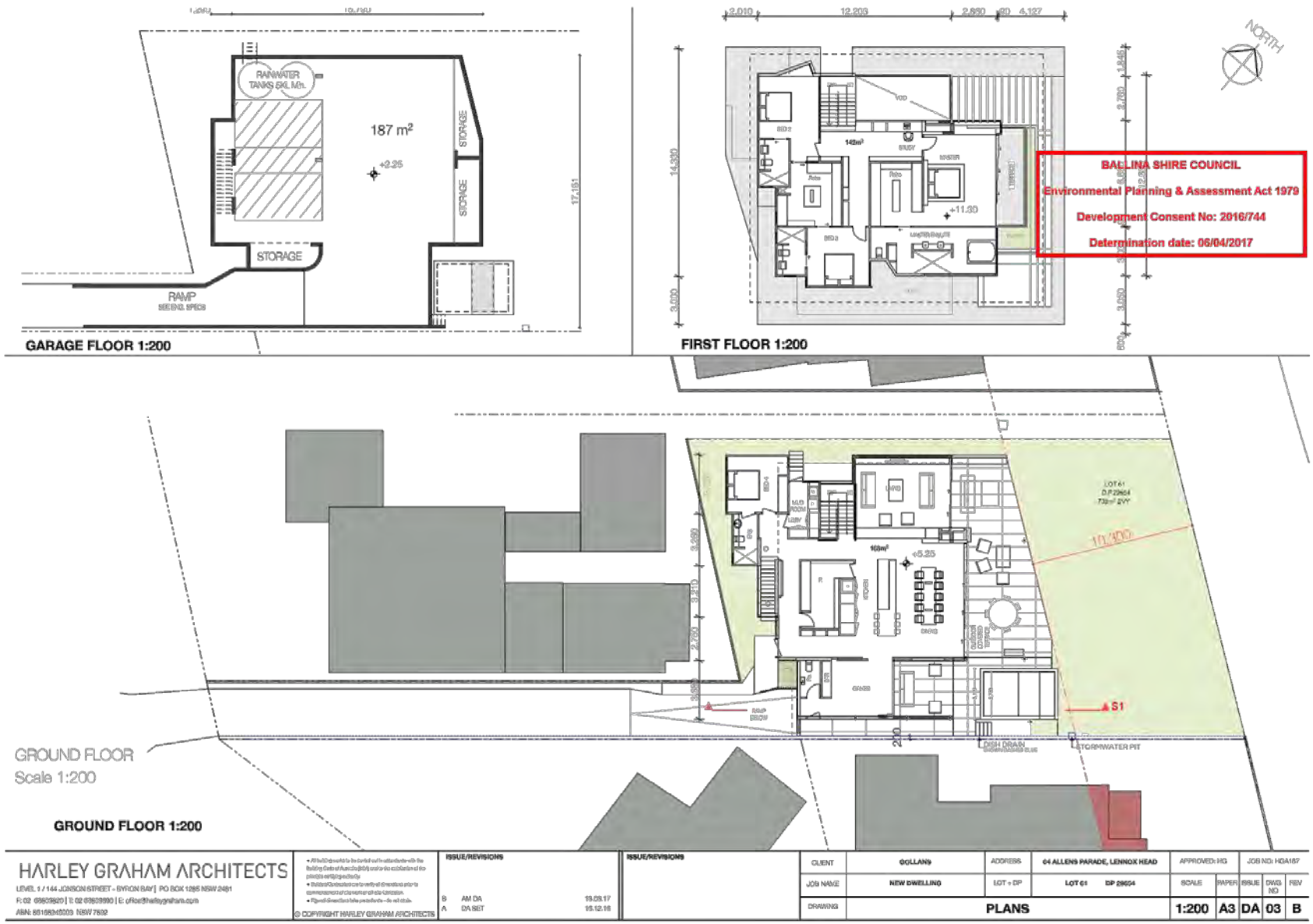
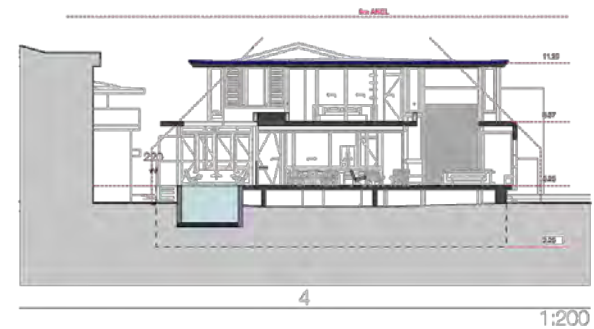
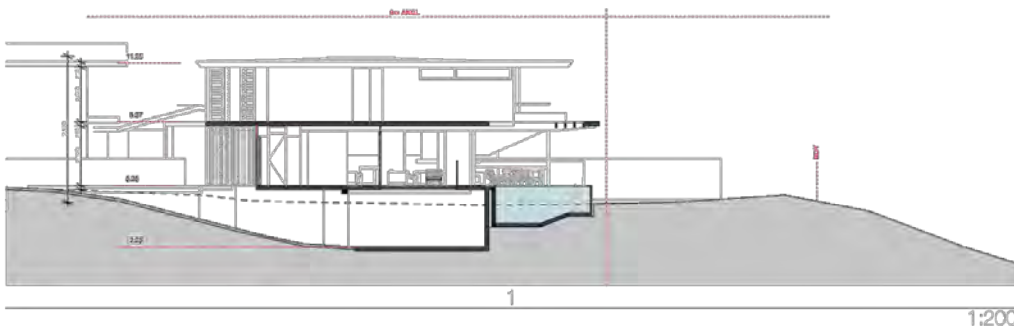
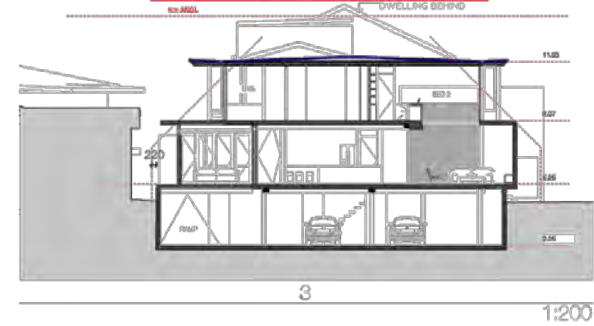
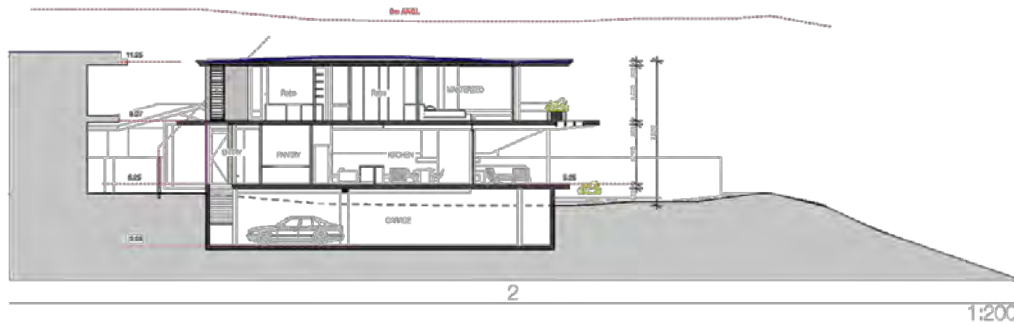


8.1 DA 2016/744 - 64 Allens Parade - Modification to Consent.DOC



64 ALLENS PARADE

BALLINA SHIRE COUNCIL OPTION 1
 Environmental Planning Assessment Act 1979
 Development Consent No: 2016/744
 Determination date: 06/04/2017



HARLEY GRAHAM ARCHITECTS LEVEL 1 / 144 JARROLD STREET - BYRON BAY PO BOX 1085 NEWCASTLE P: 02 49828820 F: 02 49828990 E: cflow@hgrarch.com.au ABN: 85 166240003 NSW 7802	• If you do not wish to be contacted with the Building Code of Australia (BCA) or the Environmental Planning Assessment Act 1979, please advise us. • If you do not wish to be contacted with the Building Code of Australia (BCA) or the Environmental Planning Assessment Act 1979, please advise us. • If you do not wish to be contacted with the Building Code of Australia (BCA) or the Environmental Planning Assessment Act 1979, please advise us.	ISSUE/REVISIONS B AM DA 15.08.17 A DA SET 15.12.18	ISSUE/REVISIONS	CLIENT	GOLLANS	ADDRESS	64 ALLENS PARADE, LENNOX HEAD	APPROVED: HIG	JOB NO: HQA187			
				JOB NAME	NEW DWELLING	LOT + DP	LOT 61 DP 28654	SCALE	PAPER	BSJL	DWG	REV
				DRAWING	SECTIONS			1:200	A3	DA	04	B

BALLINA SHIRE COUNCIL
 Environmental Planning Assessment Act 1979
 Development Consent No: 2016/744
 Determination date: 06/04/2017



 CONCRETE / COLOUR : NATURAL	 MATERIAL :SCYON AXON COLOUR: WOODLAND GREY
 GLAZING / IRONSTONE ALUMINUM FRAMES	 BASALT STONE / COLOUR : NATURAL

HARLEY GRAHAM ARCHITECTS LEVEL 1 / 144 JARVIS STREET - BYRON BAY PO BOX 1085 NEW 2461 P: 02 69629820 F: 02 69629900 E: info@harleygrahm.com ABN: 6519840003 NSW 7632 © COPYRIGHT HARLEY GRAHAM ARCHITECTS	ISSUE/REVISIONS • RMA/DC approval to be sought and to be submitted with the Building Certificate of Approval (COA) and to be included in the certificate application • Review of construction to verify if the construction prior to commencement of construction of the consent. • Final directions to be provided to the client.	ISSUE/REVISIONS B AM DA 15.08.17 A DA SET 15.12.18	CLIENT	GOLLANS	ADDRESS	64 ALLENS PARADE, LENNOX HEAD	APPROVED: HIG	JOB NO: HQA167			
			JOB NAME	NEW DWELLING	LOT + DP	LOT 61 DP 28604	SCALE	PAPER	BSL	DWG	REV
			DRAWING	ELEVATIONS				1:200	A3	DA	05

8.1 DA 2016/744 - 64 Allens Parade - Modification to Consent.DOC

S96	64 ALLENS PARADE	
	LENNOX HEAD	
PROPOSED SECTION 96 TO APPROVED NEW DWELLING DA N ^o : 2016/744		
DRAWING SCHEDULE		
	No	NAME
S96		
	01	LOCATION PLAN/ SITE PLAN & DRAWING LIST
	02	PLANS
	03	SECTIONS
	04	ELEVATIONS



LOCATION PLAN 1:2000

PLANNER

ARDYLL PAYNE AND PARTNERS
 DWAYNE ROBERTS
 BALLINA
 45 River Street PO Box 20
 BALLINA NSW 2478
 Ph: 02-6688 3280
 e. dwayne@ardllpayne.com.au

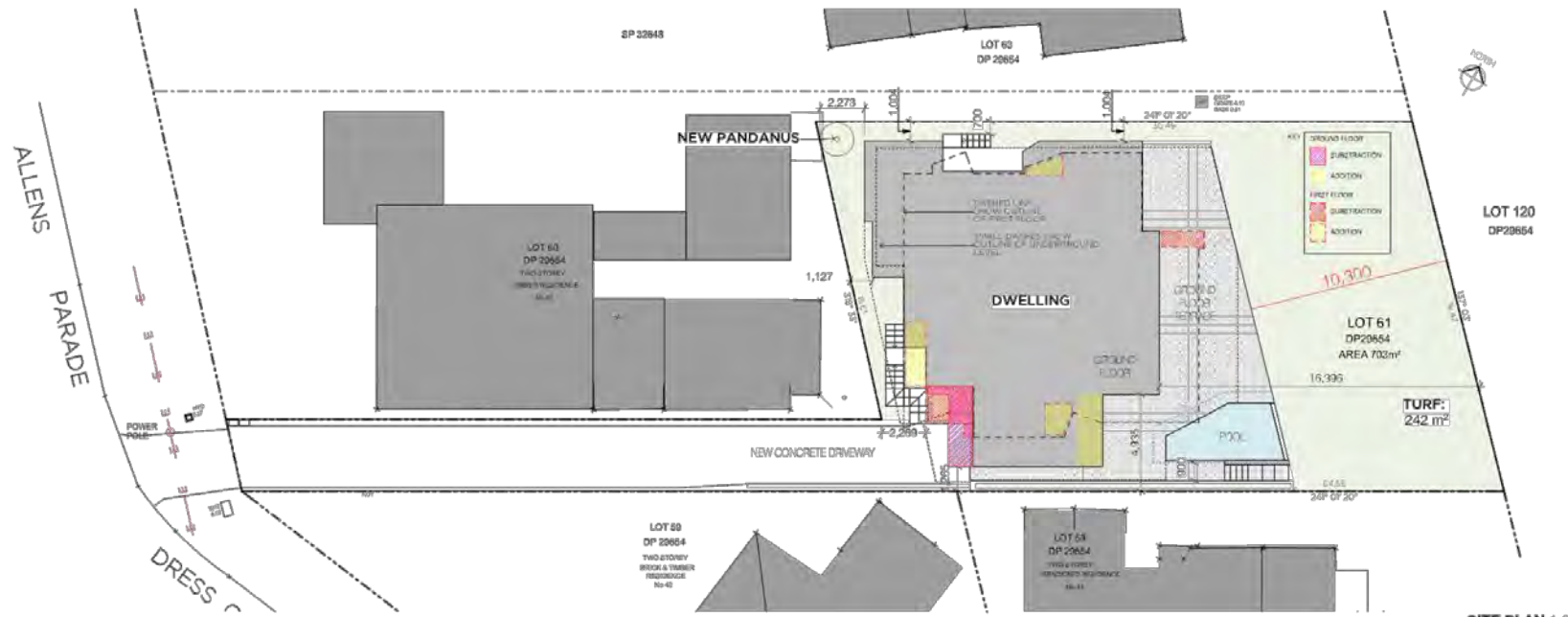
BASIX

BASIX SERVICES
 DUNCAN HOPE
 PO Box 395, BALLINA NSW 2478
 email : duncan@basixservices.com.au
 website : www.basixservices.com.au

BASIX N^o: 784542S
NATHERS N^o: AHGEMOHG85

HYDRAULICS/ DRIVEWAY

PHIL WALLACE
 CONSULTING ENGINEERS
 2/1 KEAT Street
 BYRON BAY NSW 2481
 Ph: 02-6685 7228
 e. phil@ce1@optusnet.com.au



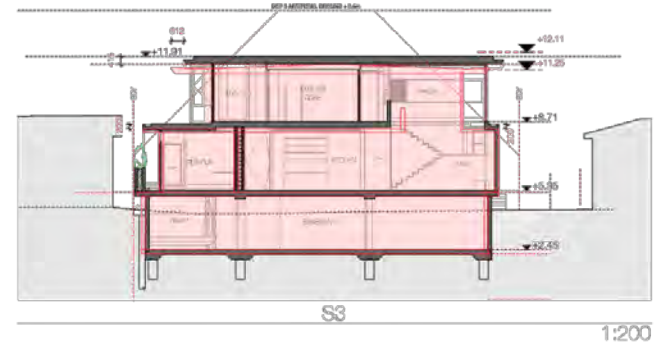
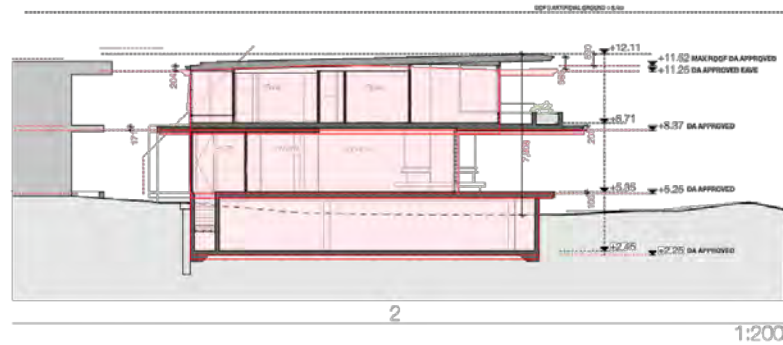
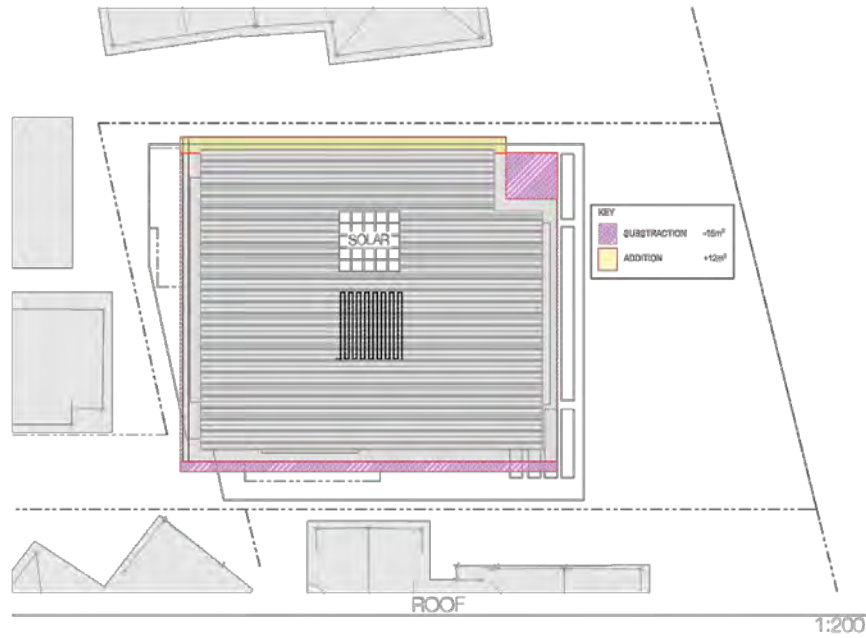
SITE PLAN 1:200

HARLEY GRAHAM ARCHITECTS LEVEL 1 / 144 JOHNSON STREET - BYRON BAY PO BOX 1355 NSW 2481 Ph: 02 99307823 T: 02 99307890 E: office@harleygrahm.com ABN: 95195345000 NSW 2481	<ul style="list-style-type: none"> • All work to be carried out in accordance with the Building Code of Australia (BCA) and the associated building standards and codes. • This drawing is to be used for the construction of the proposed development only. • It is the responsibility of the client to ensure that all necessary approvals and permits are obtained prior to construction. • It is the responsibility of the client to ensure that all necessary approvals and permits are obtained prior to construction. 	REVISIONS NO. DATE DESCRIPTION 1 11/07/18 SECTION 96 - B	CLIENT: GOLLANS ADDRESS: 64 ALLENS PARADE, LENNOX HEAD JOBNAME: NEW DWELLING SITE + DP: LOT 61 DP 20654	DRAWING NO: D APPROVED: AG	SCALE: See DRW title SHEET NO: 01 DATE: 11/07/2018
		© COPYRIGHT HARLEY GRAHAM ARCHITECTS			DRAWING TITLE: LOCATION PLAN/ SITE PLAN & DRAWING LIST DRAWING DATE: APPROVED: NS



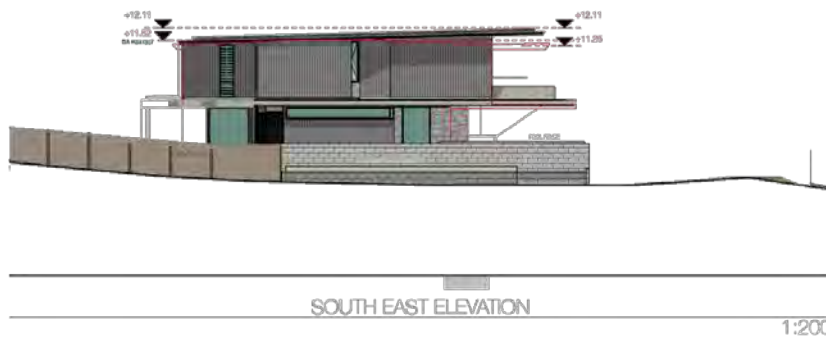
HARLEY GRAHAM ARCHITECTS LEVEL 1 / 144 JONSON STREET - OYTHON BAY PO BOX 1285 NSW 2481 P: 02 69928229 T: 02 69928990 E: office@harleygraham.com ABN 95198348003 NSW 7988	• This DA is provided to be certified and to be submitted with the Building Certificate of Approval (COA) and for the construction of the proposed building. • This DA is subject to the approval of the Council. • The Council is not responsible for the construction of the proposed building. • The Council is not responsible for the construction of the proposed building.	ISSUE/REVISIONS A - DATE: 08.12.18 B - DATE: 08.12.18 C - DATE: 08.12.18 D - DATE: 11.07.18	CLIENT: GOLLANS ADDRESS: 64 ALLENS PARADE, LENNOX HEAD LOT: LOT 61 DP 23654 JOB/USE: NEW DWELLING DRAWING: PLANS	BLOCK: D SUBLOT: A3 DRAWING NO: APPROVED NO	PROJECT: See DRW title SUBLOT: 02 DATE: 11/07/2018
		© COPYRIGHT HARLEY GRAHAM ARCHITECTS			

S96



HARLEY GRAHAM ARCHITECTS LEVEL 1 / 144 JOHNSON STREET - DRYDEN BAY PO BOX 1285 NSW 2461 P: 02 69903829 T: 02 69903990 E: office@harleygraham.com ABN 95198348003 NSW 7992	• All work to be carried out in accordance with the Building Code of Australia (BCA) and the relevant local council's development consent. • All work to be carried out in accordance with the Building Code of Australia (BCA) and the relevant local council's development consent. • All work to be carried out in accordance with the Building Code of Australia (BCA) and the relevant local council's development consent.	ISSUE/REVISIONS A DA SET 18.12.18 B REVISED 20.05.19 C REVISION 21.05.19 D REVISION 01 - B 11.07.18	CLIENT GOLLANS ADDRESS 64 ALLENS PARADE, LENNOX HEAD JOB/DATE NEW DWELLING LOT + SP LOT G1 DP 29654 DRAWING SECTIONS	BLOCK D PERM A3 DRAWN BY APPROVED HB	PRICE See DRW title SHEET NO 03 DATE 11/07/2018
		© COPYRIGHT HARLEY GRAHAM ARCHITECTS			


S96




— RED LINE SHOWS OUTLINE OF DA APPROVED ELEVATIONS

CONCRETE / COLOUR : NATURAL
 GLAZING / IRONSTONE ALUMINUM FRAMES
 MATERIAL : SCYON AXON COLOUR: WOODLAND GREY
 BASALT STONE / COLOUR : NATURAL

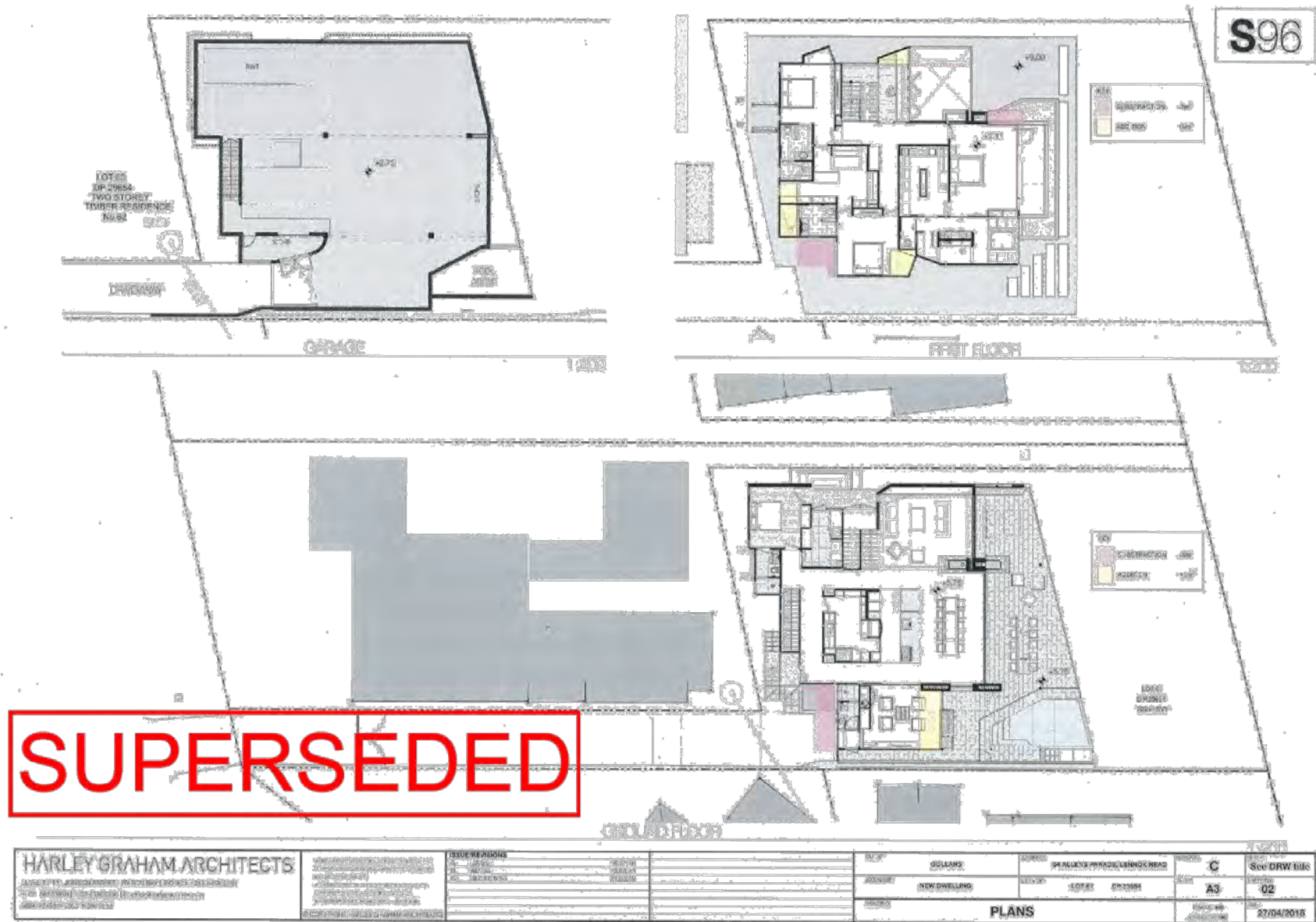
HARLEY GRAHAM ARCHITECTS LEVEL 1 / 144 JOHNSON STREET - SYDNEY BAY PO BOX 1285 NSW 2481 P: 02 95928222 T: 02 95928990 E: office@harleygrahm.com ABA 95198347000 NSW 2481 © COPYRIGHT HARLEY GRAHAM ARCHITECTS	• This DA is valid for the period of 12 months from the date of issue. • This DA is valid for the period of 12 months from the date of issue. • This DA is valid for the period of 12 months from the date of issue. • This DA is valid for the period of 12 months from the date of issue.	NO. OF REVISIONS 01 DA SUB 08 18.12.18 02 DA SUB 17 18.12.18 03 DA SUB 18 18.12.18 04 DA SUB 19 11.07.18	CLIENT GOLLANS JOB NAME NEW DWELLING DRAWING ELEVATIONS	ADDRESS 64 ALLENS PARADE, LENNOX HEAD LOT 61 DP 29654	SHEET NO D PAPER A3 DRAWN BY APPROVED BY	PROJECT See DRW title SHEET NO 04 DATE 11/07/2018
		© COPYRIGHT HARLEY GRAHAM ARCHITECTS				

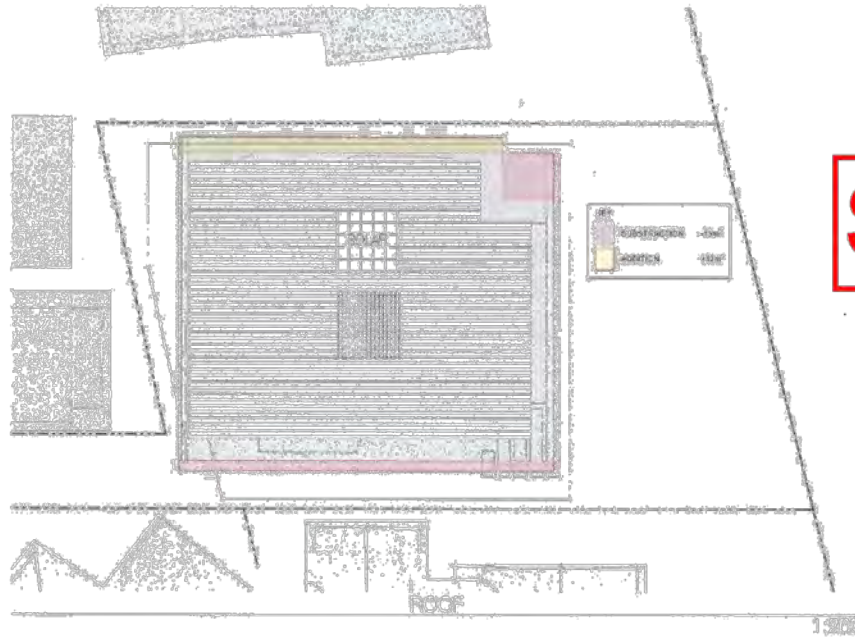
<h1 style="font-size: 2em; margin: 0;">S96</h1>	<h2 style="margin: 0;">64 ALLENS PARADE</h2> <p style="margin: 0;">LENRICK HEAD</p>	 <p style="text-align: center; font-weight: bold;">LOCATION PLAN 1:2000</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="background-color: #333; color: white;">PLANNER</th> </tr> <tr> <td style="font-size: 0.8em;"> ARDYLL PAYNE AND PARTNERS ENGINEERS TALLER JOHN PAYNE SALLINA NSW 2478 PH: 02 9966 5200 WWW.ARPAYNE.COM.AU </td> </tr> </table>	PLANNER	ARDYLL PAYNE AND PARTNERS ENGINEERS TALLER JOHN PAYNE SALLINA NSW 2478 PH: 02 9966 5200 WWW.ARPAYNE.COM.AU	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="background-color: #333; color: white;">BASIX</th> </tr> <tr> <td style="font-size: 0.8em;"> BASIX SERVICES DUNCAN LYONS 1/100-1/110 WILSON STREET WARRIORHOLE NSW 2478 PH: 02 9966 5200 WWW.BASIXSERVICES.COM.AU </td> </tr> </table>	BASIX	BASIX SERVICES DUNCAN LYONS 1/100-1/110 WILSON STREET WARRIORHOLE NSW 2478 PH: 02 9966 5200 WWW.BASIXSERVICES.COM.AU														
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BASIX SERVICES DUNCAN LYONS 1/100-1/110 WILSON STREET WARRIORHOLE NSW 2478 PH: 02 9966 5200 WWW.BASIXSERVICES.COM.AU																						
<p>PROPOSED SECTION 96 TO APPROVED NEW DWELLING DA N° 2016/744</p>																						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="3" style="text-align: left;">DRAWING SCHEDULE</th> </tr> <tr> <th style="width: 10%;">No</th> <th style="width: 15%;">NAME</th> <th style="width: 75%;">DESCRIPTION</th> </tr> <tr> <td>01</td> <td>LOCATION PLAN/SITE PLAN & DRAWING LIST</td> <td></td> </tr> <tr> <td>02</td> <td>PLANS</td> <td></td> </tr> <tr> <td>03</td> <td>SECTIONS</td> <td></td> </tr> <tr> <td>04</td> <td>ELEVATIONS</td> <td></td> </tr> <tr> <td>05</td> <td>SHADOWS</td> <td></td> </tr> </table>					DRAWING SCHEDULE			No	NAME	DESCRIPTION	01	LOCATION PLAN/SITE PLAN & DRAWING LIST		02	PLANS		03	SECTIONS		04	ELEVATIONS	
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<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="background-color: #333; color: white;">HYDRAULICS/ DRIVEWAY</th> </tr> <tr> <td style="font-size: 0.8em;"> PHIL WALLACE CONSULTING ENGINEERS 21/120-21/121 WILSON STREET WARRIORHOLE NSW 2478 PH: 02 9966 5200 WWW.PHILWALLACE.COM.AU </td> </tr> </table>		HYDRAULICS/ DRIVEWAY	PHIL WALLACE CONSULTING ENGINEERS 21/120-21/121 WILSON STREET WARRIORHOLE NSW 2478 PH: 02 9966 5200 WWW.PHILWALLACE.COM.AU																			
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PHIL WALLACE CONSULTING ENGINEERS 21/120-21/121 WILSON STREET WARRIORHOLE NSW 2478 PH: 02 9966 5200 WWW.PHILWALLACE.COM.AU																						



SITE PLAN 1:200

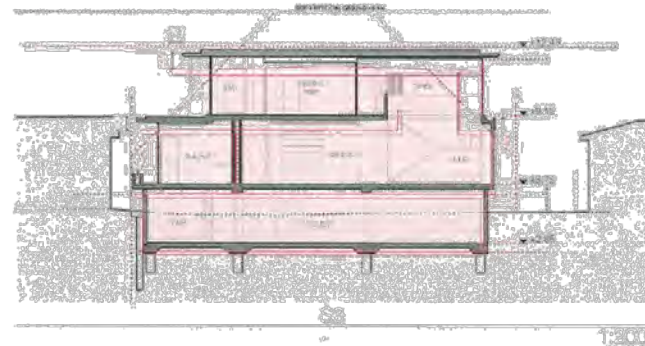
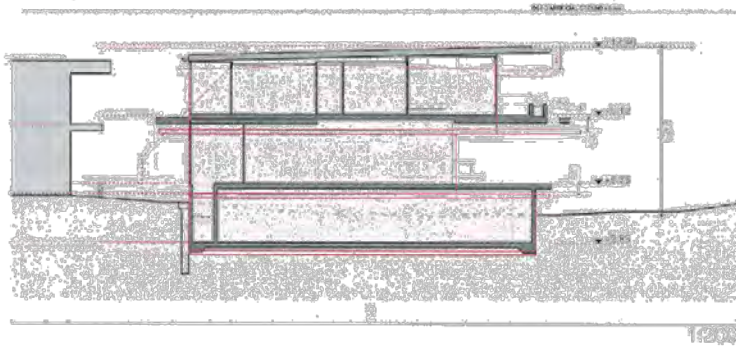
HARLEY GRAHAM ARCHITECTS 1/100-1/110 WILSON STREET WARRIORHOLE NSW 2478 PH: 02 9966 5200 WWW.HARLEYGRAHAMARCHITECTS.COM.AU	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">DATE</th> <th style="text-align: left;">REVISION</th> </tr> <tr> <td> </td> <td> </td> </tr> </table>	DATE	REVISION			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">DATE</th> <th style="text-align: left;">REVISION</th> </tr> <tr> <td> </td> <td> </td> </tr> </table>	DATE	REVISION			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="font-weight: bold;">SCALE</td> <td style="font-weight: bold;">DRAWN BY</td> <td style="font-weight: bold;">CHECKED BY</td> <td style="font-weight: bold;">DATE</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	SCALE	DRAWN BY	CHECKED BY	DATE				
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SCALE	DRAWN BY	CHECKED BY	DATE																
LOCATION PLAN/ SITE PLAN & DRAWING LIST			27/04/2018																





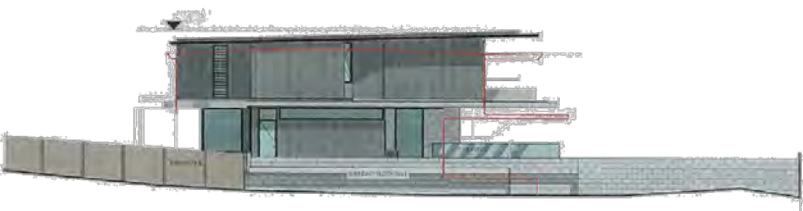
S96

SUPERSEDED



HARLEY GRAHAM ARCHITECTS 1/100-110/112/114/116/118/120/122/124/126/128/130/132/134/136/138/140/142/144/146/148/150/152/154/156/158/160/162/164/166/168/170/172/174/176/178/180/182/184/186/188/190/192/194/196/198/200 1/100-110/112/114/116/118/120/122/124/126/128/130/132/134/136/138/140/142/144/146/148/150/152/154/156/158/160/162/164/166/168/170/172/174/176/178/180/182/184/186/188/190/192/194/196/198/200 1/100-110/112/114/116/118/120/122/124/126/128/130/132/134/136/138/140/142/144/146/148/150/152/154/156/158/160/162/164/166/168/170/172/174/176/178/180/182/184/186/188/190/192/194/196/198/200	SCALE LEGEND 1:100 1:200 1:500		DATE: 27/04/2018 DRAWN BY: J. GILLIN CHECKED BY: J. GILLIN	PROJECT: DA 2016/744 SHEET: C TITLE: SECTION	DRAWN BY: J. GILLIN CHECKED BY: J. GILLIN DATE: 27/04/2018	
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S96



SUPERSEDED

CONCRETE / COLOUR: NATURAL	MATERIAL: SCYON AXON COLOUR: WOODLAND GREY
GLAZING / IRONSTONE ALUMINUM FRAMES	BASALT STONE / COLOUR: NATURAL

HARLEY GRAHAM ARCHITECTS 64 Allens Parade, Lismore NSW 2480 Phone: 07 6621 1111 Fax: 07 6621 1112 Email: hga@hga.com.au www.hga.com.au	CLIENT: 64 ALLENS PARADE LISMORE NSW PROJECT: 64 ALLENS PARADE LISMORE NSW DRAWING NO: S96 DATE: 27/04/2016	SHEET NO: 04 OF: 04	PROJECT NO: 64 ALLENS PARADE LISMORE NSW DATE: 27/04/2016	DRAWN BY: [Name] CHECKED BY: [Name]	SCALE: 1:200 DATE: 27/04/2016	
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SUPERSEDED

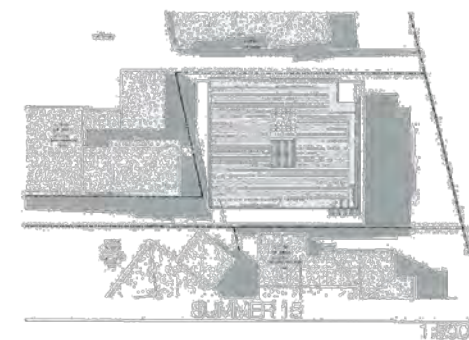
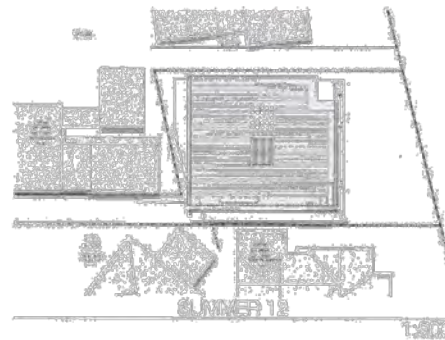
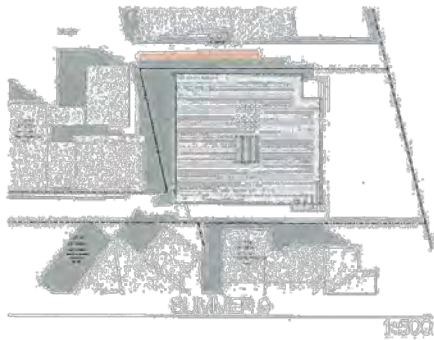
64 ALLENS PARADE

SHADOW DIAGRAMS



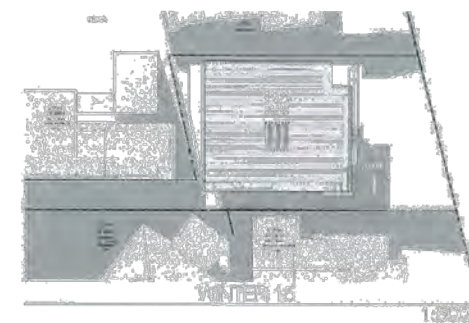
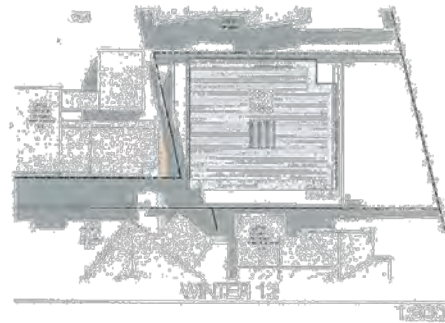
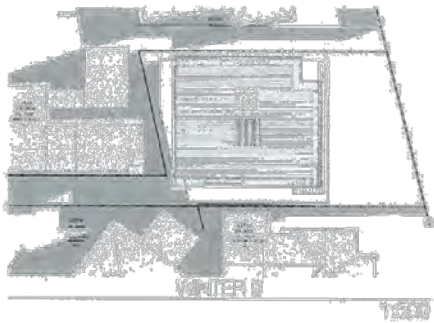
SUMMER

21 DECEMBER



WINTER

21 JUNE



 S96 AMENDMENTS SHADOWS

 DA APPROVED SHADOWS

HARLEY GRAHAM ARCHITECTS LEVEL 11, 111 KING STREET, SYDNEY NSW 1585 PHONE: 02 9550 9550 WWW.HARLEYGRAHAMARCHITECTS.COM.AU	CONTACT: JESSICA HARRIS TEL: 02 9550 9550 FAX: 02 9550 9551 EMAIL: JESSICA@HGARCHITECTS.COM.AU	DATE: 27/04/2018 TIME: 10:00 AM DRAWN BY: JGH CHECKED BY: JGH	SHEET: 05 OF: 05 TITLE: SHADOWS	PROJECT: NEW DWELLING CLIENT: JGH DATE: 02/2018	SCALE: A3 DATE: 27/04/2018
		SHEET: 05 OF: 05 TITLE: SHADOWS	PROJECT: NEW DWELLING CLIENT: JGH DATE: 02/2018	SCALE: A3 DATE: 27/04/2018	
		SHADOWS			

8.1 DA 2016/744 - 64 Allens Parade - Modification to Consent.DOC

S96	64 ALLENS PARADE	
	LENNOX HEAD	
PROPOSED SECTION 96 TO APPROVED NEW DWELLING DA N ^o : 2016/744		
DRAWING SCHEDULE		
	No	NAME
S96		
	01	LOCATION PLAN/ SITE PLAN & DRAWING LIST
	02	PLANS
	03	SECTIONS
	04	ELEVATIONS



LOCATION PLAN 1:2000

PLANNER

ARDYLL PAYNE AND PARTNERS
 DWAYNE ROBERTS
 BALLINA
 45 River Street PO Box 20
 BALLINA NSW 2478
 Ph: 02-6688 3280
 e. dwayne@ardllpayne.com.au

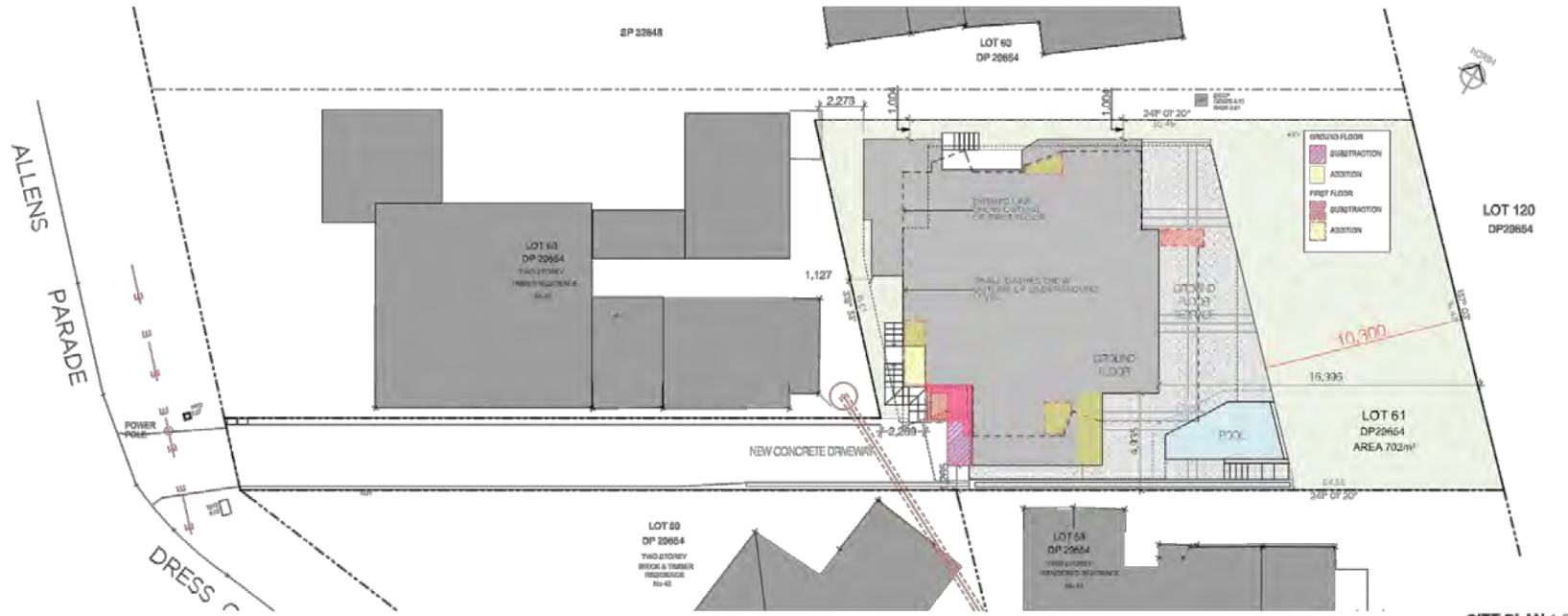
BASIX

BASIX SERVICES
 DUNCAN HOPE
 PO Box 395, BALLINA NSW 2478
 email : duncan@basixservices.com.au
 website : www.basixservices.com.au

BASIX N^o: 784542S
NATHERS N^o: AHGEMOHG85

HYDRAULICS/ DRIVEWAY

PHIL WALLACE
 CONSULTING ENGINEERS
 2/1 KEAT Street
 BYRON BAY NSW 2481
 Ph: 02-9585 7228
 e. pwallace1@optusnet.com.au

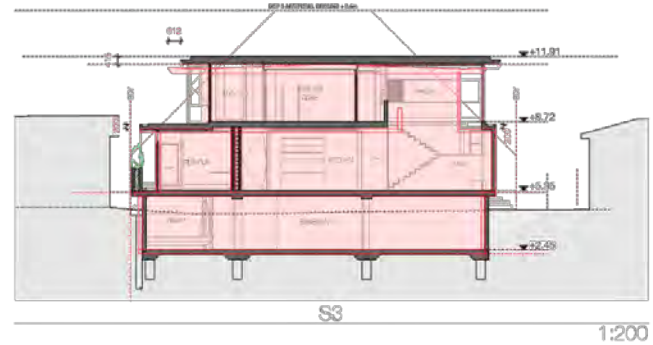
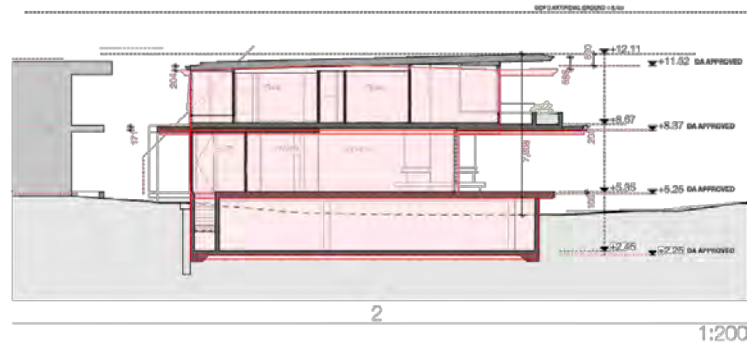
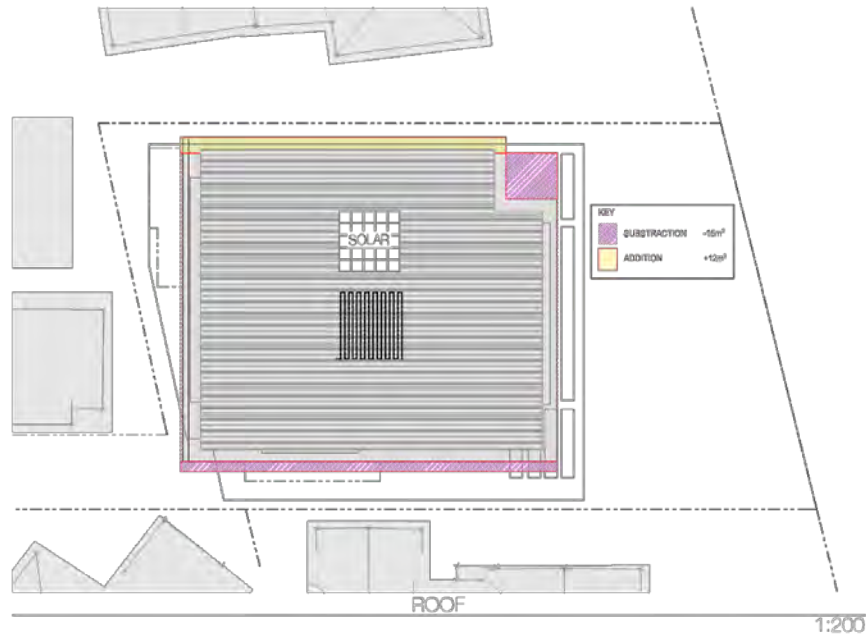


SITE PLAN 1:200

HARLEY GRAHAM ARCHITECTS LEVEL 1 / 144 JOHNSON STREET - BYRON BAY PO BOX 1355 NSW 2481 Ph: 02 99097829 T: 02 99098990 E: office@harleygrahm.com ABN: 95195345000 NSW 2481	• All work to be carried out in accordance with the Building Code of Australia (BCA) and the associated building standards and regulations. • This plan is intended to be used in conjunction with the consent of the Council and the consent of the relevant authorities. • This plan is intended to be used in conjunction with the consent of the Council and the consent of the relevant authorities.	ISSUE/REVISIONS A 1:2000 18.02.18 B 1:2000 18.02.17 C 1:2000 17.05.18 D SECTION 96 - 18 18.05.18	CLIENT: GOLLANS ADDRESS: 64 ALLENS PARADE, LENNOX HEAD JOB/DATE: NEW DWELLING	ADDRESS: 64 ALLENS PARADE, LENNOX HEAD LOT: LOT 61 DP 22664	DRAWING NO: D APPROVED: AG	TITLE: See DRW title SHEET NO: 01 DATE: 31/05/2018
		© COPYRIGHT HARLEY GRAHAM ARCHITECTS			DRAWING TITLE: LOCATION PLAN/ SITE PLAN & DRAWING LIST	



S96



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		JOB/TITLE NEW DWELLING	LOT + OP LOT 01 DP 28654	PAPER A3	DRAWN BY APPROVED BY	DATE 31/05/2018

SECTIONS

S96



— RED LINE SHOWS OUTLINE OF DA APPROVED ELEVATIONS	CONCRETE / COLOUR : NATURAL	MATERIAL : SCYON AXON COLOUR: WOODLAND GREY
	GLAZING / IRONSTONE ALUMINUM FRAMES	BASALT STONE / COLOUR : NATURAL

HARLEY GRAHAM ARCHITECTS LEVEL 1 / 144 JOHNSON STREET - DIVISION BAY PO BOX 1285 NSW 2461 P: 02 99502829 T: 02 99502990 E: office@harleygrahm.com ABN 95119347000 NSW 2461	• This DA is subject to the Council's approval in accordance with the Building Code of Australia (BCA) and the relevant local council's development control plan. • This DA is subject to the Council's approval in accordance with the Building Code of Australia (BCA) and the relevant local council's development control plan. • This DA is subject to the Council's approval in accordance with the Building Code of Australia (BCA) and the relevant local council's development control plan.	ISSUE REVISIONS 01 DA SET 18.12.18 02 REVISED 18.12.18 03 REVISED 19.01.19 04 REVISED 19.01.19	CLIENT: GOLLANS ADDRESS: 64 ALLENS PARADE, LENNOX HEAD JOBNAME: NEW DWELLING LOT + SP: LOT 61 DP 29654 DRAWING: ELEVATIONS	BLOCK: D PERM: A3 DESIGN MR APPROVED HQ	SCALE: See DRW title SHEET OF: 04 DATE: 31/05/2018
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28th May 2018

Mr Matthew Wood,
Manager Development & Environmental Health,
Ballina Shire Council,
40 Cherry St.,
Ballina 2478
By e-mail: council@ballina.nsw.gov.au

Dear Mr. Wood,

Re: Submission to s96 Application to modify DA 2016/744

Lot 61 DP29654

64 Allens Parade

Lennox Head

I am the co-owner of the residential dwelling at 57 Dress Circle Drive, Lennox Head, located directly opposite the subject construction at 64 Allens Parade.

I wish to object to the above application to modify the existing DA 2026/744

I understand the application will increase the building height by over a metre and will cause encroachments on Council's building envelope, contrary to the Council's Development Control Plan (DCP 2012).

I see no justification for this as the house will be too high, will cause overshadowing and overlooking of neighbouring properties, and is not in accordance with other houses in the local area.

The Council minimum setbacks have been created for a good reason – to stop buildings being constructed with not enough separation. No one wants a repeat of what has happened in Rayners Lane. This has resulted in a continuous line of building viewed from the lane and the beach.

There is not much point in Council having minimum requirements if they are not enforced.

Yours faithfully,

William Nardi

28th May 2018

Mr Matthew Wood,
Manager Development & Environmental Health,
Ballina Shire Council,
40 Cherry St.,
Ballina 2478
By e-mail: council@ballina.nsw.gov.au

Dear Mr. Wood,

Re: Submission to s96 Application to modify DA 2016/744

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There is not much point in Council having minimum requirements if they are not enforced.

Yours faithfully,

Pamela Margaret Nardi

Sharni Brock
1 Monto Street
Highgate Hill
Q 4101

28 May 2018

Mr Matthew Wood
Manager
Development and Environmental Health

By Email:council@ballina.nsw.gov.au

Dear Sir,

Re: Submission to s96 Application
To modify DA 2016/744
Lot 61 DP 29654
64 Allens Parade
Lennox Head

I wish to object the above application to modify an existing development approval to build a house at 64 Allens Parade.

I understand the application will increase the building height by up to over a metre and will cause encroachment on Council's building envelope.

I see no justification for this and the house will be too high, cause overshadowing and is not in accordance with other houses in the local area.

The Council minimum set backs have been created for good reason - to stop buildings being constructed with not enough separation. No one wants a repeat of what has happened in Rayners Lane. This has resulted in a continuous line of buildings viewed from the lane and the beach.

There is not much point Council in have minimum requirements if they are not enforced.

Yours Faithfully



Sharni Brock

David Tyler

From: Jim Walter <jimwalter3@gmail.com>
Sent: Wednesday, 30 May 2018 10:50 AM
To: Ballina Shire Council
Subject: Submission to s96 application. Attn : Mr Matthew Wood please.

To Mr Matthew Wood,
Manager, Development and Environmental Health,
Ballina Shire Council,
40 Cherry St,
Ballina. NSW. 2478.

Dear Mr Wood,
Re : Submission to s96 Application
To modify DA 2016/744.
Lot 61 DP29654
64 Allens Pde,
Lennox Head.

We make this submission to Council regarding the above development application.

Our house is No 58 Allens Pde, to the north of the proposed new development.

Mr Wood, we have two areas of concern.

Firstly, we have been informed that the need for a dilapidation report has been waived. This despite the fact that the huge house and basement is being built on what we regard as relatively loose soil in a fully reclaimed zone.

Some weeks ago, when the people requested entry to take photos etc, we told them that as the plans and final construction certificates hadn't been finalised, (and still haven't been finalised), that it was reasonable to ask them to defer the report, until council has completed its approval processes. If it is true that it has been deemed satisfactory by council that the owners don't have to submit dilapidation reports, I request that Council puts this in writing to us, as it could well be important at a later date.

Secondly, all of the neighbours have known for years, and fully expected, that this vacant block would be built on, and that their view would be greatly compromised. What we didn't expect, was for council to allow a structure to be built which clearly didn't comply with Council regulations regarding envelopes and setbacks and other restrictions, which would further reduce the possibility of views through to the ocean to virtually zero.

I know we are dealing here with plans, and bricks and mortar, but what we are really dealing with is people.

If the non compliant plans are approved to satisfy the apparently non caring ambitions of the new owners, everyone behind them will have to live with the consequences for many years. The new owners will always have a magnificent uninterrupted view of the ocean to the east. All we are asking is that these new owners comply strictly with Council's regulations regarding the dimensions of their new house, like all the rest of us have to.

Regards,
Susan and James Walter.

42 Dress Circle Drive
Lennox Head NSW 2478
geoffwegg@bigpond.com
0411473303
27 May 2018

Mr Matthew Wood
Manager
Development and Environmental Health
Ballina Shire Council
40 Cherry Street
BALLINA N. S. W . 2478
By Email:council@ballina.nsw.gov.au

Dear Sir,

**Submission re Sect. 96 Application to amend DA 2016/744
Dwelling House at 64 Allens Parade Lennox Head**

1. Council's decision, when assessing the Section 96 application to modify the approved DA 2016/744, should not be taken without due consideration of all the issues being raised. The construction of this dwelling, if approved to be built according to the S.96 application, will set a benchmark and precedent for all future development applications.
2. The application is inconsistent with the planning objectives of Ballina Shire Council (BSC) and is non-compliant with the Ballina Shire Council Development Control Plan 2012, Chapter 4 Residential and Tourist Development (BSDCP), controls and variations.

DCP Development Control 3.1.3 C. Element – Building Envelopes

Control 3.1.3 objectives include:

Ensure buildings are set back progressively from the side and rear boundaries as building height increases so that buildings do not unduly affect the existing or future development on adjoining properties by way of overshadowing, impinging on privacy, or unreasonably obstructing views;

Controls 3.1.3.C. i. *Residential Accommodation must be contained within a building envelope measured as follows;*

- *Below a plane measured over the land at 45deg from a point 1.8 metres above the side and rear boundaries*
- and
- *Below a plane measured 8.5 metres above ground level.*

See Fig. 4.1 – Typical Building Envelope Controls p10.

3. The original application for DA 2016/744 by Ardill Payne & Partners dated December 2016, at p28 states:
"The application does not comply with the building envelope controls with minor encroachments being proposed."

4. In addition to minor changes to the floor layout the S. 96 application seeks to raise each floor level as well as the building height:
 - basement floor level by 500mm,
 - ground floor level by 500mm,
 - first floor level by 750mm, and
 - roof by 1210mm.
5. The current S. 4.55 (1A) application by Ardill Payne & Partners states at p18; *“As was the case with the original approved dwelling house, the modified dwelling house does not comply with the building envelope controls with minor encroachments being proposed. The relative building envelope encroachments of the approved dwelling and the proposed modified building are shown on the plans at Appendix B.”*
6. The building envelope overlays on the plans at Appendix B supporting the application are misleading. It does not include the critical cross section showing the maximum encroachment upon the envelope by the first-floor bedroom on the southern side and also grossly misrepresents the western boundary building envelope encroachment which is at its maximum in the south western corner.

COMMENT

7. **The applicant states that the original approved DA did not comply with the building envelope controls and the S.96 application does not comply with the building envelope controls. The basement floor level has been raised 500mm, the ground floor has been raised 500mm, the first floor has been raised 750mm and the roof has been raised 1210mm. The encroachments of the building envelope, as proposed, could not reasonably be described as ‘minor’. The application and plans are misleading and grossly misrepresent the encroachments especially on the western boundary.**
8. The original approval for DA2016/744 exceeded the BSDCP building envelope controls. The current S.4.55 (1A) application, which involves raising each floor level and that greatly increases the breach of the building envelope controls and variations. The size of the building envelope remains the same even though the dimensions of the building increase.
9. **Notes to the Variations in Ch. 4 of the BSDCP state:** *“Encroachments to the side and rear boundary building envelopes will generally NOT be supported along the southern and western elevations. This because these elevations have the greatest capacity to overshadow adjoining properties, including existing or future private open space required to met the provisions of this DCP. This DCP does not limit the number of storeys or levels within a dwelling. For dwellings comprising more than 2 levels, Council will have particular regard to the impact of the dwelling on privacy and overshadowing of nearby properties.”*
10. The supporting plans indicate that the dwelling is located approximately 600mm from the adjoining western boundary in direct contravention of the minimum building envelope. This results in a building structure in excess of 8.0m above natural ground level only 600mm from the boundary and approximately 3.0m from the adjoining building on the western boundary. This causes an unreasonable adverse impact of loss of amenity and overshadowing on the adjoining properties which is totally inconsistent with planning objective 3.1.3.

11. The current S. 4.55 (1A) application by Ardill Payne & Partners states at p9:

"The proposed modifications to the height and floor layout have been the result of having to provide sufficient clearance to enable appropriate vehicular access to the basement car parking area (due to the sewer main not being as deep as originally expected) and to improve the amenity and function of the dwelling house."

12. The DA 2016/744 approved plans did not take into consideration the location of the Council sewer line across the driveway. The depth of the sewer line was set out in submissions made to council in 2017. The location and depth of the sewer line was documented in BSC storm water, drainage and sewer maps for the sub-division. Simply digging a hole to locate the sewer line would have provided a solution to this dilemma. **This S.96 application involves the lifting of the whole building on the basis that the depth of the sewer line was underestimated.**

COMMENT and SUMMARY

The application is inconsistent with the planning objectives of BSC. It blatantly ignores and contravenes the controls and variations of the BSDCP, Chapter 4 Residential and Tourist Development.

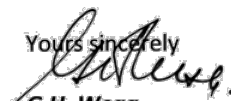
For the reasons set out in this and other submissions, Ballina Shire Council should not approve the application to modify the existing DA.

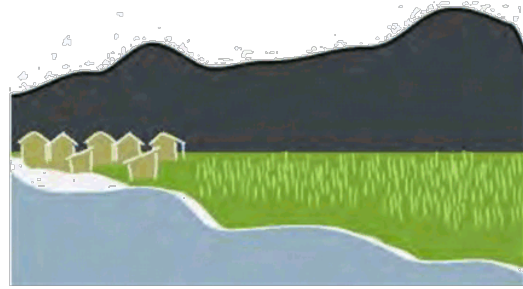
The objective of the BSDCP 2012 is to:

- *Achieve well designed developments which relate to the landscape and character of the locality;*
- *Manage the bulk, scale and traffic generation of residential development to avoid adverse impacts on adjoining land uses;*
- *Ensure new development recognises and responds to the privacy and amenity of adjoining premises whilst providing for passive surveillance of public areas;*
- *Encourage dwellings which respond to the sub-tropical climate; and*
- *Provide for flexibility in the use of buildings with respect to residential accommodation and tourist and visitor accommodation uses.*

The raising of the floor levels and the whole structure by 1210mm should not be supported by Council as the resultant building grossly exceeds BSDCP requirements in relation to objectives, controls and variations. It is literally 'pushing the envelope' to breaking point and it is the BSDCP that is being broken.

It is submitted that this S.96 application should not be approved. This application will create a benchmark and precedent for future development and developers seeking to circumvent the BSDCP.

Yours sincerely

G.H. Wegg



Ballina Shire Development Control Plan 2012

Chapter 4 – Residential and Tourist Development





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Part 1 Preliminary

1.1 Introduction

Name:

Ballina Shire Development Control Plan 2012, Chapter 4 – Residential and Tourist Development.

Purpose:

To identify Council's requirements relating to residential and tourist development.

Relationship to other Chapters of this DCP:

The provisions in this chapter prevail over those in chapters 1, 2, 2a and 2b where there is an inconsistency.

Where there is an inconsistency between provisions in chapters 3, 4, 5, 6, 6a, 6b, 6c, 6d and 7 Council will determine which provision(s) will apply based on consideration of the strategic planning framework for the land the subject of the application, statutory considerations, relevant planning objectives and the nature of the proposed development.

The provisions of chapter 8 apply in conjunction with those in this chapter, but prevail in the event of an inconsistency unless otherwise specified.

Special Area Controls in this chapter prevail over General Controls in the event of an inconsistency

Application:

The planning provisions of this chapter apply to development that includes *residential accommodation* and *tourist and visitor accommodation*.

Planning Objectives and Development Controls:

The provisions of this chapter are categorised in relation to a series of planning considerations (referred to as elements). For each element, planning objectives and development controls are specified. Development proposals must be consistent with the planning objectives for the chapter and each of the applicable elements. Such consistency is typically demonstrated by compliance with the identified development controls, although there may be circumstances where an alternative to the application of a development control is consistent with the planning objectives.

Part 2 Chapter Planning Objectives

The overarching objectives of this chapter are as follows:

- a. Provide for quality residential neighbourhoods and tourist related development;
- b. Ensure that development is compatible with local landscape amenity and character; and
- c. Ensure the orderly development of land.





Part 3 General Controls

3.1 General Controls applying to residential and tourist development

3.1.1 Application

Applies to:	
Location/s:	Zones B1, B2, B3, B4, B6, R2 & R3
Development Type/s:	<i>Residential accommodation (excluding secondary dwellings unless specifically stated) and Tourist and visitor accommodation</i>



Notes:

1. The provisions of **Part 3 General Controls** do not apply to *secondary dwelling* unless specifically stated. Secondary dwellings will be assessed against the controls contained in Division 2, clause 23(1) (c) to (g) of the Affordable Rental Housing SEPP.
2. Refer also to the controls contained within *Chapter 7 – Rural Living and Activity* which contains controls applicable to *residential accommodation*, and *tourist and visitor accommodation* within the RU1, RU2, E2, E3, W1 and W2 zones where permissible.

3.1.2 Planning Objectives

- a. Achieve well designed developments which relate to the landscape and character of the locality;
- b. Manage the bulk, scale and traffic generation of residential development to avoid adverse impacts on adjoining land uses;
- c. Ensure new development recognises and responds to the privacy and amenity of adjoining premises whilst providing for passive surveillance of public areas;
- d. Encourage dwellings which respond to the sub-tropical climate; and
- e. Provide for flexibility in the use of buildings with respect to *residential accommodation* and *tourist and visitor accommodation* uses.



**Note:**

Residential flat buildings, shop top housing or mixed use development with a residential accommodation component which consists of the following:

- i. the erection of a new building.
 - ii. the substantial redevelopment or the substantial refurbishment of an existing building.
 - iii. the conversion of an existing building, and
- a. the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2m above ground level (existing) that provide for car parking), and
 - b. the building concerned contains at least 4 or dwellings.

are to be designed in accordance with the provisions of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Buildings*

It should be noted that this does not include a Class 1a or Class 1b building under the Building Code of Australia (eg town houses or villas).

3.1.3 Development Controls**A. Element - Building Height****Objectives**

- a. Ensure that the height of buildings (*building height*) is compatible with the bulk, scale and character of the locality;
- b. Minimise adverse impacts on existing or future amenity of adjoining properties and scenic or landscape quality of the locality; and
- c. Protect significant views from public places.

Controls

- i. The height of any building (*building height*) is to comply with the provisions of the BLEP 2012.
- ii. Buildings with 3 levels or greater development must be designed to minimise overshadowing and protect the privacy of occupants of adjoining buildings.

B. Element - Floor Space Ratios**Objectives**

- i. Ensure that buildings are compatible with the bulk, scale and character of the locality; and
- ii. Minimise adverse impacts on the existing or future amenity of adjoining properties and the scenic or landscape qualities of the locality.





Controls

- i. Where development for the purpose of a *dwelling house*, *secondary dwelling*, *dual occupancy* or *semi-detached dwelling* is proposed on land identified on the Floor Space Ratio Map, Council will apply the following approach to the calculation of the *floor space ratio* (FSR);
 - Where the *dwelling house*, *secondary dwelling*, *dual occupancy* or *semi-detached dwelling* is part of a mixed use development involving *commercial premises*, the FSR shown on the Floor Space Ratio Map applies, and
 - Where the *dwelling house*, *secondary dwelling*, *dual occupancy* or *semi-detached dwelling* is not part of a mixed use development involving *commercial premises*, an FSR of 0.5:1 applies.
 - In the case of a dwelling house, dual occupancy or semi detached dwelling, which requires 2 car parking spaces, the maximum floor area excluded from the calculation of gross floor area is 44 square metres.



Notes: For land shown on the Floor Space Ratio Map, buildings are to comply with the *floor space ratio* provisions of BLEP 2012 clauses 4.4 and 4.5.

For development for the purpose of a *dwelling house*, *secondary dwelling*, *dual occupancy* or *semi-detached dwelling* the FSR is 0.5:1.

C. Element - Building Envelopes

Objectives

- i. Ensure buildings are set back progressively from the side and rear boundaries as building height increases so that buildings do not unduly affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy, or unreasonably obstructing views;
- ii. Ensure that the occupants of *residential accommodation* have the opportunity to enjoy the optimum use of winter sunlight;
- iii. Enhance opportunities for solar access to both the development site and adjoining properties;
- iv. Achieve varied and interesting streetscapes, good orientation of residential developments with regard to sun, shade, wind and neighbouring development, and effective use of allotments to create usable *private open space* and courtyards;
- v. Ensure that buildings are compatible with the bulk, scale and character of the locality; and
- vi. Minimise adverse impacts on the existing or future amenity of adjoining properties and the scenic or landscape quality of the locality.
- vii. To provide flexibility for steeply sloping sites to best address streetscape, solar orientation and location for outdoor amenity areas.





Controls

- i. **Residential accommodation** (optional for **secondary dwellings**) and **tourist and visitor accommodation** in Zone R2 Low Density Residential and Zone R3 Medium Density Residential must be contained within a **building envelope** measured as follows:
 - below a plane measured over the land at 45° from a point 1.8 metres above the side and rear boundaries,
 - where the subject site has a frontage to a secondary street, below a plane measured over the land at 45° from a point 1.8m above a parallel line measured 2.0m inside the secondary street boundary,
 - where the subject site has a frontage to a public reserve, below a plane measured over the land at 45° from a point 1.8m above the boundary to the public reserve, and
 - below a plane measured 8.5 metres above **ground level**.
- ii. The external walls of a **residential accommodation** or **tourist and visitor accommodation** must be setback a minimum of 900mm from the side and rear boundaries of the site (excluding internal strata title boundaries), subject to consideration of impact on privacy, **private open space** and solar access to adjoining properties; and
- iii. For **dual occupancies**, **semi-detached dwellings**, **attached dwellings** and **multi dwelling housing** developments and any **residential accommodation** or **tourist and visitor accommodation** that share a common wall, the **building height plane** as applied from side and rear boundaries of the site (excluding internal strata title boundaries), secondary frontages and public reserves applies to those parts of the development which interface with adjoining properties and public land.



Notes:

The 8.5m plane above **ground level** is applied to the existing ground level, except where land is identified on the "Flood Planning Maps" (Ballina LEP 2012) as requiring fill, **ground level** is measured from the finished ground level.

Architectural Roof Features which comply with the requirements specified within clause 5.6 of Ballina LEP 2012 are permitted to exceed the building heights specified on the Height of Buildings Map.

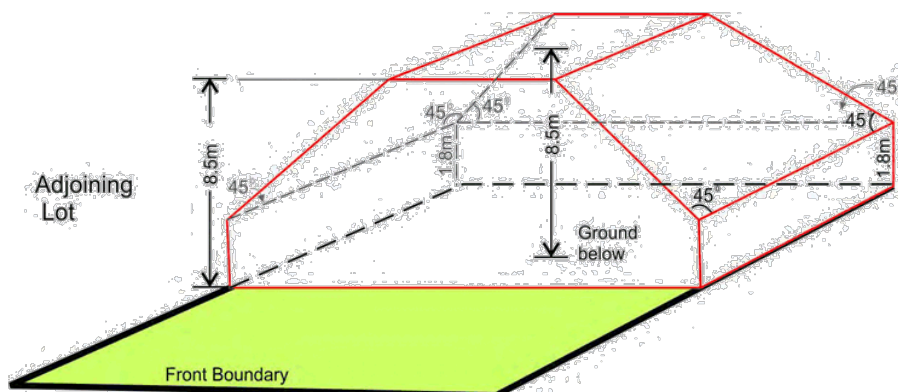
Architectural roof features are decorative building elements not capable of being used as floor space. They must have minimal shadow impacts. The majority of the roof feature must be contained within the prescribed building height

Where an architectural roof feature is proposed that exceeds the otherwise permitted height it is recommended that the design be discussed with Council's Development Services staff.





Figure 4.1 – Typical Building Envelope Controls



Variations

- i. The following variations to the setbacks nominated by the **building envelope** are permitted:
- **Eaves and gutters** – up to a maximum of 700mm (note: minimum setback requirements provided by the *Building Code of Australia* must be complied with i.e. 450mm to the outside of fascia),
 - **Climate control elements** - which are of a minor scale and an open character, and that do not affect compliance with the above design objectives, and
 - **Encroachments** are permitted along the northern and eastern elevations of the wall length subject to no adverse solar impacts on neighbouring properties.



Notes:

Encroachments to the side and rear boundary **building envelopes** will generally not be supported along the southern and western elevations. This is because these elevations have the greatest capacity to overshadow adjoining properties, including existing or future **private open space** required to meet the provisions of this DCP.

This DCP does not limit the number of storeys or levels within a dwelling. For dwellings comprising more than 2 levels, Council will have particular regard to the impact of the dwelling on privacy and overshadowing of nearby properties.



D. Element - Articulation Zone

Objectives

- a. Promote building facades which contribute to the character of the streetscape.
- b. To reference the controls contained within the Housing Code under the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Controls

- i. The following building elements associated with **residential accommodation** or **tourist and visitor accommodation** in Zone R2 Low Density Residential and Zone R3 Medium Density Residential may project forward of the main **building line or setback** by up to 1.5m in front:
 - a) an entry feature or portico,
 - b) a balcony, deck, pergola, terrace or verandah,
 - c) a window box treatment,
 - d) a bay window or similar feature,
 - e) an eave.
- ii. Up to 25% of the **articulation zone**, when viewed from above, may include building elements. An awning or other feature over a window and a sunshade feature and eaves are not included in the maximum area calculation of building elements; and
- iii. New dwellings are to be designed to address the street, provide an easily identifiable entrance for pedestrians and contribute to the streetscape.

Figure 4.3 – Articulation Zones

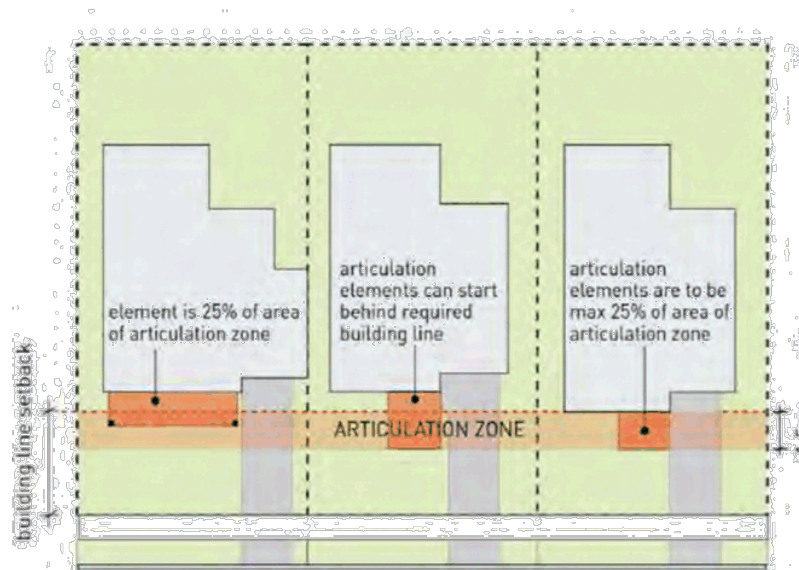
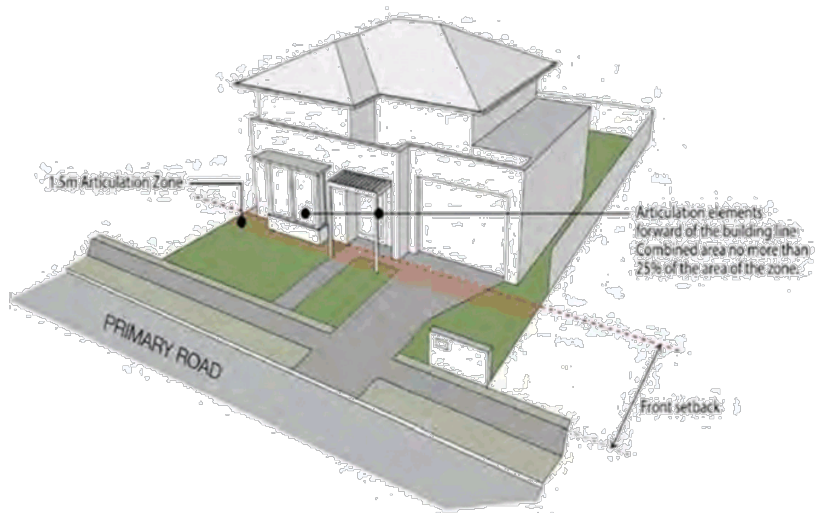




Figure 4.4 – Articulation Zone Elevation View



E. Element - Building Lines

Objectives

- Protect the amenity of the locality in which the dwelling is situated;
- Ensure new development makes a positive contribution to the local streetscape; and
- Setback buildings and garages/carports from the street to provide sufficient space for landscaping, visual and acoustic privacy and vehicle parking, whilst protecting the established character of the neighbourhood.

Controls

- Residential accommodation** and **tourist and visitor accommodation** buildings and all **ancillary development** on a lot must be setback behind the **building line** specified on the Building Line Map (except as specified in items (iii) or (iv) below).
- Where a **building line** is not specified in (i) and the land is within Zone R2 Low Density Residential or Zone R3 Medium Density Residential, the **building line** specified in **Table 4.1** applies.

Table 4.1 - Minimum <i>Building Line</i> – R2 & R3 Zone	
Boundary	<i>Building Line</i> (distance from boundary)
Primary Road	6.0m
Parallel Road	6.0m
Public Reserve or Foreshore	6.0m
Lane	3.5m
Side or Rear	None specified





Note:

1. In conjunction with any specified building lines and setbacks in this section, the building construction and setback requirements of the Building Code of Australia will apply, particularly in relation to side and rear building setbacks from lot boundaries.
2. In cases where exceptional circumstances exist or site constraints dictate a merit based assessment of the building line will be made. In such cases it must be able to be demonstrated that it would not be practical to maintain the nominated building line and that no adverse impacts on surrounding properties and or the streetscape will result.
3. Concessions for open form construction such as pergolas and car ports are generally viewed more favourably than for enclosed structures.

- iii. Where an encroachment forward of the **building line** specified in (i) or (ii) is sought, variation to the standard may be granted where an alternate **building line** can be established on the basis of the average distance of the **building lines** of the nearest 2 buildings (either **residential accommodation** or **tourist and visitor accommodation**) having a boundary with the same **primary road** and located within 40m of the lot on which the **residential accommodation** or **tourist and visitor accommodation** building is to be erected.
- iv. Variations to the **building line** specified in (i) or (ii) may be granted in relation to secondary road frontages on corner lots in accordance with **Table 4.2** below:

Table 4.2 – Secondary Road Frontage Building Lines		
Building Line	Reduction	Varied Building Line
4.6m	1.0m	3.6m
6.0m	2.0m	4.0m
7.6m	2.6m	5.0m
Other	On merit	



F. Element - Development Fronting Laneways

Objectives

- a. Ensure that development is compatible with the characteristics of laneways.
- b. Provide for safe vehicular access to and from laneways.
- c. Ensure that development fronting lanes has practical access and infrastructure servicing.

Controls

- i. *Residential accommodation* and *tourist and visitor accommodation* buildings and all **ancillary development** on a lot must be setback from the boundary with a lane behind the **building line** as specified on the Building Line Map.
- ii. Where a lot has a lane frontage and a **building line** to the lane is not specified on the Building Line Map, the **building line** is 3.5m from the lane frontage, as specified in **Table 4.1** above.
- iii. Garages that are directly accessed from the lane shall have a minimum setback of 5.5m for direct access or 3.5 metres for indirect access from the lane boundary in accordance with Figure 4.5, except as specified in (v).
- iv. *Residential accommodation* and *tourist and visitor accommodation* with direct frontages to laneways are permitted except where specified on the Restricted Lane Frontage Map.
- v. Where direct frontage to a lane is restricted under (iv), garages must be provided in accordance with the design parameters shown in Figure 4.6.
- vi. Where development occurs on the corner of a lane, a corner splay of 2.5m x 2.5m must be dedicated to Council.
- vii. Adequate infrastructure servicing, including formalised vehicular and pedestrian access, waste collection and postal delivery, must be available to any lane where direct frontages are proposed, except where the requirements of (viii) are met.
- viii. Where waste collection or postal delivery services are not provided to a lane, direct frontages may be permitted where a paved pedestrian access way with a minimum width of 1.2m is provided on site to enable each dwelling or occupancy direct access to the street frontage.



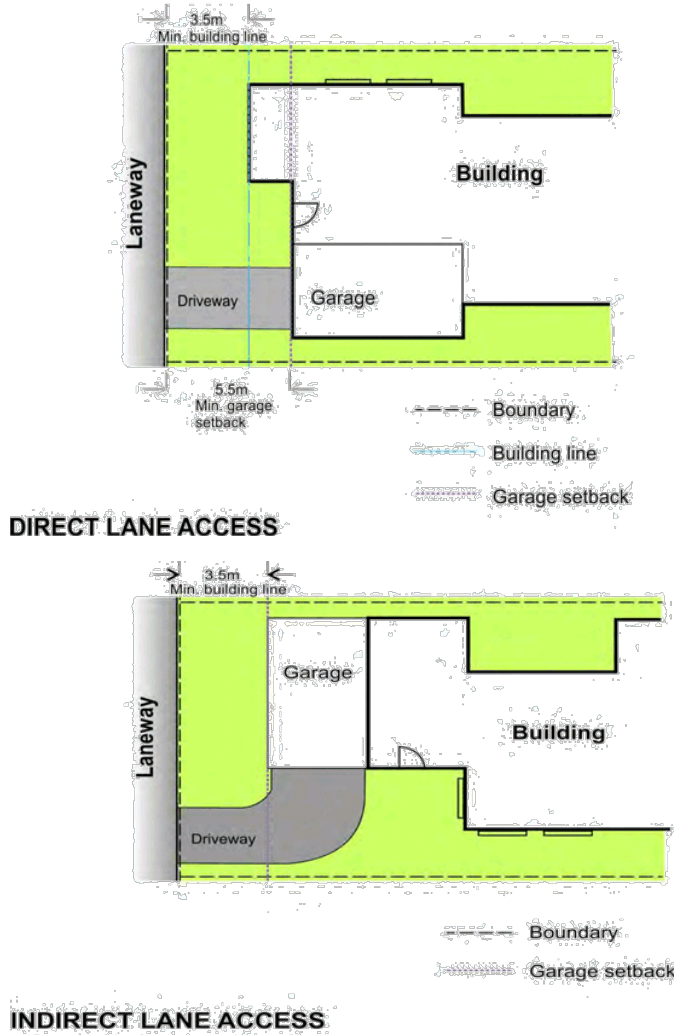
Notes:

Garages and onsite parking are encouraged from laneways (where available). However, the above controls do not directly prohibit access from the secondary street frontage.





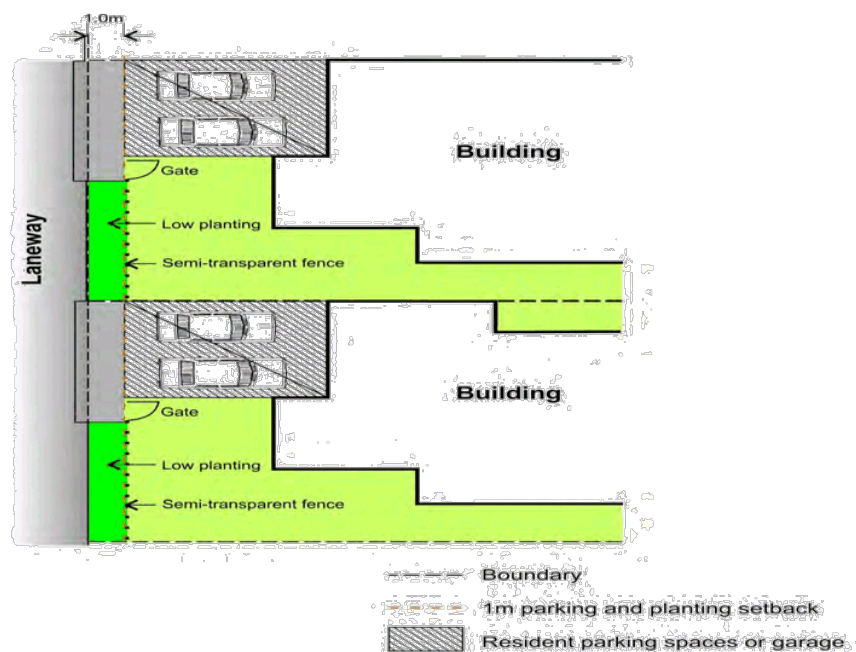
Figure 4.5 – Garage Setback Requirements for Non-restricted Lane Frontages



Notes:
 Provision for 2 car parking spaces within the property boundary is required where a minimum 3.5m building line is applied in association with indirect lane access.



Figure 4.6 – Garage Access - Restricted Residential Frontages in Laneways



G. Element - Landscaping and Open Space

Objectives

- Ensure *residential accommodation* and *tourist and visitor accommodation* are provided with *private open space* which is usable and meets the needs of occupants;
- Maximise the liveability and amenity of *residential accommodation* and *tourist and visitor accommodation*;
- Ensure that *landscaped areas* are an integral component of residential and tourist oriented development proposals;
- Preserve and retain existing mature native vegetation wherever practicable; and
- Support landscape design that incorporates the planning of landscape species indigenous to the part of the shire in which they are being planted;

Controls – Landscaping and Private Open Space for Dwellings, Dual Occupancies, Attached Dwellings and Semi-Detached Dwellings

- At least 25% of the site must be covered by *landscaped areas* comprising pervious surfaces.
- Each dwelling is to be provided with an area of *private open space* that is:
 - Predominately flat;





- Located at ground level;
 - Accessible directly from a living area; and
 - Where practicable, located to the north or east of the dwelling.
- iii. A new **dwelling** must have an outdoor living area of at least 24m² with a minimum dimension of 4m x 4m and a maximum gradient of 1:10.

Controls – Private Open Space for Multi Dwelling Housing, Residential Flat Buildings and Tourist and Visitor Accommodation

- i. Each **dwelling** will have access at ground level to a court yard with a minimum area of 40m², a minimum dimension of 4m and a maximum gradient of 1:10;
- ii. Where **dwellings** and entries are located entirely above ground floor, Council may consent to the provision of private open space by way of a balcony. To be considered as **private open space**, balconies must contain a minimum area of 25m² and a minimum width of 2.5m;
- iii. **Private open space** must be directly accessible from a living area; and
- iv. Where practicable, **private open space** is to be located to the north or east of the dwelling and is required to have appropriate orientation and provisions to allow for winter sun and summer shade.
- v. **Private open space** is not required for development comprising only **backpackers accommodation, bed and breakfast accommodation, farm stay accommodation or hotel or motel accommodation.**



Note: **Private open space** may be provided in more than one contiguous area subject to at least one portion having a minimum dimension of 4m x 4m.

Controls –Landscaping for Multi Dwelling Housing, Residential Flat Buildings and Tourist and Visitor Accommodation

- i. Landscaped open space comprising **landscaped areas** and **private open space** is to be provided for each **dwelling** in accordance with **Table 4.3**; and
- ii. The landscaped open space requirements in (i) are not required for development comprising only **backpackers accommodation, bed and breakfast accommodation, farm stay accommodation or hotel or motel accommodation.**
- iii. At least 75% of the landscaped open space area must be covered by pervious surfaces that are defined as landscaped areas, such as lawn or landscaping.
- iv. Development applications for **multi dwelling housing, residential flat buildings or tourist and visitor accommodation** are to be supported by landscaping plans detailing all proposed **private open space** areas and **landscaped areas** and shall detail the main





structures on the site (including buildings, car parks, fences, retaining walls, surfacing materials and the like), any existing trees to be retained and all proposed plantings (including common names, botanical names, numbers and mature heights).

Table 4.3 – Landscaped Open Space Requirements for <i>Multi Dwelling Housing, Residential Flat Buildings and Tourist and Visitor Accommodation</i>	
Dwelling size	Minimum landscaped open space area per dwelling <i>(note control (iii) in calculating open space requirements)</i>
<60m ² total <i>dwelling</i> GFA*	50m ²
60m ² - 85m ² total <i>dwelling</i> GFA*	70m ²
>85m ² total <i>dwelling</i> GFA*	90m ²

* Balconies, courtyards, driveways and required car parking spaces are not included in the total *dwelling* GFA calculations

H. Element - Vehicular Access and Parking

Objectives

- a. Provide adequate on site car parking for development;
- b. Ensure car parking is designed in accordance with the current Australian Standard 2890 (Parking Facilities).
- c. Ensure car parking areas include adequate space and provision for vehicles to manoeuvre safely on site;
- d. Ensure site accesses have adequate sight distances and are designed to ensure that all vehicles are able to safely enter and exit the site and maintain the safety and integrity of the road network; and
- e. Ensure streetscape amenity, character and utility is maintained.

Controls – Car parking

- i. On site car parking for development is to be provided in accordance with **Table 4.4**;
- ii. At least one of the required car parking spaces is to be a covered car parking space and located in accordance with Control Element – Garages and Carports; and
- iii. Car parking provided in association with the **residential accommodation** specified in Table 4.4 must not be located forward of the **building line or setback** unless it can be demonstrated that such car parking will be suitably screened along the street frontage.





Table 4.4 – Car Parking for Residential and Tourist Uses	
	Car Parking
<i>Dwelling Houses</i>	2 spaces per <i>dwelling</i> *
<i>Secondary Dwellings</i>	Nil
<i>Dual Occupancies</i>	2 spaces per <i>dwelling</i> *
<i>Semi-detached Dwellings</i>	2 spaces per <i>dwelling</i> *
<i>Attached Dwellings</i>	2 spaces per <i>dwelling</i> *
<i>Multi Dwelling Housing and Residential Flat Buildings</i>	1 space per <i>dwelling</i> where total GFA of <i>dwelling</i> is less than 60m ² . 1.5 spaces per <i>dwelling</i> where total GFA of <i>dwelling</i> is between 60m ² and 85m ² . 2 spaces per <i>dwelling</i> where total GFA of <i>dwelling</i> is greater than 85m ² . Plus 1 additional space per 5 <i>dwellings</i> for visitor parking.
<i>Shop top housing</i>	Dwelling requirement plus shop requirement

* Stack parking is an acceptable solution where at least 1 required parking space per dwelling is covered.



Note: Car parking rates for *tourist and visitor accommodation* are determined by the rate applicable to the most equivalent form of housing.

Car parking rates for *hotel or motel accommodation* are specified in Chapter 2.

Controls – Garages and carports

- i. Garages are to be setback 5.5 metres from the property boundary;
- ii. The maximum width of the garage door must not be more than 50% of the lot frontage;
- iii. (Deleted Amendment 3 - 16.7.2014)
- iv. Carports forward of the setback specified in (i) will be considered subject to the following criteria:
 - No other suitable location is available behind the setback specified in (i),
 - The carport is located a minimum of 900mm from the side boundary,
 - The frontage facing the street remains open and is not fitted with a door or enclosing device of any kind,
 - The carport roof does not significantly impact on the streetscape,
 - The carport roof is not trafficable,
 - The carport does not exceed 33% of the width of the allotment frontage or 6m (whichever is lesser), and
 - Any side and/or rear enclosure or screening is to include minimum 50% visual permeability.





Note: Please refer to Council's 'Building Over Assets Policy' in relation to any development proposed forward of the building line.

Controls – Basement Parking

- i. **Basement** car parking must not extend more than 1m above **ground level (finished)** where it faces a public street or public space or 1.5m above **ground level (finished)** to the side and the rear of the lot where it does not face a public street or public space;
- ii. Ramps entering off a street or lane must start behind the boundary. Ramps cannot be located on public land; and
- iii. The walls of **basement** car parking that protrude above **ground level (existing)** are to be located within the building's footprint. **Basement** car parking is not to extend outside the external line of terraces, balconies and porches.



Notes: Groundwater interception may require a separate approval in accordance with the *Water Act 1912* and the *Water Management Act 2000*.

The design of basement car parking should have regard for mitigation measures suitable to manage impacts associated with inundation or flooding of basement car parking areas.

I. Element - Overlooking and Privacy

Objectives

- a. Ensure buildings do not unduly affect existing or future development on adjoining properties by impinging on privacy or obstructing views; and
- b. Provide visual privacy for internal and external spaces;

Controls

- i. A window must have a privacy screen if:
 - it is a window in a habitable room, other than a bedroom, and
 - the wall in which the window is located has a setback of less than 3 metres from a side or rear boundary, and
 - the window has a sill height of less than 1.5 metres and a floor level greater than 1.0m above **ground level (existing)**.
- ii. A balcony, deck, patio, pergola, terrace or verandah must have a privacy screen if it:
 - has a setback of less than 3 metres from a side or rear boundary, and
 - has a floor area of more than 3 square metres and a floor level greater than 1.0m above **ground level (existing)**.





- iii. For *residential accommodation* and *tourist and visitor accommodation* involving multiple dwellings on the same site, direct views between habitable rooms, other than bedrooms, shall be screened where:
- Ground and first floor windows are within a 9 metre radius from any part of the window of an adjacent dwelling on the same site, and
 - Other floor windows are within a 12 metre radius of an adjacent dwelling on the same site, and
 - Direct views from habitable rooms, excluding bedrooms, of dwellings into the principal area of *private open space* of other dwellings on the same site shall be screened or obscured where they are within a 12 metre radius.



Note: A habitable room is defined in the *Building Code of Australia* and includes rooms used for normal domestic activities such as living rooms, lounge rooms, dining rooms, studies, playrooms, family rooms, rumpus rooms, kitchens and the like but does not include bathrooms, laundries, water closets (toilets), walk-in wardrobes, corridors, hallways, lobbies and the like.

- iv. Details of privacy screening required in (i)-(iii) must be submitted with the development application and may consist of:
- Screening that has 25% openings (maximum), is permanently fixed and is constructed of durable materials, or
 - A 1.8 metre high visually impervious fence or wall between a ground-level balcony, deck, patio, pergola, terrace, verandah or window where the floor level is not more than 1 metre above *ground level (existing)*, or
 - Landscape screening by using existing dense vegetation or new planting that can achieve a 75% screening effectiveness within three years (without affecting solar access or views).
 - Fixed opaque glazing in any part of a window below 1.5 m above floor level.



Note: Where the privacy screen consists of a 1.8 metre high boundary fence then such fencing is required to be erected prior to the occupation of the adjoining dwelling house.

Controls – additional privacy requirements for roof terraces

- Roof top terraces and associated structures shall be designed so their size and location does not impose upon or have unreasonable impacts on the privacy adjoining dwellings; and
- Awnings and coverings on roof terraces must be located within the applicable height limits for structures and must not unduly obstruct views from surrounding properties; and
- Roof terraces are to be appropriately located and screened to prevent direct views into habitable rooms or *private open space* of any adjoining dwellings.





J. Element - Solar Access

Objectives

- a. Ensure new dwellings have adequate direct sunlight to living areas (living rooms, lounge rooms, kitchens, dining rooms and the like) and *private open space*; and
- b. Ensure developments do not significantly overshadow living areas and the *private open space* of adjacent dwellings and areas of foreshore open space.

Controls – *Dual Occupancies, Semi-attached Dwellings, Attached Dwellings, Multi Dwelling Housing, Residential Flat Buildings* and *Tourist and Visitor Accommodation*

- i. Dwellings are to be orientated with the main indoor and outdoor living spaces and major window areas facing towards the north and east;
- ii. The windows of living areas of *dwellings* and *private open space* facing north, north east or north west must receive at least three hours of direct sunlight between 9.00am and 3.00pm (Australian Eastern Standard Time) on 21 June (Winter Solstice);
- iii. The solar access requirements in (i) and (ii) are not required for development comprising only *backpackers accommodation, bed and breakfast accommodation, farm stay accommodation* or *hotel or motel accommodation*.
- iv. New buildings must maintain at least three hours of direct sunlight to the windows of living areas that face north, north east or north west for existing adjacent *dwellings* and their areas of *private open space* between 9.00am and 3.00pm (Australian Eastern Standard Time) on 21 June (Winter Solstice);
- v. Where existing overshadowing by buildings and fences does not provide the required amount of direct sunlight to existing adjacent *dwellings* and their areas of *private open space* as required in (iii), new buildings must not result in an unreasonable reduction of existing direct sunlight to adjoining dwellings;
- vi. Buildings are to be designed, wherever practicable, to include a north or west facing roof where a solar hot water system or collector can be installed
- vii. New buildings must not result in overshadowing of beaches or adjoining public foreshore open space before 3.00pm (Australian Eastern Standard Time) on 21 June (Winter Solstice) or 6.30pm (Australian Eastern Daylight Saving Time) on 21 December (Summer Solstice).



Note:

Where overshadowing is likely to occur, the following measures may be required to reduce potential impacts:

- the building re-sited or setbacks increased,
- heights reduced, and
- amendment of roof designs.





K. Element - Fences and Walls

Objectives

- a. To ensure that fences and courtyard walls:
- Do not become a dominant built element in the streetscape;
 - Provide a sense of territory, privacy, noise reduction and safety for residents;
 - Do not remove the sense of safety in the street that pedestrians gain from the casual observation by residents;
 - Do not impact on the safe movement of vehicles and pedestrians; and
 - Retain opportunities for casual social interaction in the community.

Controls

- i. The height of fences must not exceed the heights shown in **Table 4.5**:

Table 4.5 - Height of Fences	
Fence Location	Height
Front Fence*	1.2 metres unless fence complies with point ii.below.
Side Fence	1.2 metres forward of the building line and 1.8 metres for the remainder.
Rear Fence	1.8 metres. Where the rear fence is the primary frontage, 1.2 metres.
*Front fence refers to a fence on the front boundary or forward of the building line on the primary street frontage of a site.	

- ii. Where fences or walls are proposed exceed 1.2 metres in height (as required under Table 4.5), the fence or wall is to be designed in accordance with the following:
- The fence or wall is to be articulated so as to provide visual relief and opportunities for landscape plantings between the wall and public areas;
 - The maximum height of the fence or wall is 1.8 m; and
 - The design of the fence or wall incorporates openings with at least 50% visual permeability.
- iii. Where a fence abuts a driveway edge, a minimum 2.5m x 2.0m splayed area in accordance with Australian Standard 2890 is to be provided either side of the driveway for solid fence designs for traffic viewing purposes. Alternatively, a fully open or part open style fence may be adopted either side of the driveway which may incorporate solid construction to a maximum height of 1.0m.



Note:

Some residential streets in the Lennox Head area have been identified as having traffic levels where acoustic mitigation is appropriate. Implementation of acoustic mitigation measures on these sites will be an individual owner's choice. Development controls for acoustic fencing are detailed in (iv) below.

Council applies AS2890 Parking Facilities with respect to the requirements for splays.





iv. Acoustic fencing may be erected on boundaries to the following streets and roads in Lennox Head:

- Ballina Street
- Byron Street
- North Creek Road (The Coast Road to Skennars Head Road)
- Hutley Drive
- Montwood Drive

Acoustic fencing is to be designed in accordance with the following:

- The wall or fence is to be articulated so as to provide visual relief and opportunities for landscape plantings between the wall and public areas; and
- Maximum height 1.8 m.

L. Element - Roof Pitch

Objectives

- a. Ensure that roofs are designed to manage stormwater associated with sub-tropical rainfall events; and
- b. Discourage the use of flat roofs on new dwellings to encourage building up to but not exceeding two storeys.

Development Controls

- i. Roofs of dwellings are to have a minimum pitch of 5°; and
- ii. Council may consider a variation to control (i) to maintain views or to correspond with adjoining building design that is consistent with the character of the locality.



Note: Shading devices and pergolas are exempt from the nominated pitch requirements specified in this control element.

M. Element - Adaptable Housing

Objectives

- a. Ensure that residential development is designed such that increased opportunities exist for people with limited mobility to reside in the broader community.

Controls

- i. At least 10% of all **dwellings** in an **attached dwelling, residential flat building** or **multi dwelling housing** development containing 10 or more dwellings must be designed in accordance with Australian Adaptable Housing Standard (AS 4299-1995). Where this results in a fraction then it shall be rounded to the nearest whole number with 0.5 being rounded down; and





- ii. Car parking and garages allocated to **dwelling**s built to the Australian Adaptable Housing Standard (AS 4299-1995) must comply with the dimensions specified in the Standard.



Note:

Residents contemplating building new housing are encouraged to consider the design elements contained within the [Liveable Housing Design Guidelines](#) and the design suggestions contained within [The tradies guide to good access](#)

N. Element - Minimum Lot Area

Objectives

- a. Ensure that lot area for different forms of **residential accommodation** are suitable to provide for the desired residential land use in a manner that is compatible with the provision of required services and amenity outcomes and neighbourhood character; and
- b. Provide a clear indication of the potential forms of **residential accommodation** that a land parcel may accommodate.

Controls

- i. Except as provided for under element O, development must comply with the lot area for each form of residential accommodation specified in **Table 4.6**.

Table 4.6 - Minimum Lot Areas for Residential Accommodation	
Type of Residential Accommodation	Minimum Lot Area
Dwelling house	450m ² 550m ² - corner lots
Dual occupancy	450m ² - attached 600m ² - detached
Semi-detached dwelling (per dwelling)	300m ²
Attached dwelling (per dwelling)	300m ²
Multi dwelling housing	1000m ²
Residential flat building	1000m ²



Note:

1. The standards for most compatible residential form will apply to **tourist and visitor accommodation**.
2. Strata subdivision of dual occupancy developments are to have regard for the provision of services as outlined in Chapter 3 - Urban Subdivision, Part 3.1.2 E. Where a dwelling or occupancy does not have direct access to the street frontage, lots must be provided with a paved pedestrian access way having a minimum 1.2m width to enable waste collection and postal delivery services.





O. Element - Dwelling Density

Objectives

- a. Ensure that medium density development is compatible with available services and neighbourhood amenity and character; and
- b. Provide a clear indication of the potential extent of medium density development on certain land.

Controls

- i. Development for the purpose of *residential accommodation* (except for a *dwelling house, dual occupancy* or *secondary dwelling*) must not exceed the number of *dwellings* provided for on a site as identified on the Dwelling Density Maps.



Note:

The number of *dwellings* enabled under this provision is a theoretical maximum based on land area only. The actual number of *dwellings* possible on a site may be less than the maximum once other planning provisions are taken into account.

In cases where the Dwelling Density Map does not nominate a maximum dwelling density the dwelling density is to be determined through design analysis. Relevant development controls such as floor space ratio, building height, setbacks, car parking and landscaping requirements will determine dwelling density.

P. Element - Earthworks and Slope Sensitive Design Controls

Objectives

- a. To limit the extent of *excavation* and *filling*.
- b. To reference controls contained within the Housing Code and the Rural Housing Code under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- c. To provide for development that is responsive to existing landform.
- d. To ensure that building design is compatible with the topographical conditions of the site.

Controls

- i. *Earthworks* are to comply with the following provisions, except as provided for under (ii)
 - The controls contained within this part are additional to those contained within clause 3.30 of the Housing Code and clause 3A.29 of the Rural Housing Code;
 - A landscape plan is required to support any application involving *earthworks* with multiple cuts or *fill* embankments;
 - The landscape plan is to demonstrate that landscaping suitable to soften the visual impact of the *earthworks* can be achieved; and





- **Earthworks** involving **excavation** and/or **filling** on or within 900mm of a property boundary are restricted to maximum height of **1200mm** per single cut, single **fill** or combination cut/fill. These works are to be retained by a masonry structure which is to be designed and certified by a suitably qualified structural engineer if in excess of 1 metre in height.
- ii. For lots with slopes greater than or equal to 15%, the following provisions must be complied with:
 - Building siting is to relate to the original form of the land;
 - Alternatives to slab on ground construction are encouraged, where, due to the gradient and characteristics of the site, major **excavation** or **filling** as a result of raft slab construction would be inappropriate. Examples of alternative construction includes: Bearer and joist construction; Deepened edge beam; Split level design; Suspended slab design; and
 - **Earthworks** to be kept to the minimum required for an appropriately designed site responsive development.

Q. Element - Screening Underfloor Space of Buildings

Objective

- a. Improve the appearance of elevated buildings and provide for enhanced neighbourhood amenity.

Controls

- i. Where the understorey of a building is visible from adjoining properties or public land, landscaping or screening panels must be provided around the base perimeter of the building and maintained. Screening is to be provided in accordance with the following:
- Screening panels must not create the appearance of a solid wall and are to be constructed of lattice, slats or other like materials.
 - Proposals for the use of landscaping for the screening of underfloor areas must be accompanied by a landscape plan which includes information identifying the location and species of plantings.
 - Landscaping screening is to be provided utilising mature plants.
- ii. Screening required under (i) is to be provided prior to the occupation of the building.

R. Element - Tourist Accommodation Length of Stay

Objective

- a. Ensure that **tourist and visitor accommodation** is utilised for short term occupation only.

Controls

- i. **Tourist and visitor accommodation** must only be occupied on a short-term basis and shall not be utilised or let for long term or permanent accommodation.
- ii. Guests must not be accommodated for more than 42 consecutive days with an interval of at least 14 days between occupancies, or for more than a total of 90 days in any 12 month period.





S. Element - Tourist Accommodation Building Design

Objective

- a. Ensure that **tourist and visitor accommodation** is constructed in a manner consistent with residential accommodation buildings.

Controls

- i. **Tourist and visitor accommodation** comprising or within a building of 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2m above ground level) and comprising 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops) is to be designed in accordance with the provisions of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Buildings*.

3.2 Small Lot Integrated Housing

3.2.1 Application

Applies to:	
Location/s:	Zone R3 Medium Density Residential
Development Type/s:	Applications for detached dwellings , semi-detached dwellings or attached dwellings

3.2.2 Background

Integrated housing consists of the concurrent subdivision of land into 4 or more allotments (each with an area between 300m² and 450m²) and the erection of a **dwelling house**, **semi-detached dwelling** or **attached dwelling** on each of the lots created by the subdivision.

As integrated housing applications involve relatively small allotments, issues of privacy and overlooking are particularly relevant in the development assessment process. Furthermore, as these **dwellings** often have a common party wall which share structural support, it is important that detailed consideration is given to the design and construction of this element of the building. Accordingly, the BLEP 2012 requires that the dwelling design be assessed and approved concurrently with the subdivision. For applications involving **attached dwellings** or **semi-detached dwellings**, Council also requires that all **dwellings** sharing common party walls are constructed concurrently.

3.2.3 Planning Objectives

- a. To ensure that integrated housing developments are located in areas which are accessible to local infrastructure and public transport;
- b. To ensure that integrated housing developments are designed:
- to provide visual and acoustic privacy for future residents;
 - with adequate **private open space** to meet the needs of residents; and
 - to provide for solar access.





3.2.4 Development Controls

A. Building Design - General

- i. Designs for integrated housing developments must demonstrate that:
 - there will be adequate privacy within the development for the occupants of each *dwelling* and for existing *dwellings* on adjoining allotments;
 - there are adequate water, sewerage and drainage services for each *dwelling*;
 - there will be adequate access to natural light for each *dwelling*; and
 - new *dwellings* will be provided with *landscaped areas* and *private open space* in accordance with the requirements of Element G in section 3.1.3 of this chapter.
- ii. The **building height plane** specified in section 3.1.3 of this chapter applies to applications for integrated housing for those parts of the development which interface with adjoining properties and public land;
- iii. **Building lines or setbacks** and **building envelopes** for individual *dwellings* within the integrated housing scheme that comply with the *Building Code of Australia* will be assessed on the merits of the case having particular regard for:
 - privacy;
 - overshadowing; and
 - the bulk and scale of the development as a whole.

B. Additional controls for *attached dwellings* and *semi-detached dwellings*

- i. Where *attached dwellings* are proposed, all vehicular access is to be provided from a rear service lane wherever possible;
- ii. *Attached dwellings* and *semi-detached dwellings* must be designed to be complementary to one another with respect to building form, materials and landscaping. However, each *dwelling* is to be provided with articulation and detailing to provide an individual identity;
- iii. Each *dwelling* is to front the public street system and have a front door which is readily identifiable and accessible from the street;
- iv. *Semi-detached dwellings* or *Attached dwellings* proposed on a corner allotment shall address both frontages by the use of verandas, balconies, windows or similar modulating elements;
- v. Where vehicular access is from a **primary road** (rather than a service lane) garages and carports must not occupy more than 50% of the width of the façade;
- vi. Construction of *dwellings* with common party walls is to occur concurrently. Occupation certificates will only be issued once all *dwellings* sharing the common wall are completed; and
- vii. The location of mail and garbage services are to be nominated and adequate provision made for each *dwelling* to access such services.





Part 4 Special Area Controls

4.1 Coastal Grove Estate, Lennox Head

4.1.1 Application

Applies to:	
Location/s:	Coastal Grove Estate (as shown on the Special Area Controls Maps - Residential).
Development Type/s:	<i>Residential accommodation.</i>

4.1.2 Planning Objectives

- a. To provide a high quality residential development to meet the demand for housing within the Lennox Head area;
- b. To protect the inherent environmental qualities of the site and its surrounds including visual character, landscape setting and riparian vegetation values; and
- c. To provide services and facilities to meet the needs of the future residents of the site.

4.1.3 Development Controls

A. Element - Building Height

- i. *Dwelling houses* must not be comprised of more than 2 storeys except as set out in (ii); and
- ii. *Dwelling houses* located on Lots 26-32 DP 1168665 (Blue Seas Parade) must not exceed 1 storey above *ground level (existing)* when viewed directly from the front street boundary of the lot.



Note: The building height plane provisions contained in Part 3 of this chapter apply to residential development in the Coastal Grove Estate.

B. Element - Slope Sensitive Design

- i. *Dwellings* and associated development on residential lots with a slope greater than 15% are required to conform to the following requirements:

Driveways

- Driveways are to not to exceed a maximum gradient of 1:6 unless it can be demonstrated to the satisfaction of the consent authority that no reasonable alternative to this solution is possible. In such cases driveways are not to exceed a maximum gradient of 1:4.
- Applications are to include a long section drawing of proposed driveway access that has been prepared by an appropriately qualified person based on site survey information.





Earthworks

- **Earthworks** are subject to the following requirements:

Geotechnical zone ¹	Maximum cut or fill - property boundary	Maximum cut or fill - elsewhere on site
1	1.2m	No limitation if works contained fully within building envelope
2	1.2m	2.5m if works contained fully within building envelope
3	1.2m	1.5m

¹Geotechnical zones are shown in the *Coastal Grove Assessed Slope Suitability Zoning Plan* attached in Appendix A.



Notes: Cut and fill parameters mean that **excavation** and/or **filling** on sites with a slope exceeding 15% may, in some circumstances, exceed 1m (on property boundary) and 1.5m (elsewhere on the site). This is subject to the conditions identified above and relevant engineering and geotechnical assessment demonstrating the suitability of the site for the proposed **excavation/ filling** and associated works. The geotechnical zones are based on analysis undertaken by Coffey Geosciences in relation to the application for the subdivision of the land.

C. Element - Geotechnical and Engineering Assessment

- Applications for development on land within geotechnical zone 3 (see Appendix A - Coastal Grove Assessed Slope Suitability Zoning Plan) must be accompanied by a geotechnical assessment. The assessment is to be prepared by a qualified geotechnical engineer.
- Where a geotechnical assessment is required, applications for development must demonstrate that the findings of the assessment have been considered in relation to the structural design of the proposed development.



Note: Applicants may be required to have regard for the geotechnical assessment undertaken by Coffey Geosciences in relation to the application for the subdivision of the land.





4.2 Aspects Estate & Elevation Estate, Lennox Head

4.2.1 Application

Applies to:	
Location/s:	Aspects Estate and Elevation Estate (as shown on the Special Area Controls Maps - Residential).
Development Type/s:	<i>Residential accommodation</i> and <i>tourist and visitor accommodation</i> .

4.2.2 Planning Objectives

- a. Provide a high quality residential development to meet the demand for housing within the Lennox Head area; and
- b. Protect the inherent environmental qualities of the site and its surrounds including visual character, landscape setting and *biodiversity* values; and
- c. Provide for energy efficient housing that is responsive to the environmental characteristics of the site and its surrounds.

4.2.3 Development Controls

A. Element - Cut and Fill (Refer to controls contained in Clause 3.1.3 P – Element – Earthworks and Slope Sensitive Design Controls)

- i. (Deleted Amendment 3 – 16.7.2014)
- ii. (Deleted Amendment 3 – 16.7.2014)

B. Element - Mosquito Controls

- i. Where an outdoor entertaining area is provided in conjunction with a dwelling fronting Hutley Drive (as extended), a proportion of this area (of a size commensurate with the number of people who would want to use it) will be insect screened.

C. Element - Development of Mews Allotments

- ii. Housing development on mews allotments must comply with the following:
 - vehicular access is to be from a rear laneway;
 - a minimum 3.0m front *building setback*;
 - a minimum 1.0m setback from laneway;
 - a minimum of 90m² landscaped area;
 - a minimum 2.0m side setback on at least one side;
 - where a zero setback on one side is proposed, satisfactory legal arrangements are made for maintenance, there are no openings in the wall, and the wall is fire rated masonry construction;
 - adequate solar access is provided to each *dwelling*; and
 - adequate *private open space* is provided for each dwelling (minimum area of 32m², minimum dimension of 3m) with direct connection to indoor living areas.





4.3 Wollongbar Urban Expansion Area

4.3.1 Application

Applies to:	
Location/s:	Wollongbar Urban Expansion Area (as shown on the Special Area Controls Maps - Residential).
Development Type/s:	<i>Residential accommodation</i> and <i>tourist and visitor accommodation</i> .

4.3.2 Planning Objectives

- Provide a high quality residential development to meet the demand for housing within the Wollongbar area;
- Protect the inherent environmental qualities of the site and its surrounds including visual character, landscape setting and *biodiversity* values; and
- Provide for energy efficient housing that is responsive to the environmental characteristics of the site and its surrounds.

4.3.3 Development Controls

A. Element - Light-weight construction

- Light-weight construction is required for lots where the **building envelope** is identified as having a 'medium' likelihood of slip.



Note:

Provision (i) is in place to ensure that the risk of landslip does not increase due to the potential for natural drainage to be altered or slopes steepened by excavation or filling, as can be the case with 'slab on ground' construction.

Where construction other than light-weight construction is proposed, a geotechnical assessment and engineering design/report will be required.

B. Element - High likelihood of slip

- No *dwellings* or other ancillary residential structures are permitted to be constructed on land that is identified as having a 'high' likelihood of slope instability.



Note:

Provision (ii) responds to the potential for landslip to be significantly exacerbated if the natural drainage is altered or slopes are modified by *earthworks*.

Slope instability zones are based on survey and analysis undertaken by the Department of Mineral Resources and Coffey Partners Pty Ltd. The areas identified as having a medium or high likelihood of slip are shown in the map titled 'Land affected by slip – Wollongbar Urban Expansion Area' and attached in **Appendix D**.





C. Element - Cut and fill (Refer to controls contained in Clause 3.1.3 P – Element – Earthworks and Slope Sensitive Design Controls)

- iii. (Deleted Amendment 3 – 16.7.2014)
- iv. (Deleted Amendment 3 – 16.7.2014)

4.4 Camden Lane Area, Ballina

4.4.1 Application

Applies to:	
Location/s:	Camden Lane Area (as shown on the Special Areas Controls Maps - Residential).
Development Type/s:	<i>Residential accommodation</i> and <i>tourist and visitor accommodation</i> .

4.4.2 Planning Objectives

- a. Preserve the amenity of dwelling houses on the allotments subject to this section; and
- b. Minimise adverse impacts on the amenity and environmental attributes of North Creek.

4.4.3 Development Controls

- i. Development must not be located east of the building lines specified in Table 4.8.

Address	Lot DP	Foreshore Building Line (east of western lot boundary)	
		at northern boundary	at southern boundary
1 Camden Lane	Lot 33 DP 872966	43.0m	
3 Camden Lane	Lot 3 DP 1079380	29.8m	38.7m
5 Camden Lane	Lot 1 DP 1119099	29.8m	
2 Skinner Street	Lot 10 DP 1126929	33.5m	



Note:

The Camden Lane foreshore building line is measured as the distance specified in Table 4.8 shoreward from the western boundary of each site. For Nos. 1 and 5 Camden Lane and No. 2 Skinner Street the foreshore building line is parallel to the western boundary of each site. For No. 3 Camden Lane, the foreshore building line is measured diagonally across the lot between the specified points on the northern and southern boundaries.





4.5 Lennox Head Coastal Hazard Protection Area

4.5.1 Application

Applies to:	
Location/s:	Lennox Head Coastal Hazard Protection Area (as shown on the Special Area Controls Maps - Residential).
Development Type/s:	<i>Residential accommodation</i> and <i>tourist and visitor accommodation</i> .

4.5.2 Planning Objectives

- a. Minimise adverse impacts and hazard risks associated with coastal processes on dwellings and ancillary uses.

4.5.3 Development Controls

- i. Development must comply with the floor levels and building lines specified in the following tables.

Table 4.9 – Ballina Street Foreshore Building Provisions				
Address	Lot DP/SP	Habitable Floor Level	Foreshore Building Line (east of Ballina St boundary)	
			at northern boundary	at southern boundary
			77-83 Ballina Street	SP 45001
85 Ballina Street	Lot 6 Section 1 DP 11687	6.00m AHD	34.7m	35.91m
87 Ballina Street	Lot 5 Section 1 DP 11687	6.00m AHD	33.5m	34.7m

Table 4.10 – Rayner Lane Foreshore Building Provisions				
Address	Lot DP/SP	Habitable Floor Level	Foreshore Building Line (east of Rayner Lane boundary)	
			at northern boundary	at southern boundary
			2 Rayner Lane	SP 84004
3 Rayner Lane	Lot 43 Section 1 DP 11687	40.43m	41.95m	
4 Rayner Lane	Lot 42 Section 1 DP 11687	38.90m	40.43m	
5 Rayner Lane	Lot 41 Section 1 DP 11687	37.38m	38.90m	
6 Rayner Lane	Lot 40 Section 1 DP 11687	35.85m	37.38m	
7 Rayner Lane	Lot 39 Section 1 DP 11687	34.33m	35.85m	





Table 4.10 (cont.) – Rayner Lane Foreshore Building Provisions				
Address	Lot DP/SP	Habitable Floor Level	Foreshore Building Line (east of Rayner Lane boundary)	
			at northern boundary	at southern boundary
8 Rayner Lane	Lot 38 Section 1 DP 11687	500mm above centreline of Rayner Lane	32.18m	34.33m
9 Rayner Lane	SP 74190		31.28m	32.18m
10 Rayner Lane	SP 60473		29.76m	31.28m
11 Rayner Lane	SP 67477		28.13m	29.76m
12 Rayner Lane	SP 66590	6.0m AHD	26.50m	28.13m
13 Rayner Lane	Lot 33 Section 1 DP 11687		24.89m	26.50m
14 Rayner Lane	Lot 32 Section 1 DP 11687		23.25m	24.89m
15 Rayner Lane	Lot 31 Section 1 DP 11687		21.63m	23.25m
16 Rayner Lane	Lot 30 Section 1 DP 11687		20.00m	21.63m
10A Rutherford Street	Lot 45 Section 1 DP 11687	500mm above centreline of Rayner Lane	43.47m	45.00m

Table 4.11 – Rutherford Street Building Provisions		
Address	Lot DP/SP	Habitable Floor Level (AHD)
10 Rutherford Street	Lot 10 DP 20330	3.40m
10A Rutherford Street	Lot 45 Section 1 DP 11687	(see Table 4.8)
11 Rutherford Street	Lot 11 DP 20330	3.40m





Address	Lot DP/SP	Habitable Floor Level (AHD)	Foreshore Building Line (from eastern lot boundary)
5-7 Tresise Place	SP 33397, SP 36179	3.40m	5.0m
4 Tresise Place	Lot 7 DP 255308	3.40m	5.0m
3 Tresise Place	Lot 8 DP 255308	3.40m	5.0m
10 Allens Parade	Lot 88 DP 29654	3.40m	5.0m
12 Allens Parade	Lot 86 DP 29654	3.40m	5.0m
18 Allens Parade	SP 33295, SP 66541	3.40m	5.0m
26 Allens Parade	Lot 80 DP 29654	3.40m	5.0m
28 Allens Parade	Lot 78 DP 29654	3.40m	5.0m
34 Allens Parade	Lot 76 DP 29654	3.40m	5.0m
36 Allens Parade	SP 75998	3.40m	5.0m
42 Allens Parade	Lot 72 DP 29654	3.40m	5.0m
48 Allens Parade	SP 70447	3.40m	5.0m

Address	Lot DP/SP	Habitable Floor Level (AHD)	Foreshore Building Line (from eastern lot extremity)	
			at northern boundary	at southern boundary
52 Allens Parade	Lot 2 DP 1004752	5.25m	5.7m	10.3m
56 Allens Parade	Lot 65 DP 29654	5.25m	10.3m	10.3m
58 Allens Parade	Lot 63 DP 29654	5.25m	10.3m	10.3m
64 Allens Parade	Lot 61 DP 29654	5.25m	10.3m	10.3m
44 Dress Circle Drive	Lot 58 DP 29654	5.25m	10.3m	7.0m
46 Dress Circle Drive	Lot 57 DP 29654	5.25m	7.0m	N/A

**Note:**

Where compliance with the minimum floor level requirement for buildings in Rayner Lane results in





encroachment beyond the maximum building height specified in the LEP, Council may consider a variation to the building height standard under clause 4.6 of the LEP where the building would have otherwise met the building height standard in the absence of the minimum floor level requirement.



4.6 16 Tara Downs, Lennox Head

4.6.1 Application

Applies to:	
Location/s:	16 Tara Downs Lennox Head (as shown on the Special Area Controls Map – Residential - Sheet _SR_003_020).
Development Type/s:	<i>Residential accommodation</i> and Subdivision.

4.6.2 Planning Objectives

- a. Provide for vegetation buffers to significant vegetation located on this site;
- b. Provide for bushfire asset protection zones;
- c. Provide for the location of indicative building envelopes for dwellings impacted by vegetation buffers and bushfire asset protection zones.

4.6.3 Development Controls

A. Element - Retention of Native Vegetation

- i. Buffers must be established to protect certain native trees located on this site. Such buffers must extend a minimum distance of 12 metres from the trunk of native trees contained within nominated tree clusters as shown in **Appendix B**. All lots containing or adjacent to such trees must be designed to incorporate indicative building envelopes as required by Element C.
- ii. All building work, including the installation of swimming pools, must be undertaken outside the vegetation buffer areas.
- iii. Vegetation buffer areas are required to be located generally as indicated in **Appendix B**.



Note:

- i. Vegetation buffer areas may be incorporated into site landscape areas.

B. Element - Bushfire Asset Protection Zones and Site Access Arrangements

- i. Bushfire asset protection zones are required to be provided in locations generally as indicated in **Appendix B**. Final design of bushfire asset protection zones is to achieve separation distances consistent with BAL 29 under AS 3959.



Note:

- i. Site access arrangements are to address the requirements





of *Planning for Bushfire Protection 2006*.

ii. Subdivision of this site is subject to further assessment in accordance with Section 100B of the *Rural Fires Act 1997*. Final location of bushfire asset protection zones and site access arrangements will be determined by the Rural Fire Service following such assessment.

C. Element - Building Envelopes

- i. Development must be consistent with the indicative building envelopes, shown in **Appendix B**, relating to the vegetation buffers and bushfire asset protection zones referred to in Elements A and B.



Note:

- i. Final location of buffers and building envelopes to be determined by survey.

4.7 Blue Seas Parade Estate, Lennox Head

4.7.1 Application

Applies to:	
Location/s:	Blue Seas Parade Estate (as shown on the Special Area Controls Map – Residential - Sheet_SR_003_020).
Development Type/s:	<i>Residential accommodation.</i>

4.7.2 Planning Objectives

- a. To provide high quality residential development to meet the demand for housing within the Lennox Head area;
- b. To protect the inherent environmental qualities of the site and its surrounds including visual character, landscape setting and riparian vegetation values; and
- c. To provide services and facilities to meet the needs of the future residents of the site.



4.7.3 Development Controls

A. Element - Rear Building Setbacks for lots subject to 1200m² minimum lot size requirement (Ballina LEP 2012)

The following rear (eastern) boundary building setbacks are applicable:

Table 4.7a – Blue Seas Parade Estate Rear Building Setbacks	
Development Type	Setback
Dwellings and attached carports, garages, balconies, decks, patios, pergolas, terraces and verandahs that are also attached to the dwelling house and which have a height up to 4.5 metres.	5 metre minimum rear building setback and clear of any Right of Carriageway (ROW).
Dwellings and attached carports, garages, balconies, decks, patios, pergolas, terraces and verandahs that are also attached to the dwelling house and which have a height greater than 4.5metres.	12 metre minimum rear building setback and clear of any ROW.
Outbuildings not attached to dwellings with a height up to 3.8 metres.	1.5 metre minimum rear building setback and clear of any ROW.
Outbuildings not attached to dwellings with a height greater than 3.8 metres.	1.5 metre minimum rear building setback plus one quarter of the height of the building above 3.8 metres and clear of any ROW.



Note:

- i. No part of any building may encroach on a ROW.
- ii. The width of any ROW may be included in the minimum setback distance.
- iii. The building height plane provisions contained in Part 3 of this chapter also apply to residential development in the Blue Seas Parade Estate.

B. Element - Slope Sensitive Design

Dwellings and associated development on residential lots with a slope greater than 15% are required to conform to the following requirements:

i. Driveways

- Driveways are not to exceed a maximum gradient of 1:6 unless it can be demonstrated to the satisfaction of the consent authority that no reasonable alternative to this solution is possible. In such cases driveways are not to exceed a maximum gradient of 1:4.
- Applications are to include a long section drawing of proposed driveway access that has been prepared by an appropriately qualified person based on site survey information.
- The preferred access point to proposed lots is from a ROW located parallel to the rear eastern boundary.





ii. Earthworks

- **Earthworks** are subject to the following requirements:

Slope Instability Hazard Zones ¹	Maximum cut or fill - property boundary	Maximum cut or fill - elsewhere on site
1	1.2m	No limitation if works contained fully within building envelope
2	1.2m	2.5m if works contained fully within building envelope
3	1.2m	1.5m

¹ Slope Instability Hazard Zones are shown in the *Blue Seas Parade Assessed Slope Suitability Zoning Plan* attached in Appendix C



Notes: Cut and fill parameters mean that **excavation** and/or **filling** on sites with a slope exceeding 15% may, in some circumstances, exceed 1m (on the property boundary) and 1.5m (elsewhere on the site). This is subject to the conditions identified above and relevant engineering and geotechnical assessment demonstrating the suitability of the site for the proposed **excavation/ filling** and associated works.

The slope instability hazard zones are based on analysis undertaken by Coffey Geotechnics in the report: *Preliminary Geotechnical Investigation: Lot 2 DP 587685*, dated 6 June 2008.

C. Element - Geotechnical and Engineering Assessment

- Applications for development on land within Slope Instability Hazard Zone 3 (see Appendix C – Blue Seas Parade Estate Assessed Slope Suitability Zoning Plan) must be accompanied by a geotechnical assessment. The assessment is to be prepared by a qualified geotechnical engineer.
- Where a geotechnical assessment is required applications for development must demonstrate that the findings of the assessment have been considered in relation to the structural design of the proposed development.

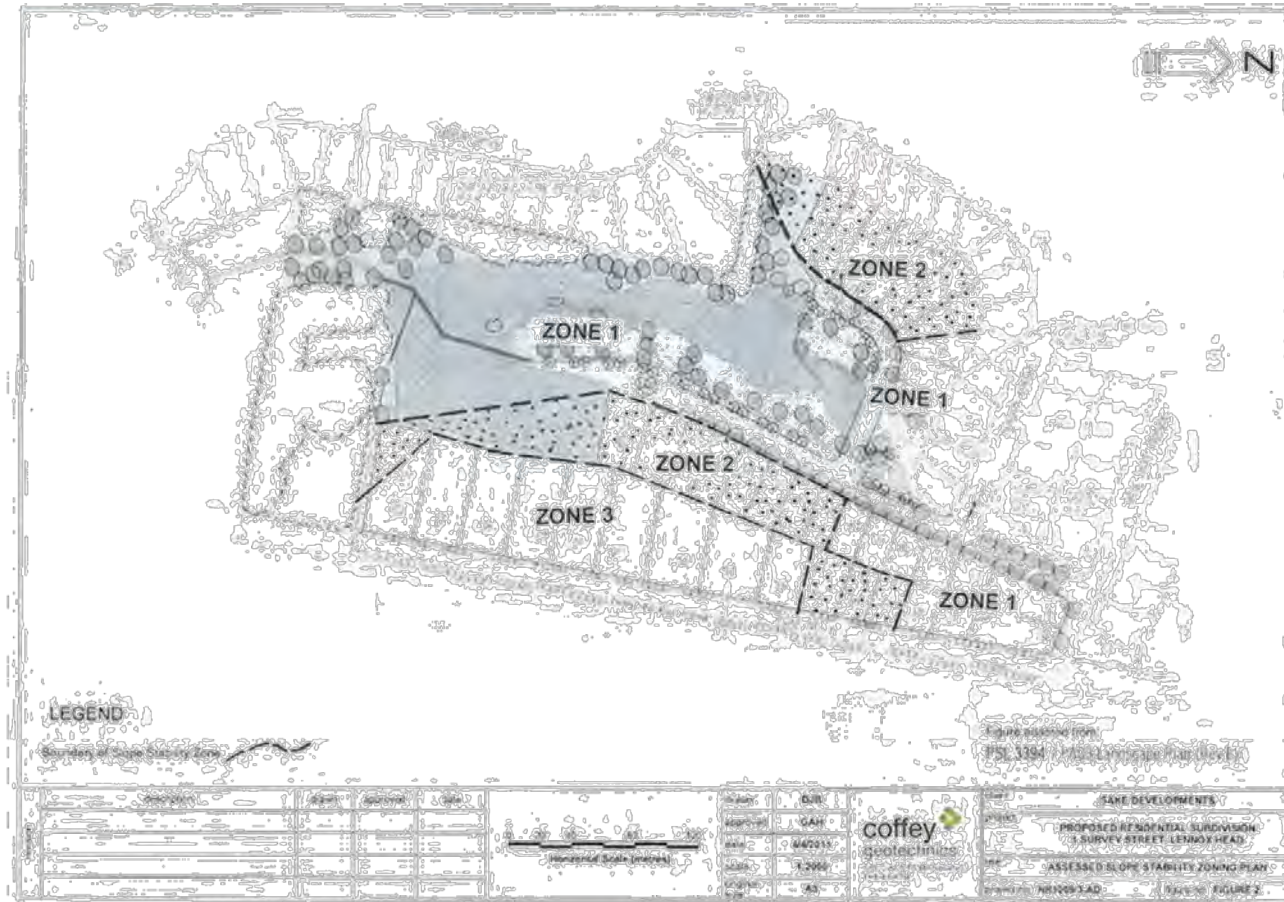
D. Element - Aesthetic Considerations

- Residential Accommodation must be designed such that buildings address the Blue Seas Parade frontage even if vehicle access is from a Right of Carriageway (ROW) on the eastern edge of the land.
- All underfloor areas between external walls and ground level shall be screened.



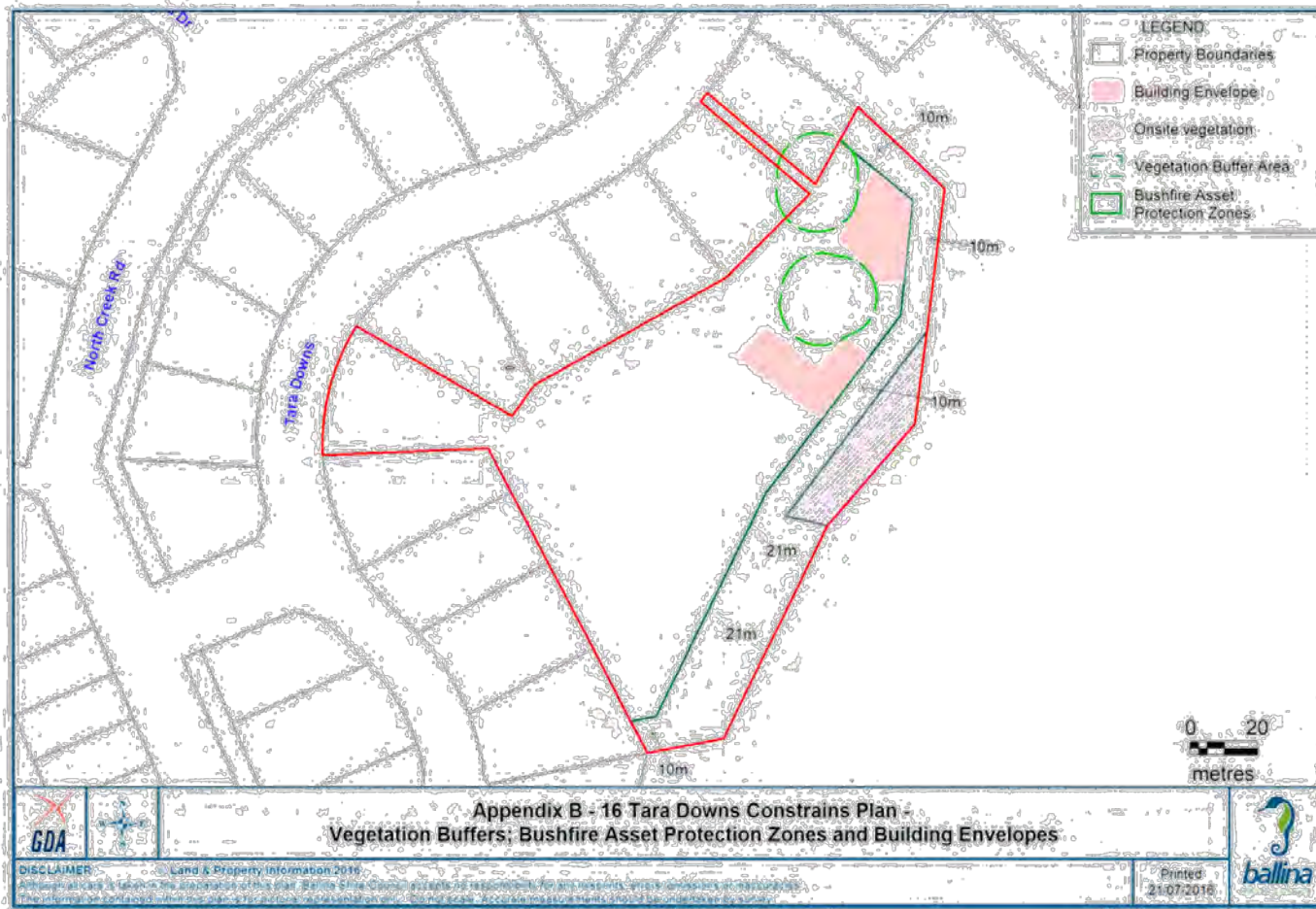


Appendix A – Coastal Grove Assessed Slope Suitability Zoning Plan



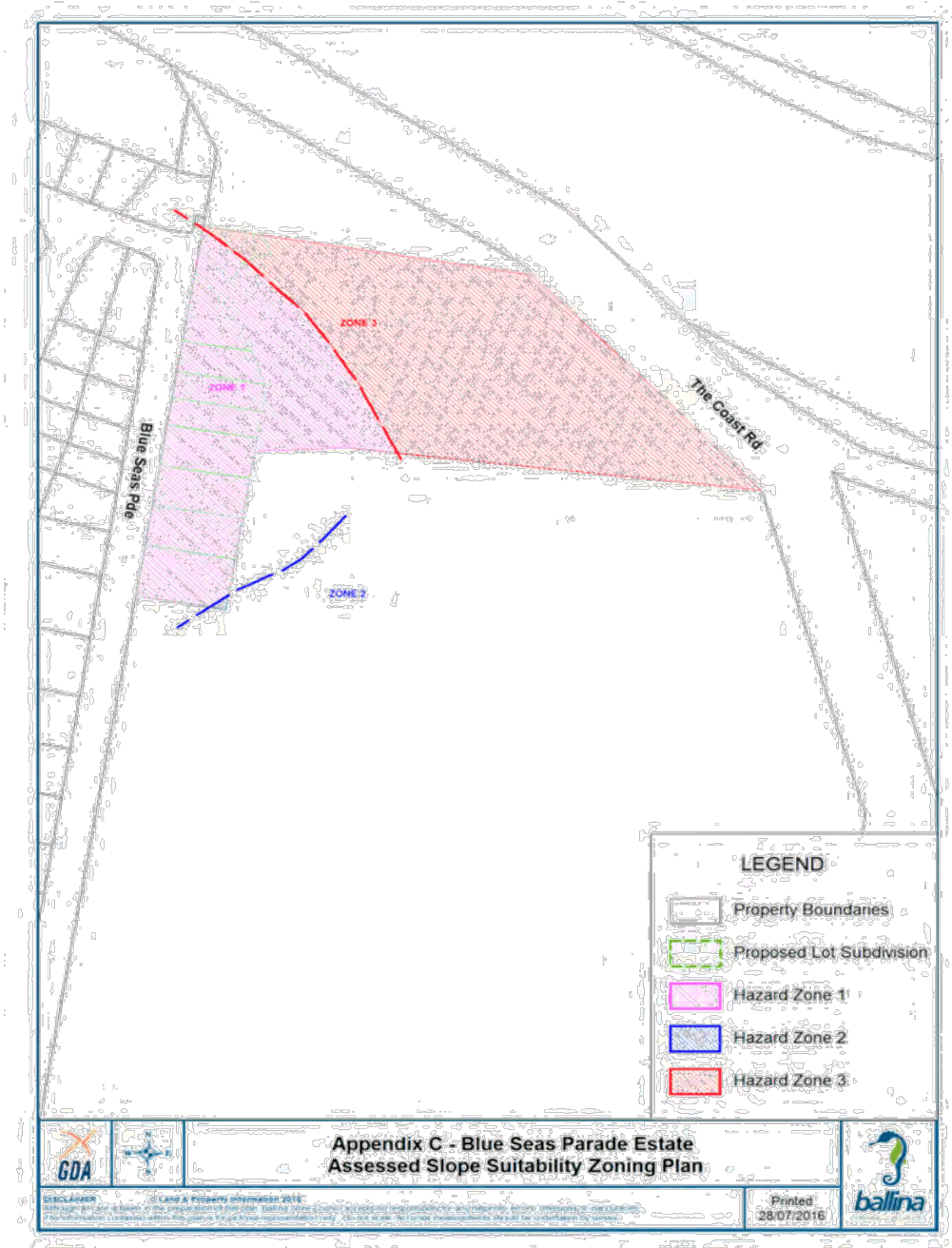


Appendix B – 16 Tara Downs Constraints Plan



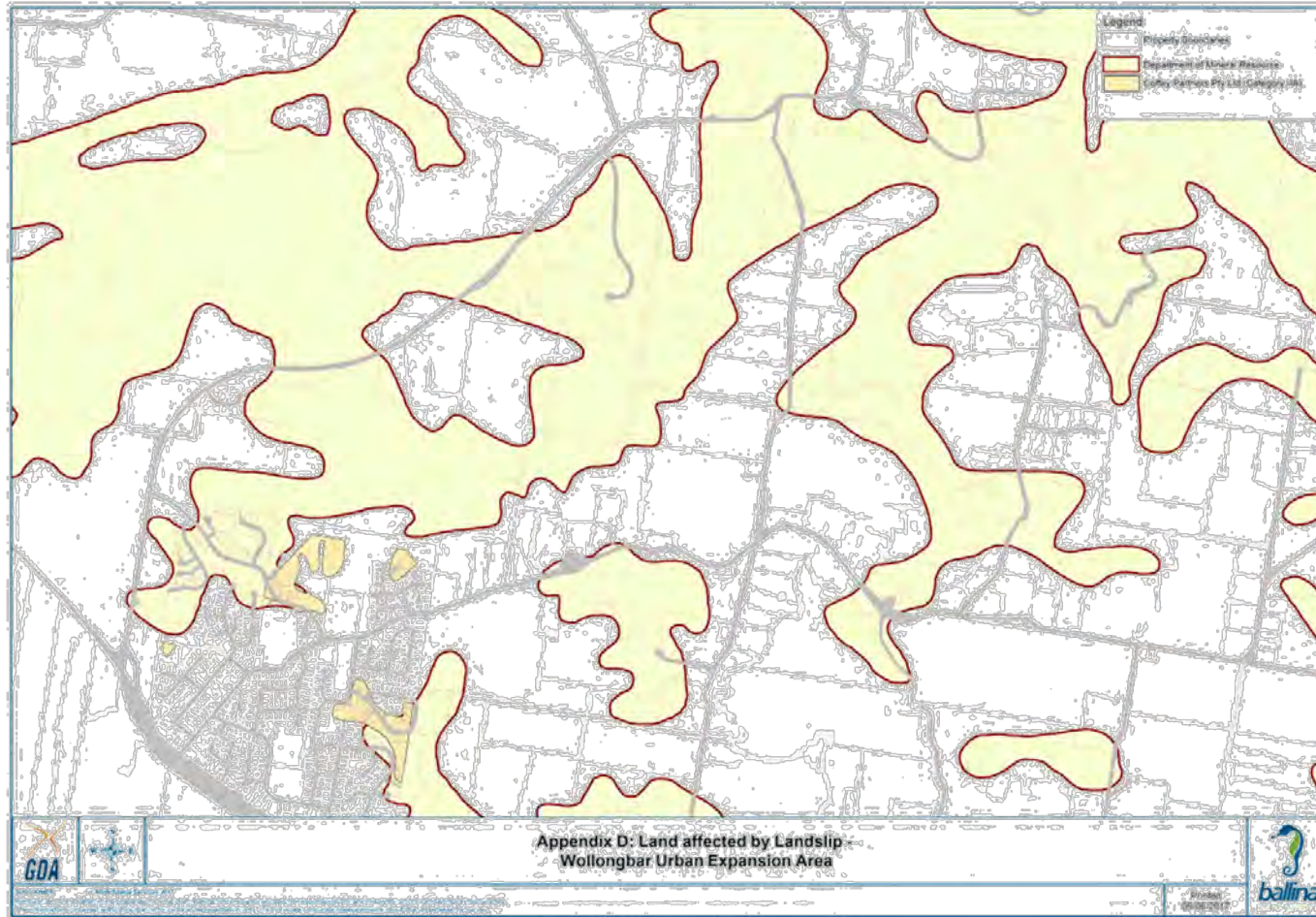


Appendix C – Blue Seas Parade Estate Slope Hazard Plan





Appendix D – Land affected by Landslip – Wollongbar Urban Expansion Area



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26 May 2018

Mr Matthew Wood
Manager
Development and Environmental Health
Ballina Shire Council
40 Cherry Street
BALLINA N S W 2478

By Email:council@ballina.nsw.gov.au

Dear Sir,

**Re: Submission to s96 Application
To modify DA 2016/744
Lot 61 DP 29654
64 Allens Parade
Lennox Head**

I make this submission to Council regarding the above development application.

I am part owner of the adjoining property situated at 44 Dress Circle Drive described as Lot 58 on DP29654.

A Development Application to build a residence on the adjoining Lot 64 was approved by Council in 2017. Council approved a s68 application 18 April 2018 and a Construction Certificate was issued by East Coast Building Consultants 26 April 2018.

The Council approved plans and the Construction Certificate did not take into consideration the location of the Council sewer crossing the proposed driveway. The location of the sewer is an inherent characteristic of the subject land which would be patently obvious to a competent design team.

The owner via their consultants have made a s96 application to modify the approved plans by the lifting of the whole building up to 1.2m. This has been made even though the original approval grossly exceeded Councils minimum building envelope. There are many other design solutions available to the applicant which can remedy the situation which do not involve the lifting of the building.

Council should not approve this application as the lifting of the building has dramatic impacts upon the neighbouring properties. The proposal is inconsistent with the planning objectives and does not comply with the development controls contained within the Ballina Shire Development Control Plan 2012 Chapter 4 Residential and Tourist Development ("DCP"). This is caused by the fact the proposed dwelling is too large to be accommodated on the subject land. The s96 proposal to increase the floor levels above that contained in DA2016/744 is not justified on any town planning or lawful grounds.

If approved the proposal will result in:

- A poorer quality residential outcome for the neighbouring properties;
- An urban amenity and character incompatible with the adjoining landscape and character; and
- An outcome which does not foster the orderly development of the locality in accordance with the Ballina Shire Council planning provisions.

Residents and tourists come to Ballina Shire because of its natural attributes which are not dominated by built form especially in visually prominent waterfront locations.

In particular the proposed s96 application to lift the total structure is inconsistent with:

1.0 DCP Planning Objective 3.1.2

Objective 3.1.2 states a development must *"Manage the bulk, scale ... to avoid adverse impacts on the adjoining land uses;"*

The natural ground level in the western half of the common boundary of my allotment Lot 58 and subject land is between RL=4.3m and 4.4m AHD. It is proposed for the basement wall to be located on the boundary which has a basement roof level "new ground level" of RL=5.75m AHD. This is 1.4m above the natural ground level along the northern boundary of Lot 58 as detailed in the survey plan accompanying the application. On top of the "new ground level" it is proposed to have a 600mm high "planter box" directly on the boundary and an eave at RL=9.12m AHD. The eave is presumably set back 450mm in accordance with the minimum BCA standard.

This results in a solid wall of a minimum height of 2.0m directly on the southern boundary and an eave at 4.9m above natural ground level set back only 450mm from the southern property boundary. The previous approval was 500mm lower for each structure.

The building is located approximately 600mm from the adjoining western boundary in direct contravention of the minimum building envelope. This results in a building structure in excess of 8.0m above natural ground level only 600mm from the boundary and approximately 3.0m from the adjoining building on the western boundary.

The proposed s96 modification causes an unreasonable increase in the adverse impact of loss of amenity and overshadowing on the adjoining properties which is totally inconsistent with planning objective 3.1.2.

2.0 DCP Development Control 3.1.3 A. Element – Building Height

Control 3.1.3 objectives include to:

- A. *Ensure that the height of buildings (building height) is compatible with the bulk, scale and character of the locality;*
- B. *Minimise adverse impacts on existing ... adjoining properties and scenic or landscape quality of the locality.*

Comment: Increasing the proposed building height to 4.9m above natural ground level only 450mm from the southern boundary is not compatible with the bulk, scale and character of the locality.

Such a built form outcome is also inconsistent with virtually all building controls for built form on common boundaries contained within the Ballina Council town plan.

The proposed s96 modification to further increase the height of the proposed dwelling will create a precedent for all waterfront buildings in the locality and will result in an outcome similar to the Rayners Lane construction which occurred prior to the introduction of the stepped building envelopes in the DCP.

3.0 DCP Development Control 3.1.3 C. Element – Building Envelopes

Control 3.1.3 objectives include to:

- i. *Ensure buildings are set back progressively from the side and rear boundaries as building height increases so that buildings do not unduly affect the existing or future development on adjoining properties by way of overshadowing, impinging on privacy, or unreasonably obstructing views;*

Comment: The proposed increasing of building height results in a :

- a) wall 2.0m high along the southern boundary with no set back and a building height of 4.9m above natural ground level only 450mm from the boundary; and

- b) roof line in excess of 8.0m high above natural ground level 600mm from the western boundary'.

This patently does not meet this objective and results in unacceptable loss of amenity and increased overshadowing.

iii. *Enhance opportunities for solar access to both the development site and adjoining properties;*

Council notes within the DCP state *"Encroachments to the side and rear boundary building envelopes will generally not be supported along the southern and western boundaries. This is because these elevations have the greatest capacity to overshadow adjoining properties..."*

Comment: The extent of overshadowing is detailed by the shadow diagrams supplied by the applicant's consultants Ardill Payne. These patently fail Council's minimum standards. For their own reasons Ardill Payne do not comment on the overshadowing on the southern and western boundaries. Comment on this failure is restricted in the applicants supporting information to the profound statement *"the proposal will not result in any overshadowing of the property to the north and complies with Council's solar provisions"* (sic).

The dwelling situated on Lot 58 has its main kitchen window along the northern wall. This window and wall are set back from the boundary in accordance with Council's policies. The proposal to increase the building height will cause this window to be further overshadowed and diminish its solar access in winter. A similar situation occurs for the building situated on the western adjoining allotment.

The Ardill Payne report (pp19) incorrectly asserts the building is set back a minimum of 1265mm from the southern boundary. The structure has no setback from the boundary and the s96 application to increase the height of the dwelling results in a 2.0m high wall along the boundary. As well as being an incompetent statement it is plainly misleading.

Indeed if the building was set back 1,265mm from the boundary I possibly would not be making this submission as it would assist to ameliorate the unacceptable overshadowing, amenity and stormwater overland stormwater flow impacts inherent with the application.

The building envelope overlays supporting the application are also misleading (see attached sketch). It does not include the critical cross section showing the maximum encroachment upon the envelope by the first floor bedroom on the southern side and also grossly misrepresents the western boundary building envelope encroachment which is at its maximum in the south western corner.

The southern encroachment could be simply removed by shifting the bedroom wall northward to within the building envelope. This can occur without material impact to the dwelling.

4.0 DCP Development Control 3.1.3 H. Element – Vehicular Access and Parking Control Basement Parking

The design of the basement contravenes Council's building *control criteria for "the walls of basement car parking that protrude above ground level (existing) are to be located within the buildings footprint."*

Comment: The s96 application to increase the building height results in the wall height on the boundary with no set back being increased from 1.5m high to 2.0m high.

There are no grounds for this relaxation to be granted and indeed none offered in the applicants supporting documentation. The basement can and should be scaled back to be within the footprint of the building and certainly not increased in height. This can occur without material impact to the dwelling.

5.0 DCP Development Control 3.1.3 J. Element – Solar Access

This states "new buildings must not result in an unreasonable reduction of existing direct sunlight to adjoining buildings;"

Southern Boundary

The s96 application proposes to increase the building levels results a building height of 4.9m above natural ground level only 450mm from the boundary of the adjoining property. As well the main roof facia is proposed to be located at RL=12.46m AHD approximately 2.4m from the adjoining boundary. Both of these areas are located outside of Councils minimum building envelope and results in a building structure in excess of 8.0m above natural ground level only 2.4m from the boundary.

The resultant overshadowing of the kitchen window on Lot 58 is unacceptable and does not meet Council's minimum standards.

The overshadowing can be addressed if the applicant were to:

1. Set the basement back 1,265mm from the boundary so as to be located within the building footprint in accordance with Councils policies;
2. Remove all encroachments of the building envelope along the southern side. This would require removal of the eaves and relocation of the southern bedroom wall approximately 1.0m northwards.

These suggested amendments to the basement, eaves and bedroom wall will have no material impact on the resultant dwelling meet Council's standards and ameliorate the major adverse impacts on the adjoining southern property.

Western Boundary

The proposed building grossly encroaches on the building envelope on the western side.

The building envelope overlay supporting the application is misleading. It does not include the critical cross section at the point the proposed building is closest to the boundary.

The main roof facia is proposed to be located at RL=12.46m AHD approximately 600mm from the adjoining boundary in direct contravention of the minimum building envelope. This results in a building structure in excess of 8.0m above natural ground level only 600mm from the boundary and approximately 3.0m from the adjoining building on the western allotment.

This contravenes Council's policies and unfortunately cannot be simply addressed by minor design modification. The s96 application to increase the building height only exacerbates this poor planning outcome and should not be supported.

Northern Boundary

The proposed building grossly encroaches on the building envelope on the northern side. This elevation also includes extensive glazing on the first floor. In contravention of Council's policy the Development Application (pp20) does not propose screening but rather defers supplying details until the Building Certification stage. It is noted the previous building certificate by East Coast Building Consultants dated 26 April 2018 did not detail screening of the northern windows.

The impact of overlooking and loss of privacy for the northern adjoining property can and should be addressed by inclusion of opaque glassing or appropriate screening.

However it would be more appropriate for the encroachment upon the minimum building envelope to be removed. This can be done without impact on the resultant dwelling as the area behind the proposed glazing is a void and circulation space.

The s96 application to increase the building height only exacerbates the failure of the original application to address this issue.

Summary

The s96 application to modify the existing approval has been necessitated by the lodgement of an original incompetent application which could not be physically constructed.

To address this the applicant proposes to raise the structure by up to 1,200mm. This should not be supported by Council as the resultant building grossly exceeds the Councils minimum side boundary setbacks and the minimum building envelope. There is no town planning justification for these exceedances and the increased building height causes unnecessary detrimental impact on the adjoining properties and general locality.

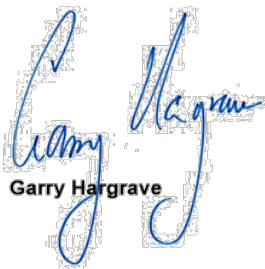
There are many other design solutions available to the applicant which can remedy these impacts which do not involve the lifting of the building.

There are several minor amendments to the design which may be made without material impact to the dwelling which will enable the building to comply with Councils minimum standards and ameliorate the adverse impacts on the southern and northern adjoining properties.

If the applicant insists on lifting the building the resultant increase in adverse impact on the western adjoining property cannot be ameliorated without extensive redesign of the proposal.

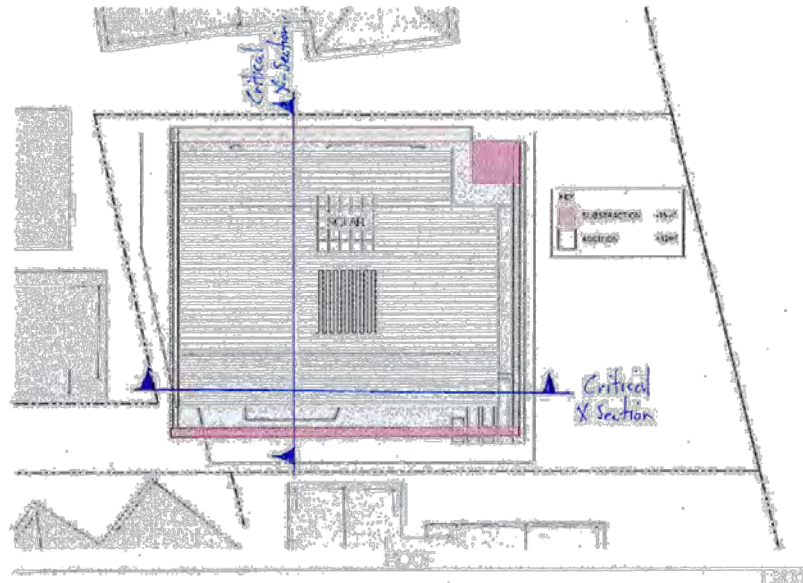
I look forward to further advice from Council regarding the assessment of the proposal.

Yours Sincerely



Garry Hargrave

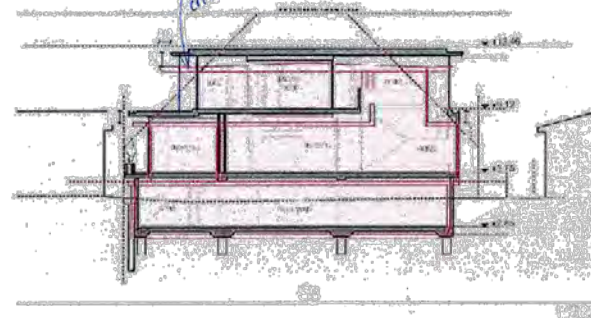
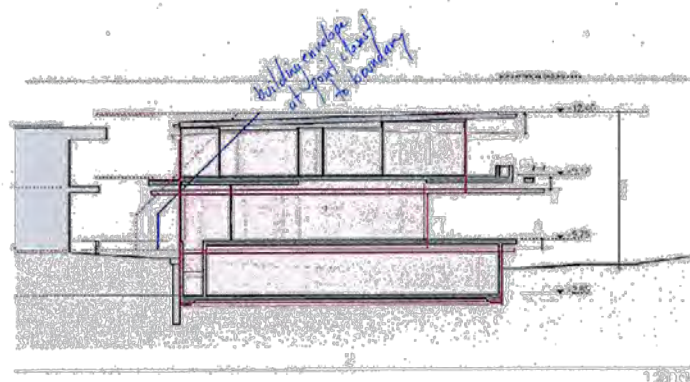
Attachment: Sketch of Envelope Encroachments



S96



Sketch showing accurate encroachments on building envelope



HARLEY GRAHAM ARCHITECTS 1/100 BROADWAY, BALLINA NSW 2478 PH: 02 6620 1111 WWW.HARLEYGRAHAMARCHITECTS.COM.AU	PROJECT NO: 2016/744 PROJECT NAME: 64 ALLENS PARADE LEASING HEAD		SHEET NO: C	SHEET TITLE: See DRW title
	DATE: 27/04/2018 DRAWN BY: J. G.		SCALE: A3	DRAWN BY: J. G.
	CHECKED BY: J. G.		SECTIONS	

Graeme Stuart
PO Box 884
Alstonville NSW 2477
Email:yourvoice212@gmail.com

31 May 2018

Mr Matthew Wood
Manager
Development and Environmental Health
Ballina Shire Council
40 Cherry Street
BALLINA N S W 2478

By Email:council@ballina.nsw.gov.au

Dear Sir,

Re: Submission to s96 Application DA 2016/744

I live at Goonellabah and have been a regular visitor to Lennox Head for over 30 years. I enjoy the village atmosphere, the beach, surf, the ocean views and vista along the waterfront.

I am familiar with the location of the proposed dwelling at the boardwalk for which a DA was approved last year. I learned of this application to amend the plans to build a large house on this small waterfront allotment. Beyond what was previously approved by Council, this applicant wants to increase the floor levels and building height.

I have looked at the application and I am appalled by the proposal to raise the height of the building to the detriment of the adjoining homes so far as shadowing and overlooking their private space.

The sheer size and bulk of the amendment obviously impinges on the limitations set by Ballina Shire Council regarding waterfront development and will seriously impact on the iconic views available from the public street.

I ask Council not to approve the modification as it will just decrease the amenity of the area.

Anyone who wants to build a house should do so within the Council guidelines. That's what they're there for. This application indicates either ignorance of or contempt for those guidelines.

Yours Faithfully

Graeme J Stuart

Tim and Fiona Medhurst
26 Sonanne Place
Fig Tree Pocket Q 4069
timothymedhurst@gmail.com
0417 068682

31 May 2018

Mr Matthew Wood
Manager, Development and Environmental Health
Ballina Shire Council
40 Cherry Street
BALLINA NSW 2478

By email: council@ballina.nsw.gov.au

Dear Sir,

**Re: Submission to s96 Application
To modify DA 2016/744 - Lot 61 DP 29654
64 Allens Parade, Lennox Head**

We make this submission to Council regarding the above development application.

We are part owners of the adjoining property situated at 44 Dress Circle Drive (Lot 58 on DP29654).

A Development Application to build a residence on the adjoining Lot 61 has approved by Council notwithstanding significant exceedances with Council's building setbacks.

The Council approved design did not take into consideration the location of the Council sewer crossing the proposed driveway.

The owner via their consultants has subsequently made a s96 application to modify the approved plans by simply lifting of the whole building up to 1.2m. This appears to be a very naive and lazy response to the situation. Lifting the building has significant impacts on the adjoining properties. There are many other design modifications which can be made to get the driveway to function without needing to raise the whole building (that is already outside the maximum building envelope contained in Ballina Shire Council's DCP)

The issue of the height of the sewer line was raised in our letter to Council on 22 January.

Our house is on the south side of the proposed building, and so the impacts of overshadowing will be dramatically increased if this s96 application is approved. Attached are shadow diagrams detailing the impact of the grossly oversized building.

Further to our email to Philip Wallace on 28/2/18, we look forward to a dilapidation report being completed on our property before any building works on Lot 61 commence.

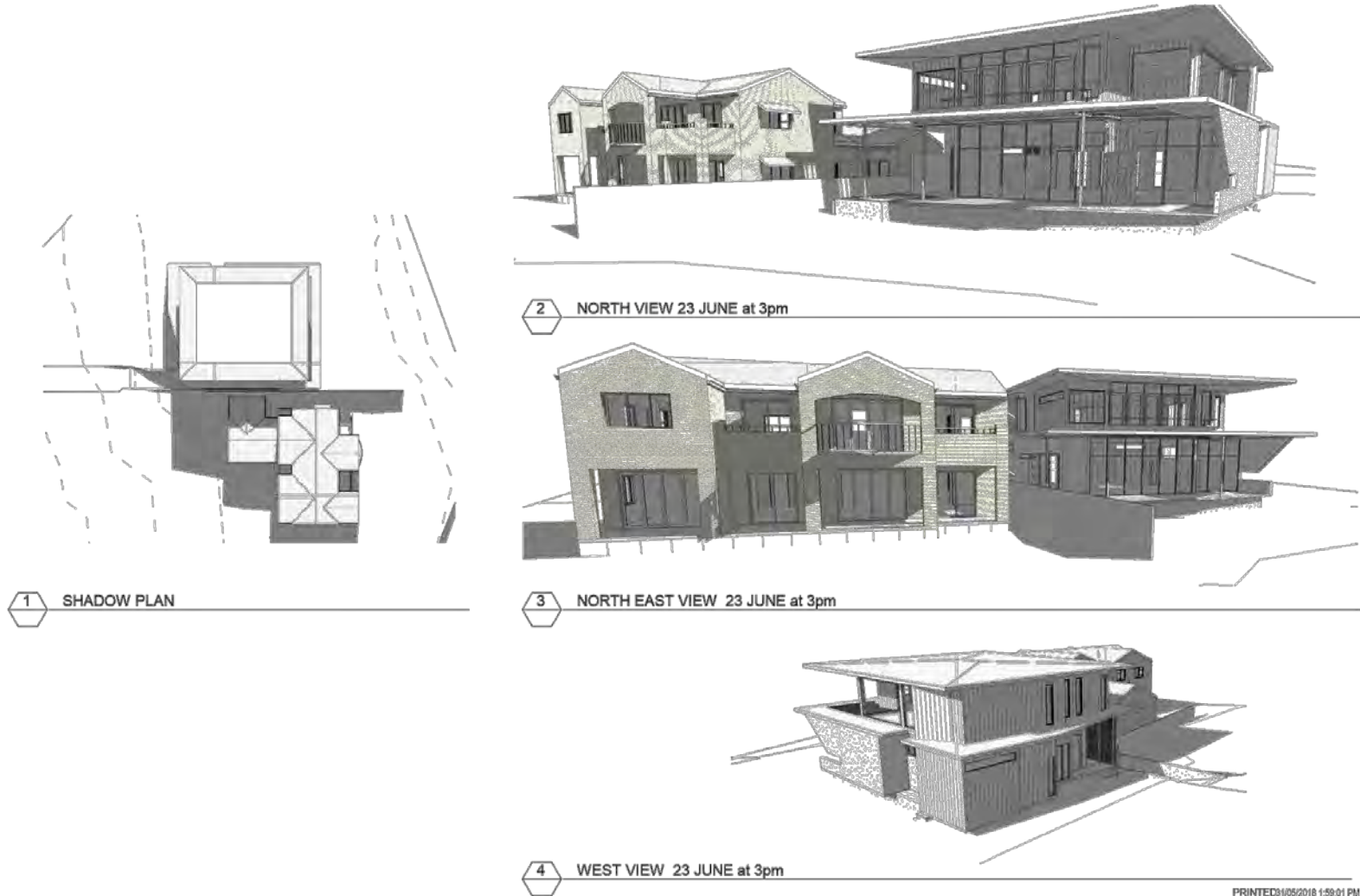
It was difficult to understand how the current approval was made, given the significant encroachments upon the maximum building envelope contained in Ballina Shire Council's DCP.

These encroachments will be significantly exacerbated by the approval of this s96 application. An approval of this s96 application would seem to go completely against the intent of the Council's DCP, for a building which so blatantly does not meet Council's minimum standards and adversely impacts adjoining owners.

We look forward to Council's careful consideration of these matters.

Yours sincerely,


Tim Medhurst



HARORAVE/MEDHURST



Project: **YELLOW HOUSE LENNOX**
 Date: MAY 2018
 Scale: 1:500
 Drawn: @ A3 JWM
 Checked: SD
 Date: 07 2018
 Project: \$11,960
 Budget: 500
 Medhurst Architects Pty Ltd - ABN 18 622 205 775
 T: 07 2388 2310
 82 FETTER TERRACE QLD 4012
 www.medhurstarchitects.com.au

PRINTED: 11/05/2018 1:59:01 PM

SCALE 0 5 12.5 25

PRELIMINARY NOT FOR CONSTRUCTION

Showing Title: **PERSPECTIVE/SHADOW PLAN**
 Drawing: 500
 Date: 11/05/2018
 Copyright © Medhurst Architects Pty Ltd

David Tyler

From: Elizabeth Roubin <elizabethroubin@gmail.com>
Sent: Thursday, 31 May 2018 7:59 PM
To: Ballina Shire Council
Cc: Pat Dwyer
Subject: Objection to Application to Modify Consent DA 2016/744

To whom it may concern

Re: Objection to DA 2016/744

We are the owners of adjoining land being 2/60 Allens Parade, Lennox Head. We hereby object to the proposed modification on the following grounds:

1. Increase in height, bulk and scale will negatively impact on the amenity of our property.
2. Changes to the proposal, including increased bulk and scale of the development will have an adverse effect on the privacy of our property.
3. We have concerns about overshadowing of the proposed development on adjoining properties and subsequent loss of sunlight.
4. We have concerns as to the impact that the increased depth of excavation and associated footings will have on the integrity of adjoining properties.

If you have any questions in relation to the above, please do not hesitate to contact us.

Regards

Dr Patrick and Elizabeth Dwyer
Owners of 2/60 Allens Parade, Lennox Head

Ph: 0422 502 146

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

42 Dress Circle Drive
LENNOX HEAD N S W 2478

Email: harg1rob@gmail.com
Phone: 0412 660 994

1 June 2018

Mr Matthew Wood
Manager
Development and Environmental Health Group
Ballina Shire Council
40 Cherry Street
BALLINA N S W 2478
Email: council@ballina.nsw.gov.au

Dear Mr Wood

Re: Submission to amend DA 2016/744 Lot 61 DP 29654, 64 Allens Parade, Lennox Head by S96 Application

As co-owner of adjoining property at Lot 59 DP 29654, 42 Dress Circle Drive, I write in response to notification dated 17 May 2018 from Ballina Shire Council (Council) regarding the above Section 96 application.

It is disappointing once again to be in a situation whereby, due to declination by owners and persons involved in the proposed development of a dwelling house at 64 Allens Parade for face-to-face to rational discussion regarding plans and impacts, the only course of action to register concerns with the proposals is by way of written submissions through Council.

In fact, individual owners of all five affected immediately adjacent properties have met with confrontation over the past 15 months from persons involved in the proposed development, either face-to-face or in writing, effectively eliminating opportunities for meaningful discussion.

Since works commenced on Lot 61 in April 2018 I note with concern the following issues:

1. **Fencing.** Erection of builders' fencing on easements of Lots 60 and 62 (northern boundary of Lot 61) rather than being fully contained within the parameters of Lot 61.
2. **Destruction of healthy trees.** Ripping from the ground and total destruction of two large, healthy, thirty-plus year old pandanus trees with one partially located on Lot 60.
3. **Dilapidation reports.** Condition 1 of DA 2016/744 issued in March 2017 stated dilapidation reports were to be prepared for all adjoining properties before and after construction. It is a matter of record that owners of the properties declined to facilitate this, pending opportunity to sight proposed building plans. Nevertheless, a Construction Certificate was issued by private certifier without the dilapidation reports having been completed. Building plans requested by adjoining owners have now been provided and a request was forwarded to Engineer P Wallace on 15 May 2018 to progress the dilapidation reports. However, to date no arrangements have been forthcoming for these reports to be effected.
4. **'Typo error' in building height.** Owners of adjoining lots became aware revised plans had been submitted with the Construction Certificate in April 2018 and noted with concern amended building heights which were at odds with those approved in DA 2016/744 in 2017 by Council. When this anomaly was queried with the private certifier, written advice was forthcoming that the

variance was a 'typo error' and the building would be built strictly in accordance with the DA. However, subsequent plans submitted with the Section 96 application show an identical variance to the original DA approved plans. Perhaps the 'typo error' has been carried forward with the S96 application.

With submission of the S96 application I note with concern:

5. View corridor from Dress Circle Drive towards the Bream Hole. Initial plans approved in DA 2016/744 allowed for a view corridor opportunity towards the iconic Bream Hole from Dress Circle Drive. The revised plans submitted with the S96 application will effectively eliminate that corridor with encroachment on the southern boundary of Lot 61 and proposed introduction of an eave on the southern side extending to within 450mm of the adjoining boundary with Lot 58.
6. Increase in bulk and height. An examination of plans submitted with the S96 application clearly shows a proposed increase in overall height of the dwelling by 1.2 metres. The previously approved structure already exceeded the Council building envelope conditions. The new plan now far exceeds those conditions resulting in a structure out of proportion to the buildable size of the block of land.
7. Boundary setbacks. It is noted that boundary setbacks shown on plans on the western, southern and northern sides have been adjusted to encroach on the minimum contained in the DCP. Impacts on amenities of those adjoining properties will be excessive and detrimental should the application be approved.
8. Overshadowing. The increase in height proposed in this application will adversely impact overshadowing on dwellings on the western, south western and southern sides and this is unacceptable. The impact is clearly borne out in shadow diagrams provided with the S96 application. For the dwelling on Lot 59 (owned by G Wegg and R Hargrave) the diagram reveals almost complete blockage of sun to windows facing north at 12 noon in winter. This house was built to be solar passive with expansive windows facing north to capture winter sun, thus minimising requirement for additional heating. Loss of sun to the northern aspect will severely impact the ability of the windows to act as heat traps during the middle of the day.

I am aware that Council is often in an invidious situation regarding building proposals. The initial application for development on Lot 61 exceeded conditions of the DCP and in reality was not viable for construction. Proposals contained in the S96 application extend those boundaries further in an effort to overcome the deficiencies contained in the original proposal. With detrimental impacts on all five adjacent properties, the opportunity exists for a wholistic objective assessment of this proposal in order a precedent is not set for dwellings in Lennox Head and quality of life and amenity of neighbouring properties are not severely adversely affected.

Sincerely



Robyn Hargrave

David Tyler

From: Jim Walter <jimwalter3@gmail.com>
Sent: Monday, 18 June 2018 12:50 PM
To: Ballina Shire Council
Subject: Dilapidation report

To Mr Matthew Wood,
Manager, Development and Environmental Health,
Ballina Shire Council,
40 Cherry St,
Ballina. NSW. 2478.

Dear Mr Wood,
Re : Submission to s96 Application
To modify DA 2016/744.
Lot 61 DP29654
64 Allens Pde,
Lennox Head.

I wrote to you on 30th May about the ongoing negotiations regarding the final approvals for this project.

One point I made, was that excavation work had already commenced, and that it would appear that even well prior to completion of a satisfactory outcome for all relevant parties, the council has already waived the responsibility of the owner to provide dilapidation reports for the surrounding properties.

As a group of residents, we were waiting for a final decision by council or a higher authority regarding the final outcome for a construction certificate before allowing access for the dilapidation reports,, but it would seem that the council has seen fit to take the initiative to waive the responsibility of the owner to provide the certificates before completion of negotiations as to what will be finally approved.

I therefore request that council provides us with written confirmation that the requirement for dilapidation certificates has been waived prior to completion of negotiations.

This is particularly important because we are dealing with soft fully reclaimed soil which is being quite deeply excavated by heavy equipment as I write this letter.

If the person who has received this letter is not the person in council responsible for waiving the requirement for the dilapidation report, could this email be redirected to the responsible council employee.

Regards,
Susan and James Walter.

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

<BR

42 Dress Circle Drive
Lennox Head NSW 2478
geoffwegg@bigpond.com
0411473303
26 June 2018

Mr Matthew Wood
Manager
Development and Environmental Health
Ballina Shire Council
40 Cherry Street
BALLINA N. S. W . 2478
By Email:council@ballina.nsw.gov.au

Dear Sir,

**Submission re amended Sect. 96 Application to amend DA 2016/744
Dwelling House at 64 Allens Parade Lennox Head**

1. Council's decision, when assessing the Section 96 application to modify the approved DA 2016/744, should not be taken without due consideration of all the issues being raised. The construction of this dwelling, if approved to be built according to the amended S.96 application, will set a benchmark and precedent for all future development applications.
2. The application is inconsistent with the planning objectives of Ballina Shire Council (BSC) and is non-compliant with the Ballina Shire Council Development Control Plan 2012, Chapter 4 Residential and Tourist Development (BSDCP), controls and variations.

The objective of the BSDCP 2012 is to:

*Achieve well designed developments which relate to the landscape and character of the locality;
Manage the bulk, scale and traffic generation of residential development to avoid adverse impacts on adjoining land uses;
Ensure new development recognises and responds to the privacy and amenity of adjoining premises whilst providing for passive surveillance of public areas;
Encourage dwellings which respond to the sub-tropical climate; and
Provide for flexibility in the use of buildings with respect to residential accommodation and tourist and visitor accommodation uses.*

DCP Development Control 3.1.3 C. Element – Building Envelopes

Control 3.1.3 objectives include:

Ensure buildings are set back progressively from the side and rear boundaries as building height increases so that buildings do not unduly affect the existing or future development on adjoining properties by way of overshadowing, impinging on privacy, or unreasonably obstructing views;

Controls 3.1.3.C. i. *Residential Accommodation must be contained within a building envelope measured as follows;*

- *Below a plane measured over the land at 45deg from a point 1.8 metres above the side and rear boundaries*
and

1

- *Below a plane measured 8.5 metres above ground level.
See Fig. 4.1 – Typical Building Envelope Controls p10.*

3. The original application for DA 2016/744 by Ardill Payne & Partners dated December 2016, at p28 states:
*"The application **does not comply with the building envelope controls** with minor encroachments being proposed."*
4. The current S. 4.55 (1A) application by Ardill Payne & Partners states at p18; *"As was the case with the original approved dwelling house, the modified dwelling house **does not comply with the building envelope controls** with minor encroachments being proposed. The relative building envelope encroachments of the approved dwelling and the proposed modified building are shown on the plans at Appendix B."*
5. The building envelope overlays on the plans at Appendix B supporting the application are misleading. It does not include the critical cross section showing the maximum encroachment upon the envelope by the first-floor bedroom on the southern side and also grossly misrepresents the western boundary building envelope encroachment which is at its maximum in the south western corner. It proposes a building structure in excess of 7.5m above natural ground level only 600mm from the boundary and approximately 3.0m from the building on Lot 60 at the western side, contrary to BSC DCP.
6. The original approval for DA2016/744 exceeded the BSDCP building envelope controls. The current S.4.55 (1A) application, which involves raising each floor level and that greatly compromises the building envelope controls and variations. The size of the building envelope remains the same even though the dimensions of the building has increased.
7. **Notes to the Variations in Ch. 4 of the BSDCP state:** *"Encroachments to the side and rear boundary building envelopes will generally NOT be supported along the southern and western elevations. This because these elevations have the greatest capacity to overshadow adjoining properties, including existing or future private open space required to meet the provisions of this DCP. This DCP does not limit the number of storeys or levels within a dwelling. For dwellings comprising more than 2 levels, Council will have particular regard to the impact of the dwelling on privacy and overshadowing of nearby properties."*
8. The supporting plans indicate that the dwelling is located approximately 600mm from the adjoining western boundary in direct contravention of the minimum building envelope. This results in a building structure in excess of 7.5m above natural ground level only 600mm from the boundary and approximately 3.0m from the adjoining building on the western boundary. This causes an unreasonable adverse impact of loss of amenity and overshadowing on the adjoining properties which is totally inconsistent with planning objective 3.1.3.

COMMENT

The applicant states that the original approved DA did not comply with the building envelope controls and the amended S.96 application does not comply with the building envelope controls. Increasing the proposed building height to 4.5m above natural ground level, 450mm from the southern boundary and 7.5m above natural ground level only 600mm from the western boundary compromises the controls in relation to the building envelope imposed under 3.1.3.C.

It also proposes to raise the roof level 600mm above the approved height set out in the original DA.

The encroachments of the building envelope, as proposed, could not reasonably be described as 'minor'. The application and plans are misleading and grossly misrepresent the encroachments especially on the northern and western boundaries.

9. The current S. 4.55 (1A) application by Ardill Payne & Partners states at p9:
"The proposed modifications to the height and floor layout have been the result of having to provide sufficient clearance to enable appropriate vehicular access to the basement car parking area (due to the sewer main not being as deep as originally expected) and to improve the amenity and function of the dwelling house."
10. The DA 2016/744 approved plans did not take into consideration the location of the Council sewer line across the driveway. The depth of the sewer line was set out in submissions made to council in 2017. The location and depth of the sewer line was documented in BSC storm water, drainage and sewer maps for the sub-division. Simply digging a hole to locate the sewer line would have provided a solution to this dilemma. **This S.96 application involves the lifting of the whole building on the basis that the depth of the sewer line was underestimated.**
11. In relation to vehicular access and parking control the DCP states, *"the walls of the basement car parking that protrude above ground level (existing) are to be located within the building footprint."* The current S96 application seeks to increase the building height resulting in an increase in the wall height on the southern boundary with no set back being increased.
12. Solar Access requirements under the DCP state, *"new building must not result in an unreasonable reduction of direct sunlight to adjoining buildings."* The current S.96 application seeks to increase the building levels and height resulting in a building in excess of 7.5m above natural ground level only 2.4m from the southern boundary which is outside the BSC minimum building envelope. This results in unacceptable overshadowing of Lot 58 and Lot 59.

COMMENT and SUMMARY

- The application is inconsistent with the planning objectives of BSC. It blatantly ignores and contravenes the controls and variations of the BSDCP, Chapter 4 Residential and Tourist Development.
- There are no grounds for approving these variations for vehicular and basement parking and the supporting documentation does not offer any. The basement should be reduced to within the building footprint and not increased in height.
- The requirements for solar access to adjoining buildings fails the objectives set out in the DCP.
- Supporting documents provided by Ardill Payne & Partners for both the original DA and the current S.96 application state that the applications **"do not comply with the building envelope controls"**. The encroachments approved in the original DA are being compounded by the encroachments sought in the current S.96 application.
- The raising of the floor levels and the whole structure by 600mm should not be supported by Council as the resultant building grossly exceeds BSDCP requirements in relation to objectives, controls and variations. It is literally 'pushing the envelope' to breaking point and it is the BSDCP that is being broken.

The objective of the BSDCP 2012 is to:

- *Achieve well designed developments which relate to the landscape and character of the locality;*
- *Manage the bulk, scale and traffic generation of residential development to avoid adverse impacts on adjoining land uses;*
- *Ensure new development recognises and responds to the privacy and amenity of adjoining premises whilst providing for passive surveillance of public areas;*
- *Encourage dwellings which respond to the sub-tropical climate; and*
- *Provide for flexibility in the use of buildings with respect to residential accommodation and tourist and visitor accommodation uses.*

For the reasons set out in this and other submissions, Ballina Shire Council should not approve the current S.96 application to modify the existing DA.

It is submitted that this S.96 application should be declined. If approved this application will create a benchmark and precedent for future development and developers seeking to circumvent the BSDCP.

Yours sincerely

G.H. Wegg

Garry Hargrave
20 Wilson Esplanade
Redland Bay
QLD 4165
garry@foxandbell.com.au
Phone: 0411 599 522

23 June 2018

Mr Matthew Wood
Manager
Development and Environmental Health
Ballina Shire Council
40 Cherry Street
BALLINA N S W 2478

By Email:council@ballina.nsw.gov.au

Dear Sir,

**Re: Submission to s96 Application
To modify DA 2016/744
Lot 61 DP 29654
64 Allens Parade
Lennox Head**

I make this submission to Council regarding the above development application.

I am part owner of the adjoining property situated at 44 Dress Circle Drive described as Lot 58 on DP29654.

A Development Application to build a residence on the adjoining Lot 64 was approved by Council in 2017. Council approved a s68 application 18 April 2018 and a Construction Certificate was issued by East Coast Building Consultants 26 April 2018.

The Council approved plans and the Construction Certificate did not take into consideration the location of the Council sewer crossing the proposed driveway. The location of the sewer is an inherent characteristic of the subject land which would be patently obvious to a competent design team.

The owner via their consultants around 31 May 2018 have made a s96 application to modify the approved plans by increasing the height of the whole building 590mm. This has been made even though the original approval grossly exceeded Councils minimum building envelope. There are many other design solutions available to the applicant which can remedy the situation which do not involve the lifting of the building.

Council should not approve this application as the lifting of the building further exacerbates the dramatic impacts upon the neighbouring properties. The proposal is inconsistent with Council's planning objectives and does not comply with the development controls contained within the Ballina Shire Development Control Plan 2012 Chapter 4 Residential and Tourist Development ("DCP"). This is caused by the fact the proposed dwelling is too large to be accommodated on the subject land. The s96 proposal to increase the floor levels above that contained in DA2016/744 is not justified on any town planning or lawful grounds.

If approved the proposal will result in:

- A poorer quality residential outcome for the neighbouring properties;
- An urban amenity and character incompatible with the adjoining landscape and character; and
- An outcome which does not foster the orderly development of the locality in accordance with the Ballina Shire Council planning provisions.

Residents and tourists come to Ballina Shire because of its natural attributes which are not dominated by built form especially in visually prominent waterfront locations.

In particular the proposed s96 application to lift the total structure is inconsistent with:

1.0 DCP Planning Objective 3.1.2

Objective 3.1.2 states a development must *"Manage the bulk, scale ... to avoid adverse impacts on the adjoining land uses;"*

The natural ground level in the western half of the common boundary of my allotment Lot 58 and subject land is between RL=4.3m and 4.4m AHD. It is proposed for the basement wall to be located on the boundary which has a basement roof level "new ground level" of RL=5.35m AHD. This is 1.0m above the natural ground level along the northern boundary of Lot 58 as detailed in the survey plan accompanying the application. On top of the "new ground level" it is proposed to have a 600-800mm high "planter box" directly on the boundary and an eave at RL=8.67m AHD. The eave is presumably set back 450mm in accordance with the minimum BCA standard.

This results in a solid wall of a minimum height of 1.6m minimum directly on the southern boundary and an eave at 4.5m above natural ground level set back only 450mm from the southern property boundary. The previous Council approval was lower for each structure.

The building is located approximately 600mm from the adjoining western boundary in direct contravention of the minimum building envelope. This results in a building structure in excess of 7.5m above natural ground level only 600mm from the boundary and approximately 3.0m from the adjoining building on the western boundary.

The proposed s96 modification causes an unreasonable increase in the adverse impact of loss of amenity and overshadowing on the adjoining properties which is totally inconsistent with planning objective 3.1.2.

2.0 DCP Development Control 3.1.3 A. Element – Building Height

Control 3.1.3 objectives include to:

- A. *Ensure that the height of buildings (building height) is compatible with the bulk, scale and character of the locality;*
- B. *Minimise adverse impacts on existing ... adjoining properties and scenic or landscape quality of the locality.*

Comment:

When compared with the Council approval the current s96 application increases:

- 1.) the "natural ground level by 100mm; and
- 2.) the first floor by 200mm; and
- 3.) the roof by 590mm.

The increase in natural ground and the first floor height could be considered trivial however it is to be taken in context with the fact the original Council approval grossly exceeds the provisions of Council's own planning standards. These standards have been adopted for good reason to protect the amenity and character of the locality especially in visually prominent areas.

The first and ground floor levels can and should be amended to be compliant with the Council approval by simply reducing each ceiling height by 100mm.

The s96 application results in a building height:

- 4.5m above natural ground level only 450mm from the southern boundary; and
- 7.5m above natural ground level only 600mm from the western boundary.

This is not compatible with the bulk, scale and character of the locality.

Such a built form outcome is also inconsistent with virtually all building controls for built form on common boundaries contained within the Ballina Council town plan.

The proposed s96 modification to further increase the height of the proposed dwelling will create a precedent for all waterfront buildings in the locality and will result in an outcome similar to the Rayners Lane construction which occurred prior to the introduction of the stepped building envelopes in the DCP.

3.0 DCP Development Control 3.1.3 C. Element – Building Envelopes

Control 3.1.3 objectives include to:

- i. *Ensure buildings are set back progressively from the side and rear boundaries as building height increases so that buildings do not unduly affect the existing or future development on adjoining properties by way of overshadowing, impinging on privacy, or unreasonably obstructing views;*

Comment: The s96 proposal results in a :

- a) building height of 4.5m above natural ground level only 450mm from the southern boundary; and
- b) roof line in excess of 7.5m high above natural ground level 600mm from the western boundary'.

This patently does not meet this objective and results in unacceptable loss of amenity and increased overshadowing.

The building envelope overlays supporting the application are misleading (see attached sketch). They do not include the critical cross section showing the maximum encroachment upon the envelope by the first floor bedroom on the southern side and also grossly misrepresents the western boundary building envelope encroachment which is at its maximum in the south western corner.

The southern encroachment could be simply removed by shifting the bedroom wall northward and trimming the eaves to be within the building envelope. This can occur without material impact to the dwelling.

- iii. *Enhance opportunities for solar access to both the development site and adjoining properties;*

Council notes within the DCP state *"Encroachments to the side and rear boundary building envelopes will generally not be supported along the southern and western boundaries. This is because these elevations have the greatest capacity to overshadow adjoining properties..."*

Comment: The extent of overshadowing is detailed by the shadow diagrams supplied by the applicant's consultants Ardill Payne. These patently fail Council's minimum standards. For their own reasons Ardill Payne do not comment on the overshadowing on the southern and western boundaries. Comment on this failure is restricted in the applicants supporting information to the profound statement *"the proposal will not result in any overshadowing of the property to the north and complies with Council's solar provisions"* (sic). The approved plans and the plans subject to this s96 application do not meet Council's solar provisions.

The dwelling situated on Lot 58 has its main kitchen window along the northern wall. This window and wall are set back from the boundary in accordance with Councils policies. The proposal to increase the building height will cause this window to be further overshadowed and diminish its solar access in winter. A similar situation occurs for the building situated on the western adjoining allotment.

The Ardill Payne report (pp19) incorrectly asserts the building is set back a minimum of 1265mm from the southern boundary. The structure has no setback from the southern boundary and the s96 application to increase the height of the dwelling results in an increased height of the wall along the boundary. As well as being an incompetent statement it is plainly misleading.

Indeed if the building was set back 1,265mm from the boundary I possibly would not be making this submission as it would assist to ameliorate the unacceptable overshadowing, amenity and stormwater overland stormwater flow impacts inherent with the application.

4.0 DCP Development Control 3.1.3 H. Element – Vehicular Access and Parking Control Basement Parking

The design of the basement contravenes Councils building *control criteria for "the walls of basement car parking that protrude above ground level (existing) are to be located within the buildings footprint."*

Comment: The s96 application to increase the building height results an increase in the wall height on the boundary with no set back.

There are no grounds for this relaxation to be granted and indeed none offered in the applicants supporting documentation. The basement can and should be scaled back to be within the footprint of the building and certainly not increased in height. This can occur without material impact to the dwelling.

5.0 DCP Development Control 3.1.3 J. Element – Solar Access

This states *"new buildings must not result in an unreasonable reduction of existing direct sunlight to adjoining buildings;"*

5.1 Southern Boundary

The s96 application to increase the building levels results a building height of 4.5m above natural ground level only 450mm from the boundary of the adjoining property. As well the main roof facia is proposed to be located at RL=12.11m AHD approximately 2.4m from the adjoining boundary. Both of these areas are located outside of Councils minimum building envelope and results in a building structure in excess of 7.5m above natural ground level only 2.4m from the boundary.

The resultant overshadowing of the kitchen window on Lot 58 is unacceptable and does not meet Council's minimum standards.

The overshadowing can be addressed if the applicant were to:

1. Set the basement back 1,265mm from the boundary so as to be located within the building footprint in accordance with Councils policies;
2. Remove all encroachments of the building envelope along the southern side. This would require removal of the eaves and relocation of the southern bedroom wall approximately 1.0m northwards.

These suggested amendments to the basement, eaves and bedroom wall will have no material impact on the resultant dwelling, meet Council's standards and ameliorate the major adverse impacts on the adjoining southern property.

5.2 Western Boundary

The proposed building grossly encroaches on the building envelope on the western side.

The building envelope overlay supporting the application is misleading. It does not include the critical cross section at the point the proposed building is closest to the boundary.

The main roof facia is proposed to be located at RL=12.11m AHD approximately 600mm from the adjoining boundary in direct contravention of the minimum building envelope. This results in a building structure in excess of 7.5m above natural ground level only 600mm from the boundary and approximately 3.0m from the adjoining building on the western allotment.

This contravenes Council's policies and unfortunately cannot be simply addressed by minor design modification. The s96 application to increase the building height only exacerbates this poor planning outcome and should not be supported. This is particularly so as there are other design solutions available to the applicant which will not exacerbate the already poor planning outcomes.

5.3 Northern Boundary

The proposed building grossly encroaches on the building envelope on the northern side. This elevation also includes extensive glazing on the first floor. In contravention of Council's policy the Development Application (pp20) does not propose screening but rather defers supplying details until the Building Certification stage. It is noted the previous building certificate by East Coast Building Consultants dated 26 April 2018 did not detail screening of the northern windows.

The impact of overlooking and loss of privacy for the northern adjoining property can and should be addressed by inclusion of opaque glazing or appropriate screening.

However it would be more appropriate for the encroachment upon the minimum building envelope to be removed. This can be done without impact on the resultant dwelling as the area behind the proposed glazing is a void and circulation space.

The s96 application to increase the building height only exacerbates the failure of the original application to address this issue.

6.0 Summary

The s96 application to modify the existing approval has been necessitated by the lodgement of an original incompetent application which could not be physically constructed.

To address this the applicant proposes to raise the structure by up to 590mm. This should not be supported by Council as the resultant building grossly exceeds the Council's minimum side boundary setbacks and the minimum building envelope. There is no town planning justification for these exceedances and the increased building height causes unnecessary detrimental impact on the adjoining properties and general locality.

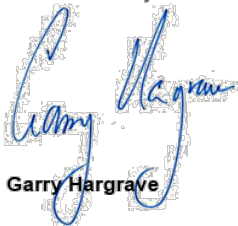
There are many other design solutions available to the applicant which can remedy these impacts which do not involve the lifting of the building.

There are several minor amendments to the design which may be made without material impact to the dwelling which will enable the building to comply with Council's minimum standards and ameliorate the adverse impacts on the southern and northern adjoining properties.

If the applicant insists on lifting the building the resultant increase in adverse impact on the western adjoining property cannot be ameliorated without extensive redesign of the proposal.

I look forward to further advice from Council regarding the assessment of the proposal.

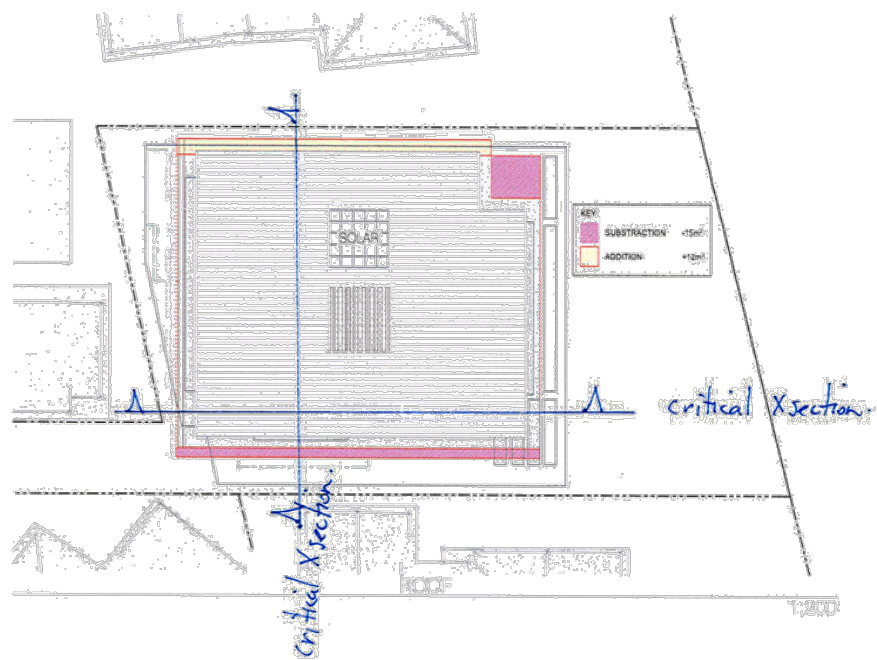
Yours Sincerely



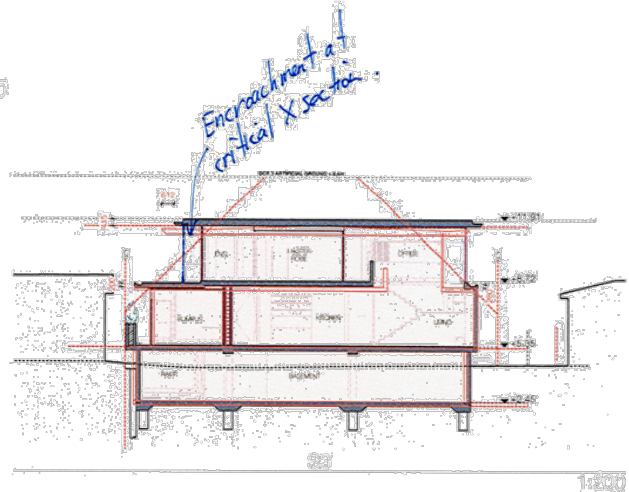
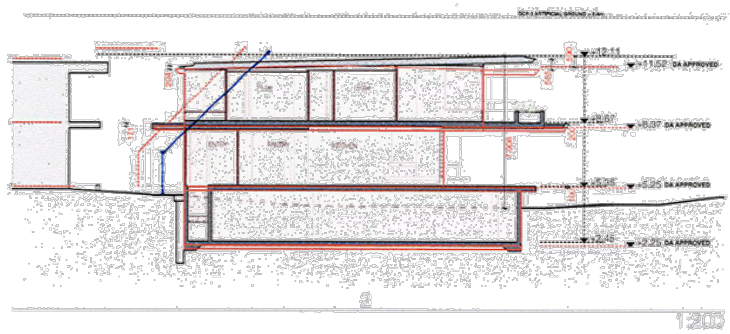
Garry Hargrave

Attachment: Sketch of Corrected Envelope Encroachments

S96



Sketch showing
Corrected Building Envelope
Encroachments.
23/6/18.



HARLEY GRAHAM ARCHITECTS LEVEL 10/118 LEANING STREET - SYDNEY NSW P 61 9394 0888 R. G. Graham (P 61 9394 0888) E. office@harleygraham.com AEN/351582600/760W 7902	I will be liable for the cost of all materials and the labour of all trades to be carried out in accordance with the contract documents. I warrant that the work will be carried out in accordance with the contract documents. I warrant that the work will be carried out in accordance with the contract documents. I warrant that the work will be carried out in accordance with the contract documents.	ISSUE/REVISIONS 1. DA SET 16/02/18 2. AM DA 17/02/18 3. SECTIONING 17/02/18 4. SECTIONING 17/02/18		CLIENT: DOLLANE ADDRESS: 64 ALLENS PARADE, LENNOX HEAD PROJECT: D SHEET NO: 03 SHEET OF: 03 DATE: 31/05/2018
		NEW DWELLING LOT #1 DP 29854	APPROVED BY: AG DATE: 31/05/2018	
		SECTIONS		

42 Dress Circle Drive
LENNOX HEAD N S W 2478

Email: harg1rob@gmail.com
Phone: 0412 660 994

26 June 2018 3.20pm

Mr Matthew Wood
Manager
Development and Environmental Health Group
Ballina Shire Council
40 Cherry Street
BALLINA N S W 2478
Email: council@ballina.nsw.gov.au

Dear Mr Wood

**Re: Submission to amend DA 2016/744 Lot 61 DP 29654,
64 Allens Parade, Lennox Head by S96 Application, V2**

As co-owner of adjoining property at Lot 59 DP 29654, 42 Dress Circle Drive, I write in response to a second Section 96 application lodged in respect of Lot 61 DP 29654 on 31 May 2018 and your correspondence of 8 June 2018.

The contents of my submission forwarded to Council on 1 June 2018 should be included in consideration of further comments below. A copy of that submission is also attached.

With lodgement of the S96 V2 application I note with concern:

1. **Increase in bulk and height.** An examination of plans submitted with the S96 V2 application clearly shows a proposed increase in overall height of the dwelling of almost 600mm compared to the DA approved plans which already exceeded the Council building envelope conditions. It is also noted that increases in floor to ceiling heights of the ground and first floors are escalated, from 100mm additional at ground floor level, to 300mm at first floor level to almost 600mm to roof level.
2. **Building envelope.** It is noted that building envelopes appear to have been taken from ground floor level on the south western, south eastern and north western boundaries, rather than ground level as required in BSDCP 2012.
3. **Overshadowing.** The increase in height proposed in this application will adversely impact overshadowing on dwellings on the south western and south eastern sides and this is unacceptable. The impact is clearly borne out in shadow diagrams provided with the S96 application. Slight reduction in total building height in S96 V2 plans do nothing to alleviate this intrusion with excessive overshadowing to the dwelling on Lot 59 being totally unreasonable and unnecessary.

Obvious flirtations with DCP conditions contained in these plans seriously challenge Planning Objectives in Part 3. 3.1.2. b. and c. of the Plan relating to management of 'the bulk, scale and traffic generation of residential development to avoid adverse impacts on adjoining land uses' and to 'ensure new development recognises and responds to the privacy and amenity of adjoining premises....'

It is timely to carefully examine plans submitted in the S96 V2 application relating to DA 2016/744 for Lot 61 DP 29654 to ensure compliance with BSDCP conditions and the original DA which allowed obvious intrusions into building envelope requirements.

Sincerely



Robyn Hargrave