

Ballina Shire Council
 40 Cherry Street
 BALLINA NSW 2478
 PO Box 450
 BALLINA NSW 2478
 1300 864 444
 council@ballina.nsw.gov.au
 www.ballina.nsw.gov.au



**DA 2020/450 - 36 Rous Mill Road Rous Mill -
 Locality Map**

ballina shire council
 geographical information system

Projection: GDA94 / MGA zone 56
 Date: 12/07/2021

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ASSESSMENT OF THE APPLICATION UNDER SECTION 4.15 (1) OF THE EP& A ACT 1979**4.15 (1) (a) (i) - the provisions of any environmental planning instrument****Local Environmental Plans (LEPs)**

Relevant LEP	Applies (Yes/No)
Ballina Local Environmental Plan 2012	Yes
Ballina Local Environmental Plan 1987 (Note: BLEP 1987 only applies to land identified as "Deferred Matter" on the Land Application Map accompanying the BLEP 2012)	No

Ballina LEP 2012 – Zoning, Permissibility and Relevant Clauses**Aims, objectives of BLEP (Clause 1.2)**

The proposed art gallery and studio is consistent with the Aims and objectives of the Plan. Most notably, the development excels in achieving Aim (2)(aa), which states:

to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

Land use definition (Clause 1.4)

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

Zoning under BLEP 2012, permissibility within zone and regard for zone objectives (Clause 2.3)

An *information and education facility* is a permissible land use in the RU1 Primary Production zone. With reference to the definition, the core components of the development include the "art gallery" and "exhibition" space within the former church, and the pottery studio for the running of classes for students to provide "education".

Objectives of zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To maintain the rural, cultural and landscape character of the locality.*
- *To enable development that is compatible with the rural and environmental nature of the land.*
- *To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.*

The proposed development has regard for the objectives of the RU1 Primary Production zone. In particular, the development:

- Minimises land use conflict with nearby macadamia farms by not pursuing residential accommodation, and via achieving satisfactory vegetation buffers (as conditioned) and other measures such as first flush systems.
- The development maintains the cultural and landscape character of the site and locality by retaining the church and trees (excepting one tree) and locating the new small scale additions to the rear.

Height of Buildings (Clause 4.3)

The maximum building height for the site is 8.5 metres. The proposed development has a maximum building height of only 5.1 metres, which significantly complies, and is less than half the height of the existing church.

Heritage Conservation (Clause 5.10)

Whilst the site is not listed as a heritage item under Schedule 5 of BLEP 2012, the sites former use, church building and burials have historical and cultural value.

Consideration was given to Clause 5.10(7) (Archaeological sites) due to the known burial/s on the site, which required referral to Heritage NSW. Heritage NSW support the proposal subject to standard and achievable conditions.

For further discussion of heritage consideration refer below to S4.15(1)(b) vii Heritage.

Earthworks (Clause 7.2)

The development will generally involve minimal earthworks, with parts of the new build raised on stumps. Earthworks or cut up to 700mm will be required in the location of the kiln to allow a level floor. The Statement of Environmental Effects identifies that the earthworks will extend over an area of approximately 145m².

Suitable conditions regarding sediment and erosion controls during construction are recommended.

The extensive reporting undertaken in support of the application demonstrates that there is a low likelihood of disturbing relics. Appropriate conditions are recommended in the event archaeological remains are found. This matter is expanded upon below under S4.15(1)(b) vii Heritage.

Essential Services (Clause 7.7)

The development will provide essential services including water and sewage (onsite). Suitable road access is available. Electricity is provided to the site and existing church.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) provides that contamination and remediation are to be considered in the determination of development applications.

Council's Environmental Health Officer gave consideration to SEPP 55 and provided the following assessment:

The application states that the land is not within the 200m investigation buffer of a former cattle tick dip site and has been used for religious purposes. Additionally, the application states that the land is not on BSC's register of potentially contaminated sites. The land within the curtilage of the buildings is not known or considered to be potentially contaminated. A search of Council contaminated land register did not identify that the site was potentially contaminated.

Whilst a search of Council records did not identify any known record of contamination at the site, a search of the grounds was undertaken utilising ground penetrating radar (GPR) which endeavoured to identify the presence of grave sites within the grounds. GPR relies on the reflection of pulse occurs which occurs where differences between soil layers which have contrasting electrical properties. Reflections do not occur in soils with homogenous material.

The results of the GPR identified one known grave site and two unidentified grave sites within the property grounds. The graves sites are quite old and the main burial or grave site is known to have been occurred in or around 1890. Given the age and nature of the burial sites, it is not considered that the grave sites represent a risk of contamination or potential health risk to users as a result of the proposal. On the basis of the information available, it is not considered likely that the land is contaminated from previous land use.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposed signage is small scale and limited to one small wall sign (1000mm x 900mm) to be attached to the building. No illumination is proposed.

No concerns are raised in regards to the proposed signage.

The signage proposal is consistent with the Clause 3 (Aims, objectives) and the Schedule 1 Assessment criteria.

4.15 (1) (a) (ii) – any proposed instrument that is or has been the subject of public consultation under the EP&A Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

There are no draft Environmental Planning Instruments that are of relevance for the development and site.

4.15 (1) (a) (iii) – any development control plan (DCP)

Ballina Shire Development Control Plan 2012

Chapter 2: General and Environmental Considerations**Part 3.1 Land Use Conflicts - LUCRA**

The following detailed assessment was undertaken by Council's Environmental Health officer and demonstrates that the land use conflict issues associated with the development can be managed to an acceptable standard subject to recommended conditions of consent:

The site adjoins intensive agricultural activities (macadamia plantations) on the northern, eastern & western boundaries which are in close proximity (approximately 30m) to the proposed gallery and pottery studios.

In recognition of the potential for land use conflict, the applicant has submitted a land use conflict risk assessment (LUCRA) to support the application in recognition of the inability to provide reasonable buffer distances from the proposed facility and macadamia farming. It must be noted that buffer distances are not listed in Councils Development Control Plan for Information and Education Facilities and intensive plant agriculture.

Land Use	Urban residential areas	Dwelling-house, Dual occupancy or Rural workers dwelling	Rural tourist facilities
Intensive plant agriculture	300m	150m	200m

The LUCRA indicates that spraying takes place on average on 4 occasions per year. Fertilising may occur on 4 occasions per year. Harvesting generally occurs in the period Aug. to Feb. and on 4 – 8 occasions. Mowing of inter-row and other grassed areas may occur on 1-2 times a month during summer and less frequently during winter.

The LUCRA identifies that issues may arise from the macadamia farming practices and the impacts related to noise, dust, odour and spray drift. The LUCRA identifies that the proponent intends to address the potential issues by:

- 1. That he maintain and foster open and good neighbour relationships with Mr Leslie and the owner of the macadamia farm to the northeast.*
- 2. That the caretaker accommodation not be used at the time spraying is going to occur.*
- 3. That first flush diverters and drinking water UV disinfection and filtration be provided to the potable water supply.*
- 4. That after a spray event where there was potential for spray drift he will hose those roof surfaces from which potable water is collected.*

It must be noted that the LUCRA was undertaken at a time when the original proposal sought approval for a caretaker's quarters which would allow limited occupation as part of the original application. The applicant has since withdrawn the aspect of caretaker accommodation from the proposal which is significant in regard to reducing the potential for land use conflict at the site

Submissions and concerns have been expressed by adjoining macadamia farming properties regarding potential issues related to noise, spray drift, chemical residue, dust, night time routine agricultural activities and water quality concerns. The concerns are relevant and must be carefully considered during the assessment process.

Noise Dust & Odour

It is evident that, given the proximity of the Information and Education Facility to macadamia farming, there is the potential of circumstances where land use conflict may arise from time to time. In regard to regulating the potential impacts of noise, dust and odour, Council does regularly register complaints from agricultural activities involving noise, dust and spray drift which impact on adjacent rural residential premises.

In circumstances where such a complaint is registered, Council acknowledges that the impacts from agricultural activities are on occasion difficult to control with variable environmental conditions and understanding is generally provided to the farmer in given circumstances. In attending to such events, best practice methods are advocated by Council to be utilised by both parties. Noise, dust and odour complaints are best avoided by having the activities that produce such impacts being undertaken in favourable conditions. Such activities can generally be undertaken when prevailing winds disperse or dissipate noise, dust and odour away from nearby residences.

Chemical Spray Drift

Concerns have been identified by the adjoining macadamia farms which are related to fugitive spray drift depositing on the roof of the proposal and subsequent potable water pollution as a result. The submission raises concerns related to potential liability in any subsequent litigation against the adjoining property owners. The submitted LUCRA addresses this concern by advocating "first flush devices" to be fitted to the development infrastructure. First Flush devices divert and capture the most contaminated, sediment-laden water that washes into pipes from the roof during the first initial millimetres of rain. This assists and adds to collected rain water quality. Such devices are recognised by The Department of Health which states that the 'installation of simple devices designed to reduce collection of accumulated debris is still supported'. It is also common for Council to apply such a condition in similar circumstances.

With regard to fugitive spray drift which escapes from macadamia farming activities, the LUCRA does not advocate any buffer or means other than the points listed in 1-4 above to eliminate or reduce the potential impact of fugitive spray drift. In accordance with Councils Development Control Plan, requirements related to land use conflict and vegetated buffer requirements- section F states that a biological buffer may be applied but must have a minimum width of 30 m. To apply a 30m vegetated buffer requirement to the proposed site would likely prove fatal to the application as the site is approximately 50m x 50m. In such circumstances, where a site is significantly constrained, Council may look to the possibility of an alternate solution or reducing the buffer width requirement if possible and plausible.

In this circumstance, the proposal is for a small pottery and education facility with most activities being performed indoors. Whilst not identified within the recommendations of the LUCRA, a vegetated buffer may be conditioned by Council to be implemented and maintained to significantly reduce the potential impact of fugitive spray emissions from the macadamia plantation should they occasionally occur. According to a CSIRO report in 2000, which modelled the effects of riparian vegetation on spray drift, significant spray drift can be captured so long as the buffer attains sufficient height and density. Basically, sufficient capture of fugitive spray particles can be obtained by a vegetated buffer which achieves sufficient height and density so as to attain an optical porosity of 0.2. According to the report, a vegetated buffer with 20% optical porosity is able to capture approximately 80% of fugitive spray particles. The site is constrained with distances to boundaries and the vegetated buffer may only be able to achieve 2-3 metres width in some sections however, with a reasonable vegetation screen with appropriate height and density being achieved, the capture of spray particles by the vegetation can be affectively accomplished. It would seem reasonable in this circumstance that an obligation was placed on the applicant to achieve such screening and also reasonable for spraying to be undertaken under favourable conditions.

Further to this, in regard to fugitive spray drift, it must also be recognised that the LUCRA identifies 'approx. 11 dwellings on land within 300m of the former church building.' In reviewing aerial imaging, this appears to be accurate and there appears to be 11 dwellings which adjoin the macadamia plantations immediately to the south of the macadamia farms which are separated by the Rous Mill road reserve which provides approximately 20 of buffer distance between residences and the macadamia farms. These dwellings do not appear to include any vegetated buffers which would effectively limit the potential for spray drift from the adjacent macadamia farming. In this regard, it may be the case that the proposed studio and pottery may enjoy similar separation distances but will be further protected by the conditioning and implementation of a significant vegetated buffer and first flush devices.

Whilst it is recognised that land use conflict may pose an element of risk, it is considered that with the implementation of reasonable ameliorative measures such as first flush diversion devices and the implementation of an appropriate vegetative buffer, the likelihood of land use conflict can be significantly reduced so as to allow for the productive use of the site and the continued production from the adjoining macadamia farms.

Part 3.4 Potentially Contaminated Land

Refer to previous commentary on SEPP 55 in this report.

Part 3.6 Mosquito Management

Standard conditions relating to mosquito management are recommended.

Part 3.7 Waste Management

The application proposes that operational waste will be collected by BSC as part of its rural collection service and taken to its landfill.

Part 3.8 On-Site Sewage Management Systems

A wastewater report was submitted with the application and then further updated following requests from Council's Plumbing and Drainage Officer. The amended wastewater report was considered satisfactory to proceed to conditioning the requirement of a Section 68 Application for Plumbing and Drainage works and an OSSM (Onsite Sewage Management System) Section 68 Application. Of note the septic tank and primary evapotranspiration bed are proposed to be located within a generally cleared area in the middle of the site which addresses the submitter concerns. The primary system serves the toilet, handbasin and kitchenette. The secondary absorption system is located 8m from the western boundary. The secondary system serves the art studio sink only. The amended wastewater report identifies that the existing trees are expected to act as a vegetative buffer preventing contaminants leaving the property. The report also specifies that the nearby trees have not been identified as having invasive roots.

Part 3.9 Stormwater Management

Council's Development Engineer provided the following assessment for stormwater management:

Stormwater disposal from proposed impervious areas (driveway, paths, carpark, roofs) can be disposed of and managed on this rural site, so as not to cause erosive impacts on the adjoining Lots. Roof water will be harvested and stored in 2 by 10,000 litre tanks with overflow directed to the grass areas at non erosive velocities. Sheet flows from the paths and car park can be captured by dispersion trenches before overflow to the road verge and/or the grassed surrounds. These flows and also those from overflow discharge pipes from the rain water tanks, are to be dispersed at non erosive sheet flows. The consent will be conditioned accordingly.

Part 3.10 Sediment and Erosion Control

Addressed by way of condition.

Part 3.11 Provision of Services

Services essential to the development will be available to the site. Refer to previous commentary in this report on this matter.

Part 3.15 Crime Prevention through Environmental Design

The four principles that need to be used in the assessment of development applications to minimise the opportunity for crime are:

- Surveillance
- Access Control
- Territorial Reinforcement
- Space Management

The application considered the CPTED principles including consideration of visibility from Rous Mill Road, existing tree lines defining the space, use of signage, lighting, and strength of materials for construction.

For the site to be used once more will overall provide the benefits of territorial reinforcement and surveillance.

Adequate consideration has been given to these principles in the design of the development and approval of the application is not expected to increase the likelihood of crime in the area.

3.19 Car Parking and Access

Council's Development Engineer has assessed in detail considerations such as the suitability of external roads and access, as well internal driveways and parking design and numbers.

The following relevant engineering assessment is included, which demonstrates that the development, as conditioned, adequately responds to Part 3.19 Car Parking and Access of the DCP.

External Roads

The proposed development will be accessed off Rous Mill Road, as does the existing Church. Rous Mill Road is a bitumen sealed road in good condition which facilitates two way traffic flows. The road pavement has recently been widened/upgraded, which now facilitates a nominal 5.6m wide bitumen seal plus gravel/grass shoulders. No further road works are required as a result of this development, apart from a new, fully constructed driveway to facilitate access to the site and new car park.

The existing external road network is constructed to a suitable standard to service the proposed development.

Site Access / Internal Driveways

A new driveway is proposed to be constructed immediately adjacent to the existing gravel driveway. The road alignment is straight with clear unobstructed vision in both directions. Sight distances are satisfactory. The driveway is to be a minimum width of 5.5m, to facilitate 2-way vehicle flows.

The driveway access from Rous Mill Road is to be sealed as per NRLGDDM Standard drawing R-14 (so sealed from existing carriageway to 3m inside property boundary, as a minimum). The parking area can be "all weather dust free construction" (or gravel as per DCP Ch.7 – 3.8).

Car Parking

In respect to the on-site car parking numbers, there are no set car parking rates in the DCP for this type of development. The application proposes six onsite parking spaces. Based on the proposal details (refer to Council report) and the expected patronage details provided in the SEE, Council's Development Engineer has undertaken a merit assessment for car parking demand and determined that eight spaces are required, that is, two additional onsite parking spaces. These can be provided as all-weather gravel parking spaces except for the accessible parking space which is required to be sealed. This outcome is to be conditioned, with plans showing compliance to be submitted to Council prior to the issue of the Construction Certificate.

Relevant considerations from the Engineering referral are included below:

In the rare cases where there are more than eight cars, then other grassed areas on-site can facilitate 'overflow' parking, as can the grassed verge along the roadside. These arrangements appear to be a satisfactory and empathetic solution for this development in a rural setting on a relatively low volume rural road. This maintains the rural setting, and no trees are proposed to be removed to facilitate this development.

There is on-street roadside verge parking in the vicinity being adjacent to this property and the adjoining old tennis court property for those days when 10-20 visitors (or 15 cars) could be present for an exhibition opening. The SEE (sec. 4.2.7) estimates these specialist exhibition opening events could occur 4-8 times/year.

Accessible parking

The proposed accessible parking space is located within the entry access way. The low level of vehicle movements would suggest this is reasonable, however the car space orientation does not allow for vehicles to enter and exit the site in a forward direction as no turn facility is provided. This space could be slightly repositioned and made perpendicular to the driveway to facilitate the ability to enter and exit the site in a forward direction. A suitable condition is recommended in this regard.

Chapter 7: Rural Living and Activity

Part 3.7 Building Lines and Setback

The development controls require a front setback of 20 metres and side setback of 10 metres.

The existing church is setback 12 metres from Rous Mill Rd, which will remain unchanged. The new buildings behind the church will be setback 29.4 metres from Rous Mill Rd. The proposed eastern side setback is 6 metres which does not achieve the required 10 metres. This variation is considered acceptable as the adjoining site contains a tennis court only, and the setback is consistent with the existing setback to the church building.

Part 3.8 Roads, Vehicular Access and Parking

Refer to parking discussion above under Chapter 2, Part 3.19.

4.15 (1) (a) (iia) – any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

No planning agreements apply to this development.

4.15 (1) (a) (iv) – any matters prescribed by the regulations

If the DA is for the demolition of a building, consider the **provisions of AS 2601-1991: The demolition of structures** (as in force 1 July 1993):

Demolition management conditions are recommended.

If the DA is only for a change of use or the use of an existing building as a place of public entertainment, **is the fire protection and structural capacity of the building appropriate to the building's proposed use?**

Conditions relating to fire safety (fire safety statement, fire safety certificate) are recommended.

4.15 (1) (b) – the likely impacts of that development

Urban and Building Design

i) Context and Settings

The proposed development in terms of its form and design as well as the use is considered complementary to the surrounding development and broader locality. The development sits within the Rous Mill village which consists of detached dwellings, a Community Hall and macadamia farming. The use is not expected to operate at a scale or intensity that would unreasonably impact on the nearby residents such as from noise or vehicular movements. The use is also not a form of residential or rural tourist accommodation, reducing likelihood of land use conflict. Potential impacts on neighbouring land uses are further reduced via appropriate conditions of consent.

ii) Site Design and Internal Design

The proposed development suitably reuses the former church which will remain the prominent built element on the site. The new buildings are purposefully set to the rear of the site and are lower in height, reducing their scale and presence when viewed from Rous Mill Rd.

iii) Ecologically Sustainable Building Design

No concerns are raised in regards to the building design or building materials. BASIX is not required as the development is not a form of residential accommodation.

iv) Access, Transport and Traffic

Acceptable – addressed previously in this report.

v) Public Domain

As detailed above, the development is designed to suitably address Rous Mil Rd, most notably by retaining the church and proposing new smaller scale buildings to the rear.

vi) Utilities

Acceptable – as previously addressed in the report, the development will be suitably serviced.

vii) Heritage

The site is not a listed heritage item under BLEP 2012, however the site has historical and cultural value based on its former use and the character Gothic timber church. The site also contains a headstone belonging to Donald Kennedy, which is identified on the National Trust Cemetery Masterlist. With limited information available at DA lodgement in regards to the Kennedy grave, or extent of a possible burial ground, as well as the evident historical and cultural heritage value of the site and its structures, additional information was requested from the applicant. Below is a list of the documentation provided as well as a summary of the key findings / assessment, and recommendations within:

Additional Ground Penetrating Radar Survey (GPRS), prepared by Georadar

The report expanded upon an earlier prepared GPRS to investigate the subsurface of all the areas affected by the development and to establish if these areas contained burials, or other features of archaeological significance. The survey revealed one adult burial adjoining the Kennedy headstone, and two additional subsurface features which may be small child burials, all located in the north east corner of the site. The GPRS also discovered an unidentified rectilinear feature located to the west of the standing church building and two tracks which were interpreted to be residual tram lines from the sugar cane mill. Refer to Figure 1 below for the location of the identified subsurface features.

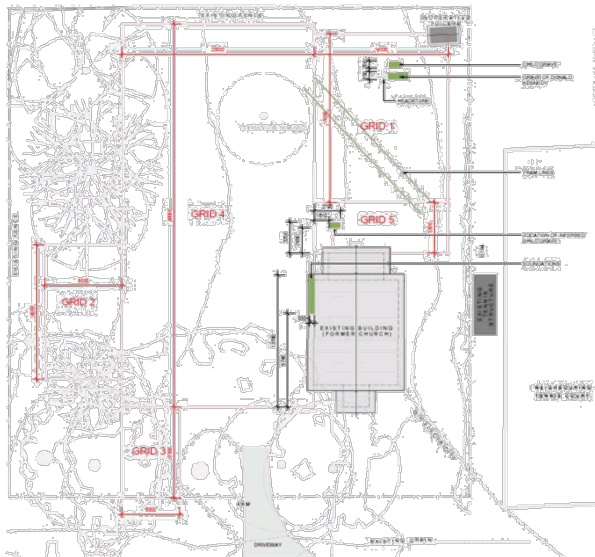


Figure 1 – GPRS Location Map

Conservation Management Strategy, prepared by Conrad Gargett

The report included/addressed:

- Description of the church building and the elements of its heritage significance. Elements of high significance included views to and from the building, and its form, detailing and materials.
- The condition and integrity of the building was found to be good.
- Conservation policy and management provided.
- Assessment of proposed works provided. The following excerpt appropriately addresses the likely impacts on the heritage significance of the site and are agreed with:
 - *The low scale of the proposed new buildings and the location at the rear of the former church building provides a subservience of the new work to the heritage building.*
 - *The use of the former church building as a gallery allows the space to be retained in an appropriate scale.*
 - *The relocation of the entry to the front of the vestibule will have some impact on the building, however the reuse of the original doors, and in a configuration that is seen in other similar church buildings, will not impact on the understanding that this was a former church building.*
 - *The reuse of the additional vestibule French doors at the rear allows the original fabric of the building to be used in the necessary enlarging of the rear access doors.*
 - *The central opening in the vestry wall to provide equitable access is appropriate for the use of the building. The infilled doors will indicate the changes that have occurred to the building.*
 - *Overall the proposed development has been approached as if the building was State or Locally Heritage listed and conforms to the design principles set out in the Burra Charter. The design is sensitive to the heritage values of the former church building while providing the site with a new compatible use that will see the building maintained into the future.*
- The report concluded:
The proposed adaptive re-use and new pottery studio complex will have little impact on the heritage values of the site, both the building fabric and archaeological resources. Where there may be impact these are to be mitigated either through an understanding of good heritage design outcomes for the former church building, and an archaeological protocol for any unearthened archaeological resources.

Archaeological Protocol, prepared by Everick Heritage

- The purpose of the Archaeological Protocol document is to provide management for the redevelopment of the church yard and the report sets out steps required if unexpected archaeological resources are uncovered during construction.
- The following quotes from the report highlight the low likelihood of impacts on the archaeological features of the site:
 - *The proposed plans for the Rous Mill Pottery Studio do not propose to impact on any of the burials which have been identified. If further unidentified burials or other archaeological deposits are uncovered during the course of works then a human and archaeological remains protocol is required to guide the process for recording and mitigating these finds.*
 - *The highest areas for archaeological sensitivity are located in the areas which have been identified during the GPR survey. It is considered unlikely that subsurface archaeological deposits would be located in areas which have not been identified by the GPR. The level of highest archaeological sensitivity relates to the known or inferred burial locations and the potential parallel tram tracks.*
 - *The unidentified rectilinear feature located to the west of the standing church building is assessed as having moderate archaeological sensitivity.*

Referrals

On receipt of the above documents, the application was referred to both Heritage NSW and a heritage consultant for peer review. The referral to Heritage NSW was required in accordance with Clause 5.10(7) (Archaeological sites) of BLEP 2012.

The application and accompanying documents were considered appropriate by Heritage NSW and the heritage consultant subject to achievable and reasonable conditions of consent.

Heritage NSW

Heritage NSW reviewed the documentation and support the development subject to the following conditions:

1. *The Applicant must ensure works proceed in accordance with the archaeological protocol presented in Former Uniting Church Rous Mill, Archaeological Protocol, prepared by Everick Heritage dated 24 March 2021.*
2. *The Applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified as required by s146 of the Heritage Act 1977. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.*
3. *Prior to the issue of the Final **Completion** Certificate (Andrew – I think this is meant to be reference to an OC – changes made to draft conditions) confirming works under the DA have been satisfactorily met by Council and/or the **Site Project Manager** (Andrew – I think this should be **Principal Certifier** – changes made to draft conditions), the Applicant shall supply a copy of written correspondence from the Heritage Council of NSW or its delegate confirming that their requirements under any issued Heritage Act 1977 approval have been satisfied.*

Heritage consultant advice

The heritage consultants review report can be summarised as follows:

- The church building demonstrates various heritage values at a local level.
- The church is especially intact, which makes it an important Shire-based example of a Carpenter Gothic church building.
- The owner is commended for considering the building's historic and heritage significance and is undertaking its adaptive reuse in a sympathetic manner.
- The Rous general cemetery was dedicated in 1889 from this time those of the Wesleyan / Methodist or Uniting Church faith at Rous were buried in the Rous General Cemetery
- Recommendations were made to retain / repurpose internal features, noting that the altar is proposed to be repurposed. This recommendation was later raised with the applicant and agreed that additional internal features such as the timber pews and communion rail would be repurposed and used on the site. This matter will be conditioned.
- The proposed alteration to the front entrance is considered sympathetic and importantly retains its architectural symmetry and will continue to be used as an entranceway.
- The proposed new building / extensions are appropriately placed at the rear of the former church, recessive in scale compared to the scale of the church, are sympathetic in relation to the church and its setting, and are distinctly 'readable' as a new addition (re: scale, form and material) to the historic church building.
- The tracks located on the church site are more than likely associated with the operation of the Rous Sugar Mill – 1882-1901. The recommendation was made that these items can be simply left in situ and potentially interpreted on the site. Interpretation would add to wider understanding of the site's history and heritage values. The recommendation was put to the applicant who was responsive. This matter will be conditioned.

- Recommendations were made including a photographic record of the current state of the building. This matter will also be conditioned.

Summary

The design approach, supportive heritage and archaeological documentation, and advice from Heritage NSW and consultant heritage advisor, all demonstrate and reinforce the suitability of the proposal in the context of the sites heritage significance. Recommendations from Heritage NSW and the heritage advisor should be conditioned.

viii) Construction

Construction of the development will occur in accordance with Council's conditions of consent, the Building Code of Australia, and WorkCover requirements.

Appropriate erosion and sediment control measures shall be implemented during the construction phase to mitigate opportunities for soil erosion and water pollution.

Construction activities are to adhere to Council's standard hours of construction.

Environmental Impacts

ix) Other Land Resources

Acceptable.

x) Water

Water supply

Roof water from the buildings will be directed to 2 x 10,00L rainwater tanks. Filtration and UV treatment is to be provided for the roof collected water supply.

Stormwater disposal

Roof water from the buildings will be directed to the 2 x rainwater tanks with overflow to the grass areas. Other hardsurface areas will drain to adjoining grassed areas. Suitable conditions are recommended in regards to stormwater management.

Wastewater

The proposed development will be serviced by two effluent management systems. This matter has already been addressed in detail above.

xi) Soils

As expanded in this report, the extent of proposed earthworks is considered acceptable and sediment and erosion controls addressed via conditions of consent.

xii) Air and Microclimate

No impacts anticipated.

xiii) Flora and Fauna

The proposed development will generally not have any negative impacts on flora and fauna.

The site contains twelve trees and one is proposed for removal to facilitate the development. The tree proposed for removal is a Photinia, an exotic species. An Arborist report was submitted which identifies the significance and impact on existing trees to be retained. A total of five trees (Trees 5 Teak, 7 Hoop Pine, 9 Camphor Laurel, 10 Camphor Laurel, 12 Magnolia) will experience major impact within the Tree Protection Zones as a result of the construction of the driveway and car park. The arborist report identifies that the driveway and car park will be filled rather than cut to address this issue. The report concludes that all trees impacted will not become unviable. The report makes recommendations to protect the trees during construction. **Conditions** consistent with the recommendations within the report are recommended.

xiv) Waste

Acceptable - Addressed previously in this report.

xv) Energy

No issues raised.

Hazards

xvi) Noise and Vibration

The use is not expected to operate at a scale or intensity that would unreasonably impact on the nearby residents such as from operational noise or vehicular movements. The proposed operating hours are considered reasonable and generally standard hours for non residential uses. The opening day for specialised exhibitions (up to eight times a year) are proposed to extend to 8pm, which is considered acceptable based on the low frequency. A suitable condition is recommended in regards to operating hours and the following condition in regards to noise and vibrations and other potential (yet unlikely) amenity impacts.

The land use on site shall not interfere with the amenity of the locality by reason of the emission of noise, vibration, odours, fumes, smoke, vapour, steam, dust, water, waste products and the like.

xvii) Natural Hazards

No natural hazards apply to the site.

xviii) Technological Hazards

No technological hazards apply to the site.

xix) Safety, Security and Crime Prevention (CPTED)

Acceptable – Addressed previously in this report.

Social and Economic Impacts

xx) Social Impacts in the Locality

The development will have a positive impact on the community by ensuring the continued conservation of the historical Church and supporting the growth of the arts in the region.

xxi) Economic Impact in the Locality

The proposal is considered to achieve the orderly and economic use and development of the land.

Positive economic impacts are expected during the construction phase in terms of employment generation.

The development is also expected to have broad positive economic effects towards the arts sector.

Cumulative Impacts

xxii) Cumulative Impacts

None anticipated.

4.15 (1) (c) – The suitability of the site for the development

The subject site is no longer used as a Church and does not benefit from a dwelling entitlement. The site is also not of a size to provide for sustainable primary industry. The site and its location is however well suited to facilitate the proposed adaptive reuse of the former Church as an art gallery and educational pottery studio, including the inclusion of additional buildings and associated parking. The site is appropriately located nearby to the Rous Mill village and Community Hall. The proposed development is considered to be consistent with the desired future character for the area and will fit in the locality.

4.15 (1) (d) Any submission made in accordance with this Act or the Regulations?

Is advertising required because the development is designated or “advertised” development? No

Is advertising required in accordance with established Council policy and practice? Yes

If YES, how many submissions were received? Twelve during first exhibition period and nine during the second exhibition period. Refer to Council report for details.

4.15 (1) (e) *The public interest*

Federal, State & Local Government interests and Community interests

The proposed use is considered complementary to the surrounding development which consists of detached dwellings, a Community Hall and macadamia farming. The use is not expected to operate at a scale or intensity that would unreasonably impact on the nearby residents such as from noise or vehicular movements. The use is also not a form of residential or rural tourist accommodation, reducing likelihood of land use conflict. Potential impacts on neighbouring land uses are further reduced via appropriate conditions of consent.

The proposed use will benefit the wider community by ensuring the continued conservation of the historical Church and supporting the growth of the arts in the region.

Having regard for the matters outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979, the proposed development is considered to be in the public interest.

Section 64 Contributions and Section 7.4 or 7.11 Contributions

Contributions under section 64 and 7.11 apply to the development.



MARGUERITE POLLARD
ARCHITECT

0405 328 932
www.margueritepollard.com

PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

COVER SHEET

DWG NO.

DA 00

ISSUE DATE

B 27.05.2020

SCALE: |



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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

SITE LOCATION

DWG NO.

DA 01

ISSUE DATE

B 27.05.2020

SCALE: 1:300





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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

CLIMATE ANALYSIS

DWG NO.

DA 02

ISSUE DATE

B 27.05.2020

SCALE: |





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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

AERIAL VIEW OF SITE

DWG NO.

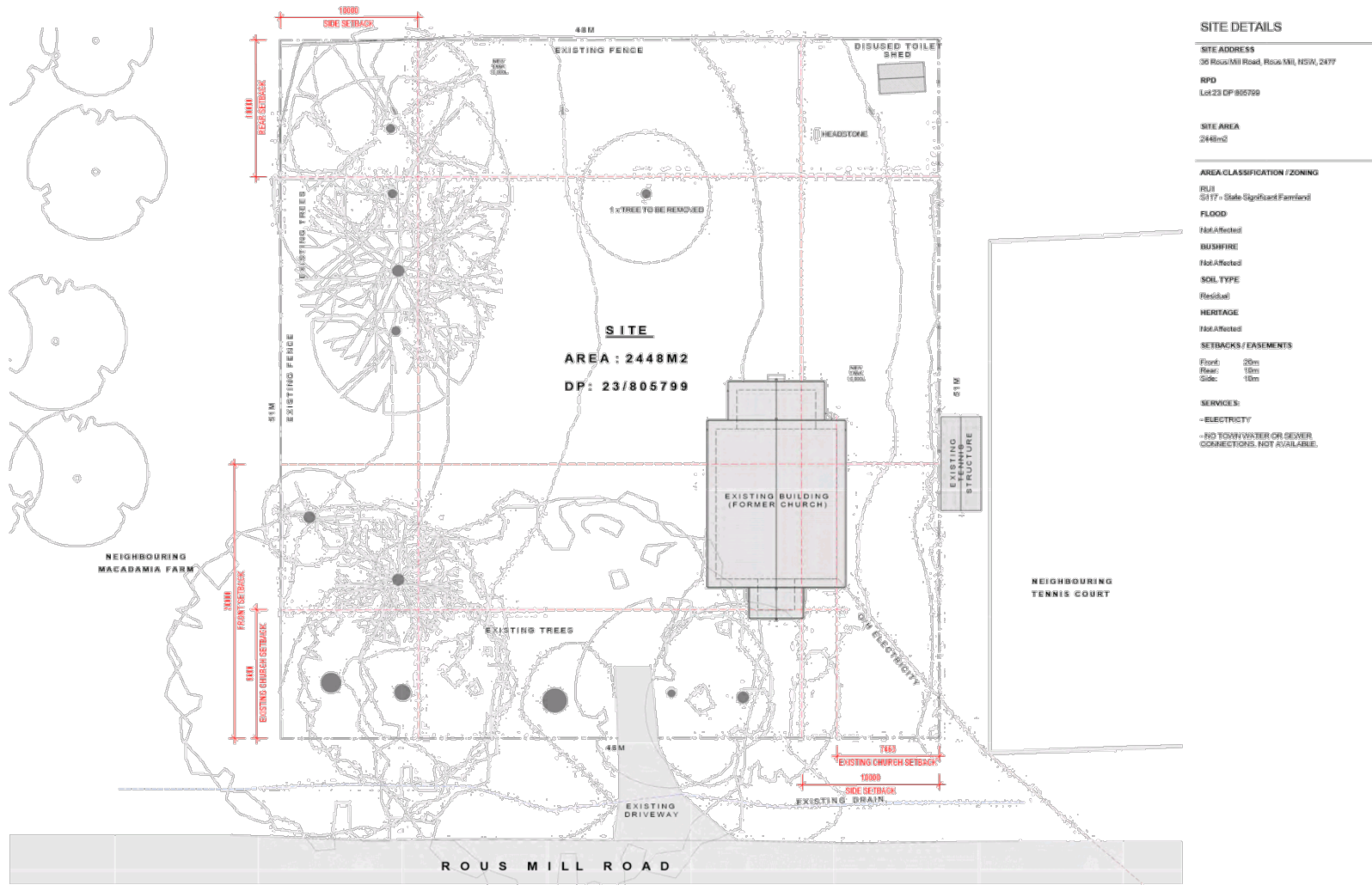
DA 03

ISSUE DATE

B 27.05.2020

SCALE: |





SITE DETAILS

SITE ADDRESS
 36 Rous Mill Road, Rous Mill, NSW, 2477

RPD
 Lot 23 DP 805799

SITE AREA
 2448m²

AREA CLASSIFICATION / ZONING
 RUJ
 S117 - State Sign/Sand Farmland

FLOOD
 Not Affected

BUSHFIRE
 Not Affected

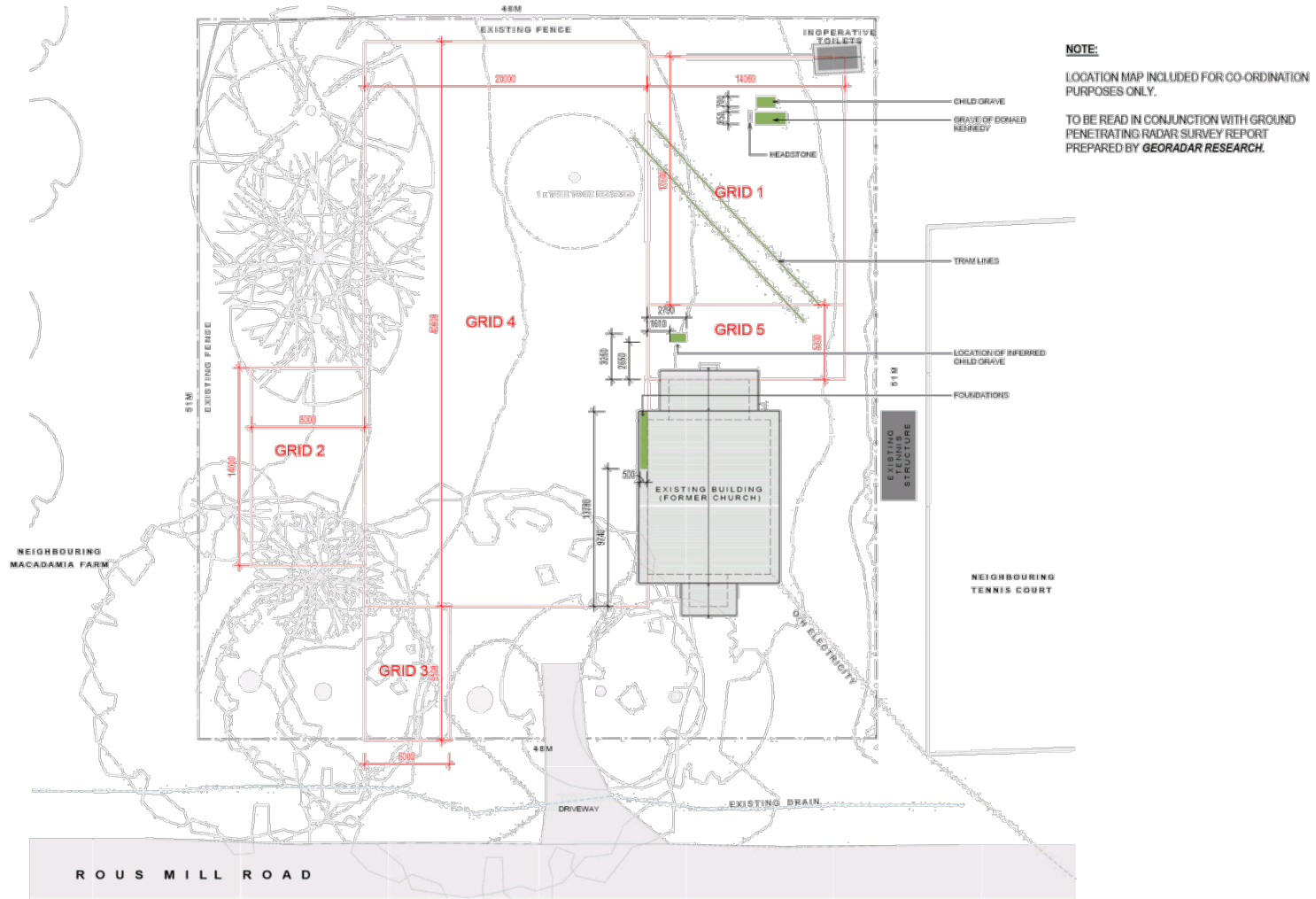
SOIL TYPE
 (Reclsol)

HERITAGE
 Not Affected

SETBACKS / EASEMENTS
 Flood: 20m
 Road: 10m
 Side: 10m

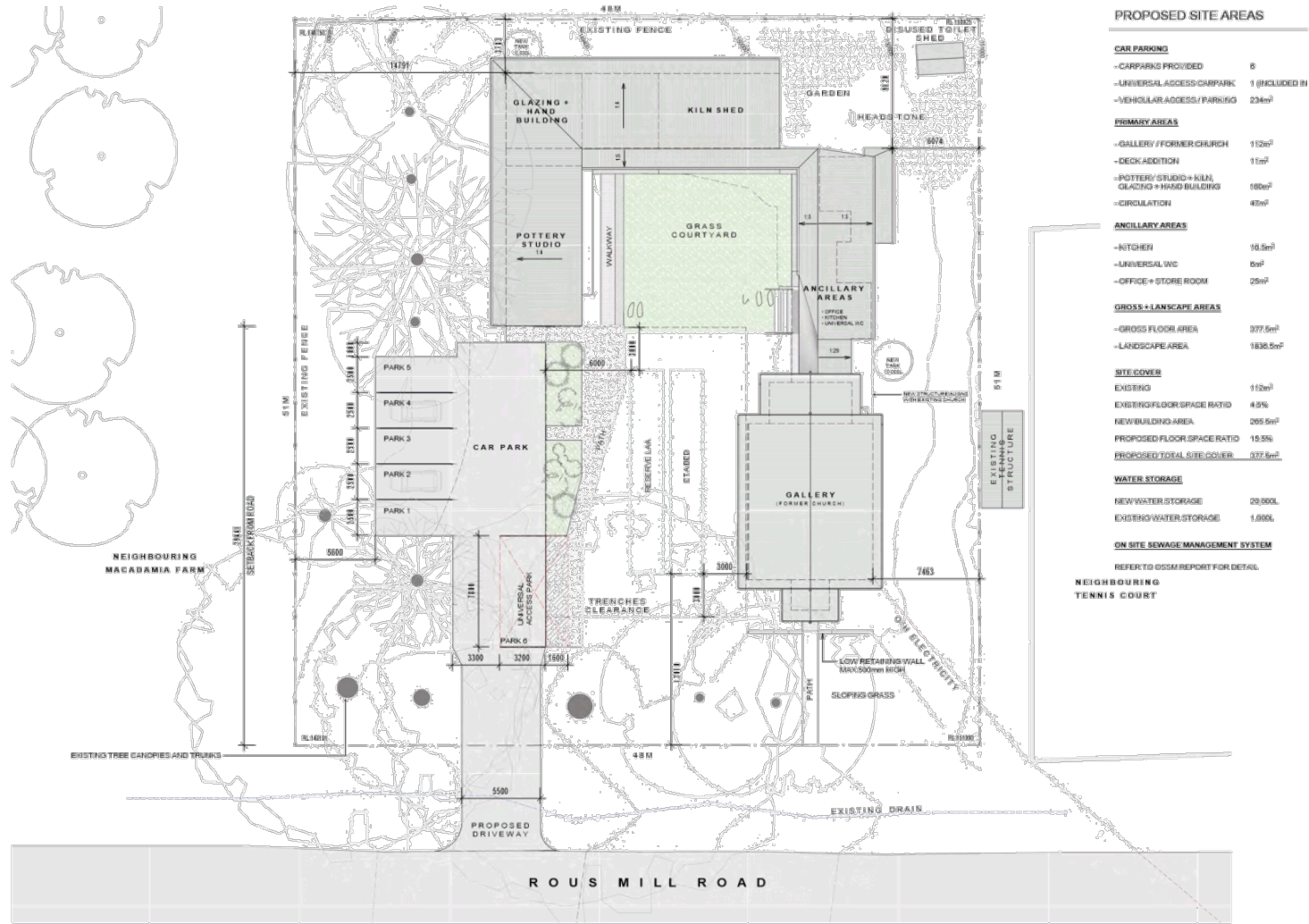
SERVICES:
 - ELECTRICITY
 - NO TOWN WATER OR SEWER CONNECTIONS, NOT AVAILABLE

MARGUERITE POLLARD ARCHITECT 0405 328 332 www.margueritepollard.com	PROJECT	ADDRESS	CLIENT/SITE OWNER	TITLE	DWG NO.	ISSUE	DATE	SCALE: 1:200
	Rous Mill Pottery Studio	36 Rous Mill Rd, Rous Mill, NSW, 2477	Ray Cavill	SITE CONSTRAINTS	DA 04	B	27.05.2020	



NOTE:
 LOCATION MAP INCLUDED FOR CO-ORDINATION PURPOSES ONLY.
 TO BE READ IN CONJUNCTION WITH GROUND PENETRATING RADAR SURVEY REPORT PREPARED BY **GEORADAR RESEARCH**.

MARGUERITE POLLARD ARCHITECT 0405 328 932 www.margueritepollard.com	PROJECT Rous Mill Pottery Studio	ADDRESS 36 Rous Mill Rd, Rous Mill, NSW, 2477	CLIENT/SITE OWNER Ray Cavill	TITLE G.P.R.S LOCATION MAP	DWG NO. DA 05	ISSUE A	DATE 22.03.21	SCALE: 1:200	
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PROPOSED SITE AREAS

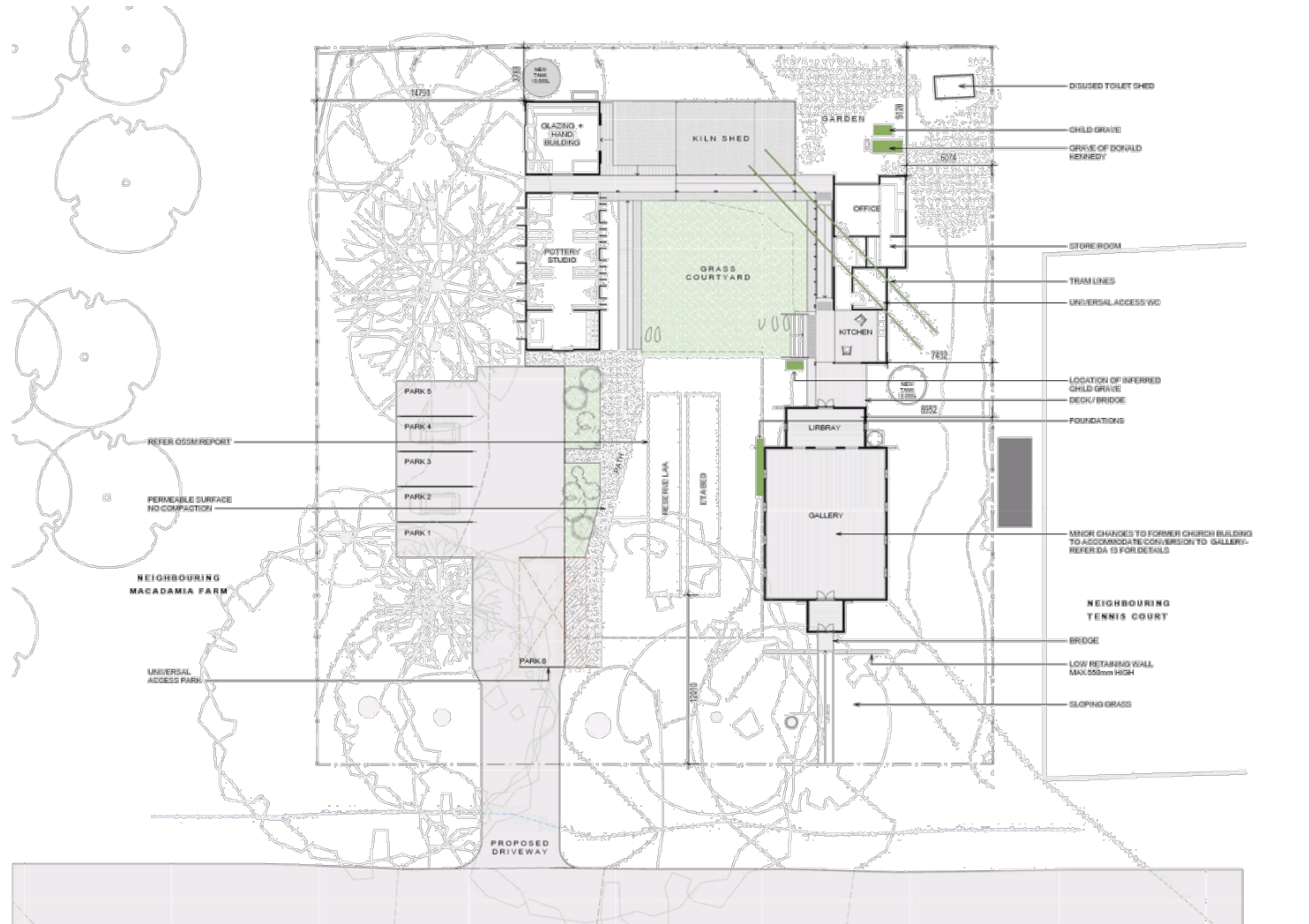
CAR PARKING	
-CARPARKS PROVIDED	6
-UNIVERSAL ACCESS CARPARK	1 (INCLUDED IN 6)
-VEHICULAR ACCESS/PARKING	234m ²
PRIMARY AREAS	
-GALLERY / FORMER CHURCH	152m ²
-DECK ADDITION	15m ²
-POTTERY STUDIO + KILN	166m ²
-GLASSING + HAND BUILDINGS	166m ²
-CIRCULATION	49m ²
ANCILLARY AREAS	
-KITCHEN	16.9m ²
-UNIVERSAL WC	8m ²
-OFFICE + STORE ROOM	25m ²
GROSS + LANDSCAPE AREAS	
-GROSS FLOOR AREA	377.5m ²
-LANDSCAPE AREA	1836.5m ²
SITE COVER	
EXISTING	152m ²
EXISTING FLOOR SPACE RATIO	4.8%
NEW BUILDING AREA	265.5m ²
PROPOSED FLOOR SPACE RATIO	15.5%
PROPOSED TOTAL SITE COVER	377.5m ²
WATER STORAGE	
NEW WATER STORAGE	29,000L
EXISTING WATER STORAGE	1,000L
ON SITE SEWAGE MANAGEMENT SYSTEM	
REFER TO OSSM REPORT FOR DETAIL	
NEIGHBOURING TENNIS COURT	

MARGUERITE POLLARD ARCHITECT

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PROJECT	ADDRESS	CLIENT/SITE OWNER	TITLE	DWG NO.	ISSUE	DATE
Rous Mill Pottery Studio	36 Rous Mill Rd, Rous Mill, NSW, 2477	Ray Cavill	PROPOSED SITE PLAN	DA 10	C	15.01.2020





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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

FLOOR PLAN - WHOLE
SITE

DWG NO.

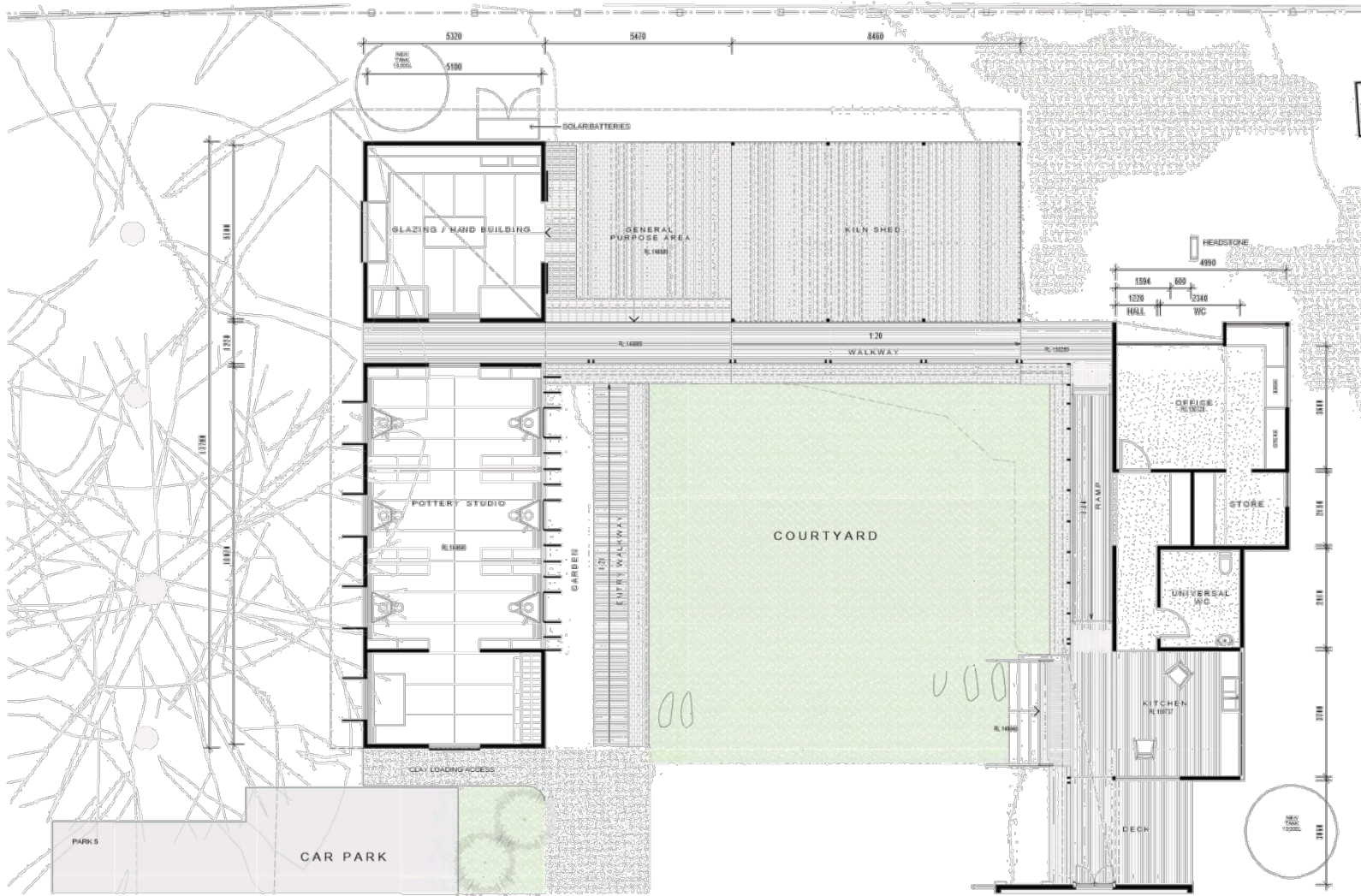
DA 11

ISSUE DATE

D 15.01.2020

SCALE: 1:200





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ARCHITECT[®]

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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

FLOOR PLAN - REAR
WORK

DWG NO.

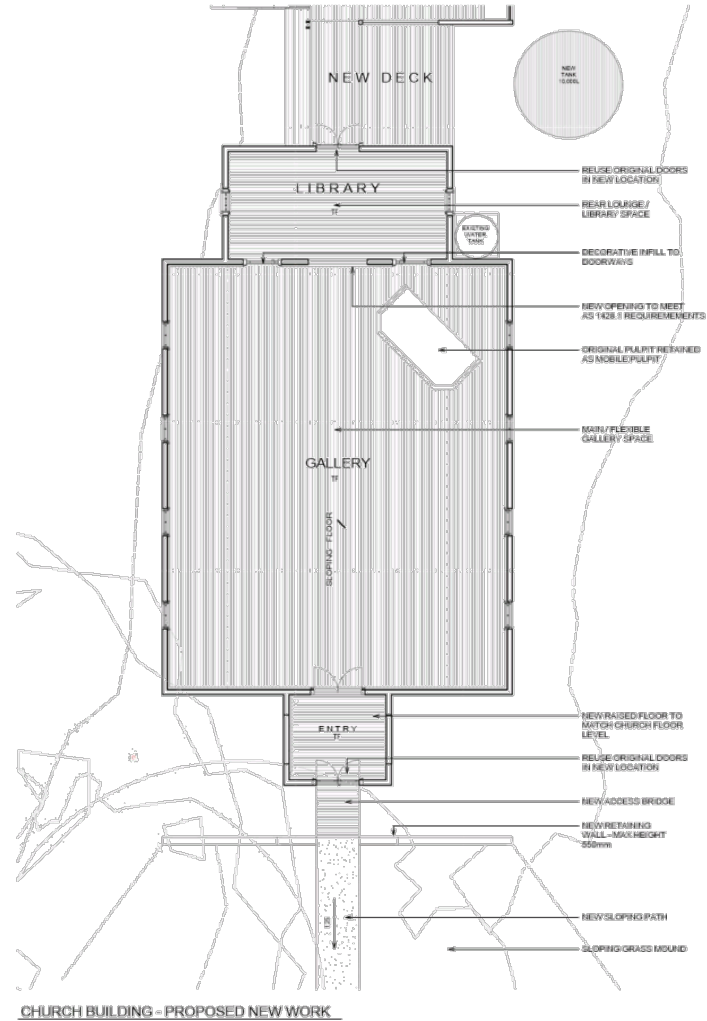
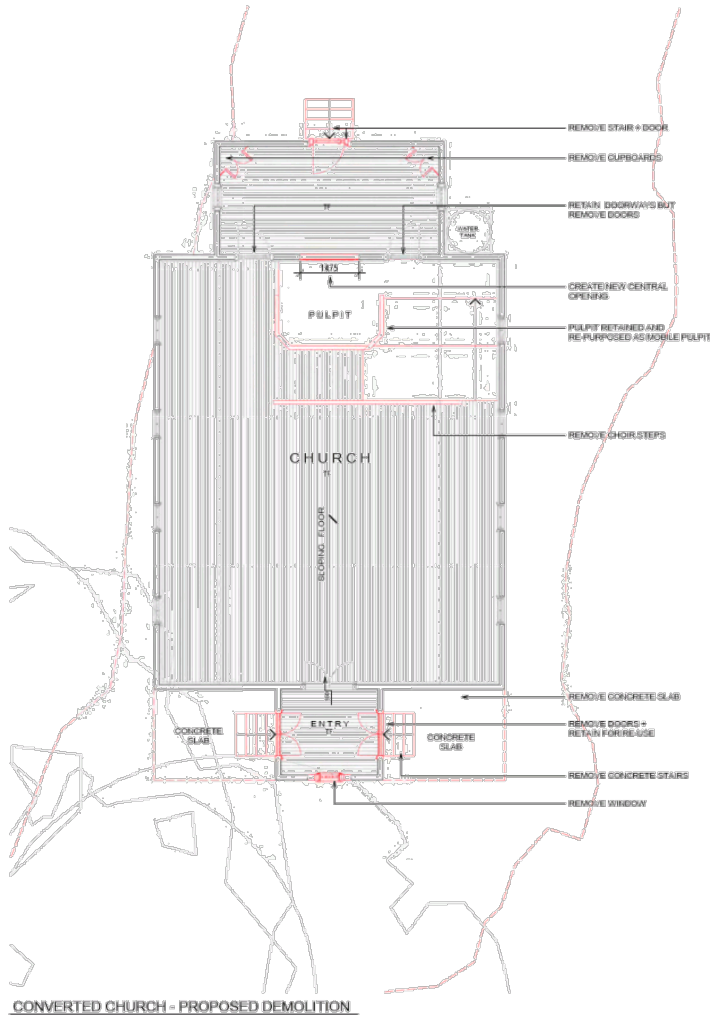
DA 12

ISSUE DATE

C 15.01.2020

SCALE: 1:50





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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT / SITE OWNER

Ray Cavill

TITLE

FLOOR PLANS - CHURCH
RENOVATION

DWG NO.

DA 13

ISSUE DATE

D 15.01.2020

SCALE: 1:50





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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

STAGING PLAN

DWG NO.

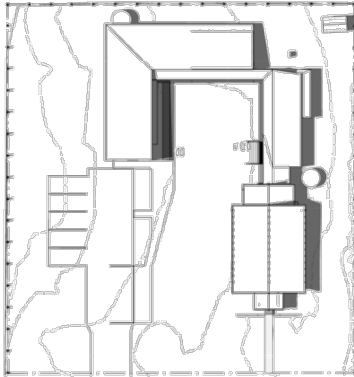
DA 14

ISSUE DATE

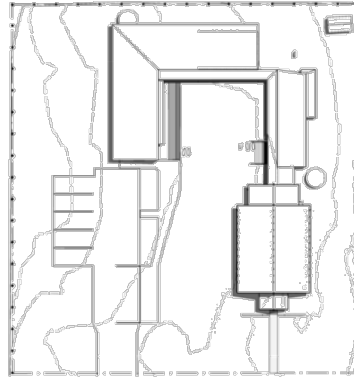
D 15.01.2020

SCALE: |

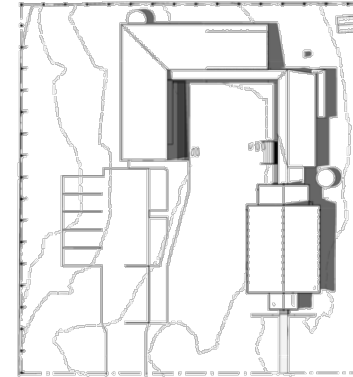




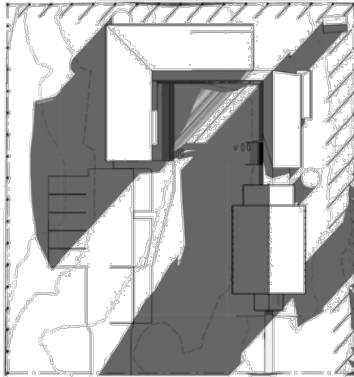
SHADOW STUDY DEC 21 9AM



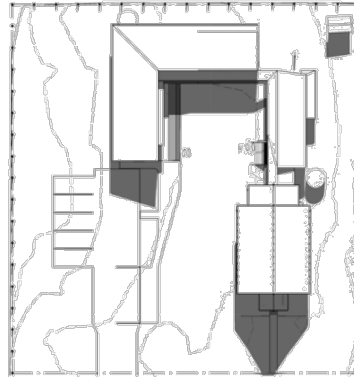
SHADOW STUDY DEC 21 12PM



SHADOW STUDY DEC 21 3PM



SHADOW STUDY JUN 21 9am



SHADOW STUDY JUN 21 12PM



SHADOW STUDY JUN 21 3PM

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ARCHITECT

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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

SHADOW STUDIES

DWG NO.

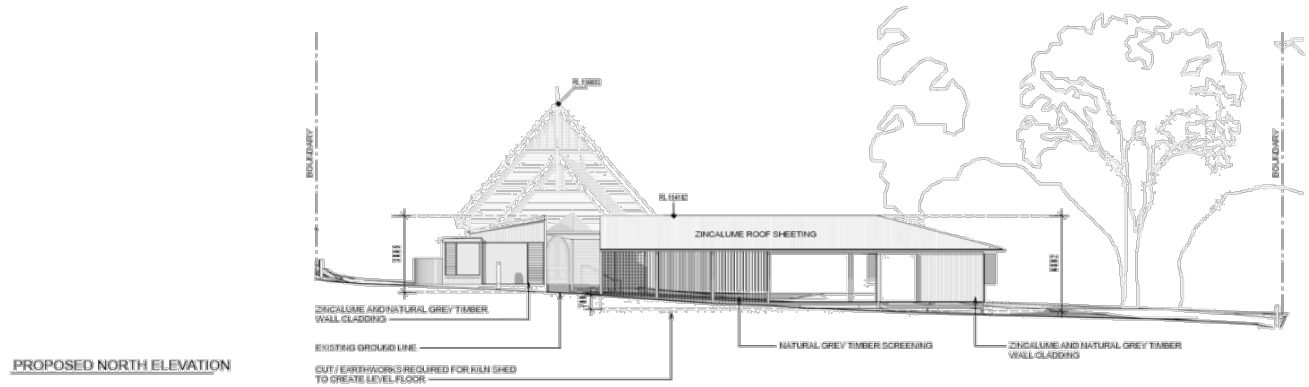
DA 15

ISSUE DATE

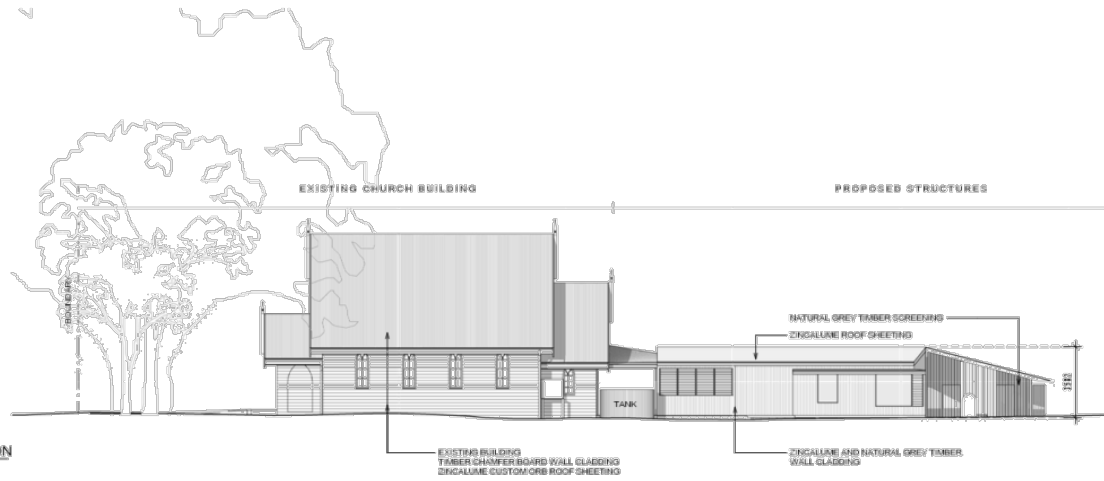
B 27.05.2020

SCALE: 1





PROPOSED NORTH ELEVATION



PROPOSED EAST ELEVATION

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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

ELEVATIONS

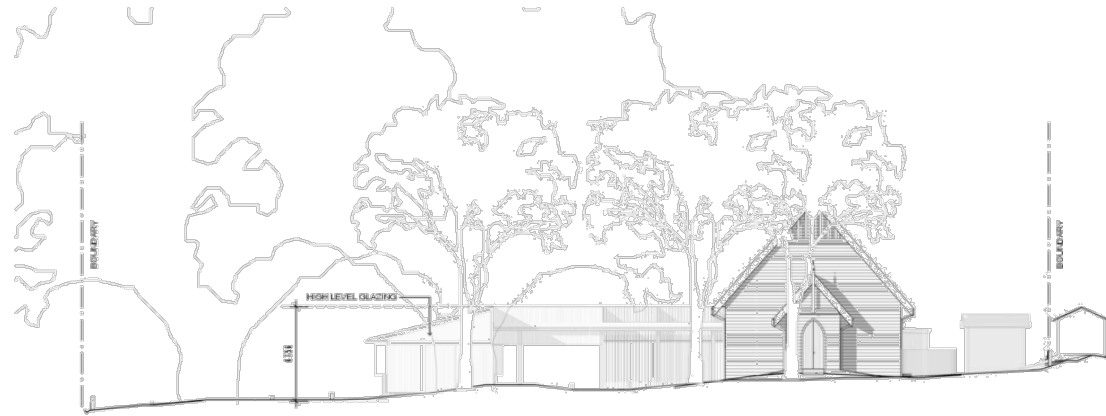
DWG NO.

DA 20

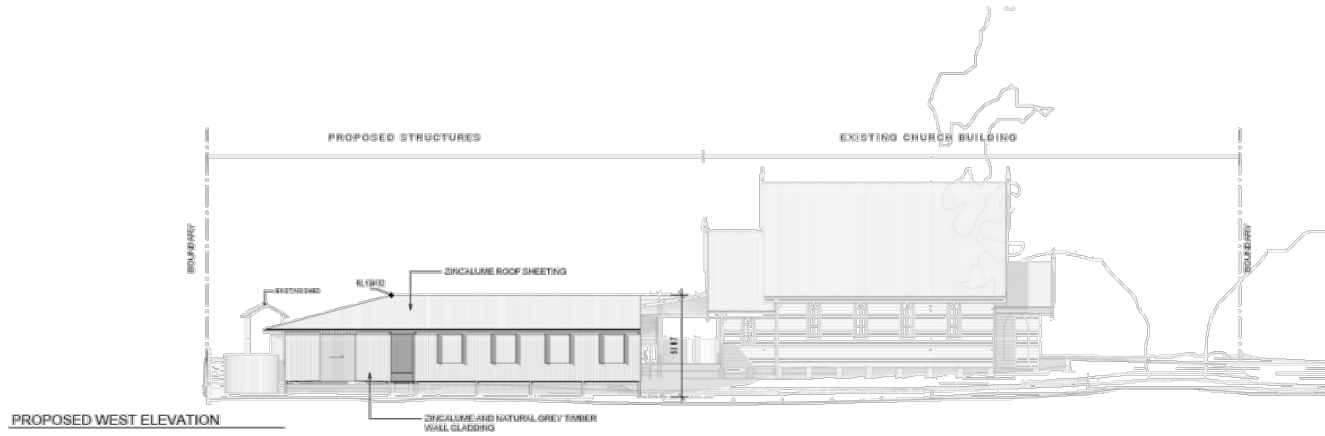
ISSUE DATE

C 15.01.2020

SCALE: 1:50



PROPOSED SOUTH ELEVATION



PROPOSED WEST ELEVATION

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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

ELEVATIONS

DWG NO.

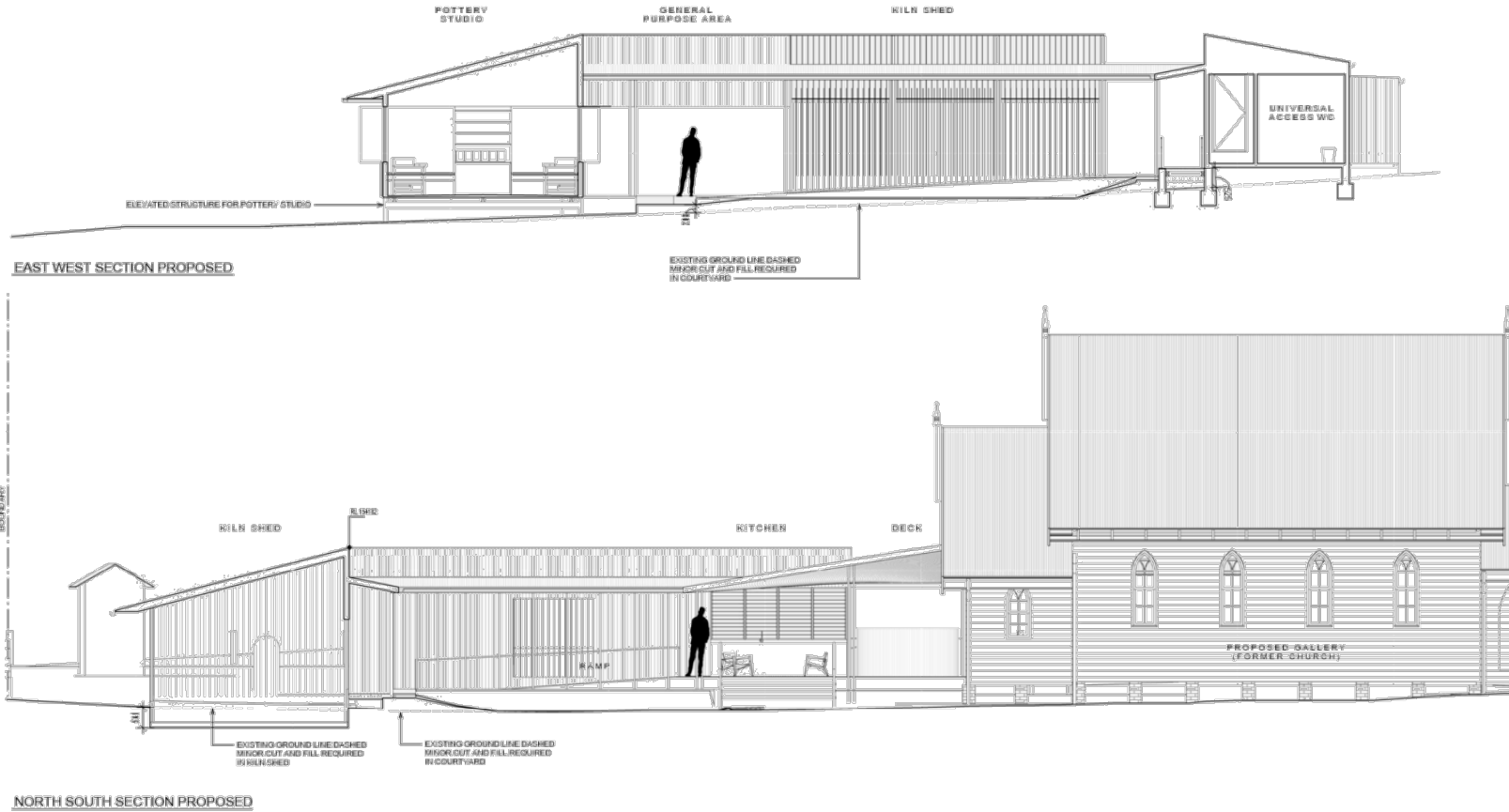
DA 21

ISSUE DATE

C 15.01.2020

SCALE: 1:50





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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

SECTIONS

DWG NO.

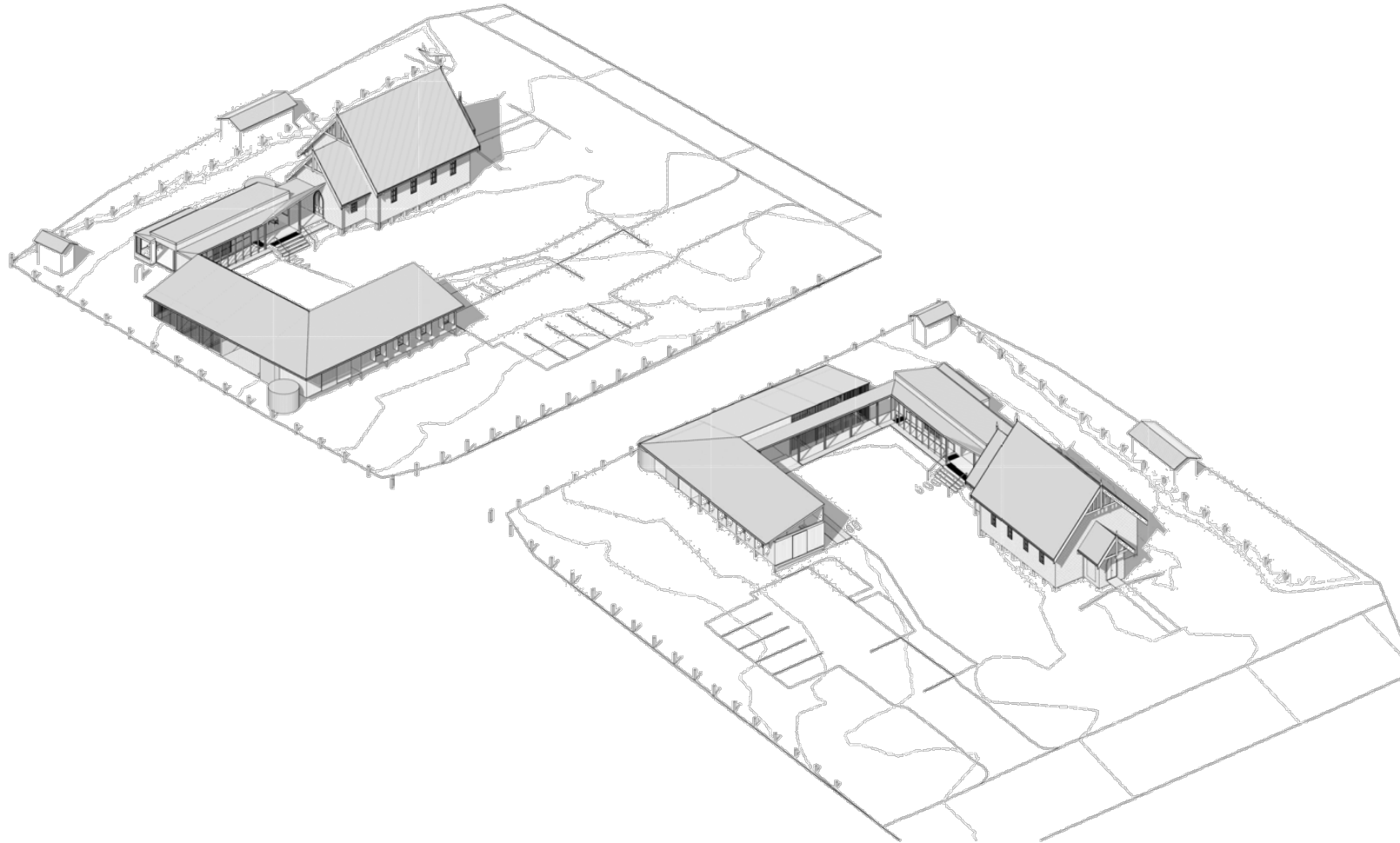
DA 30

ISSUE DATE

D 15.01.2020

SCALE: 1:50





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PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

3D VIEWS

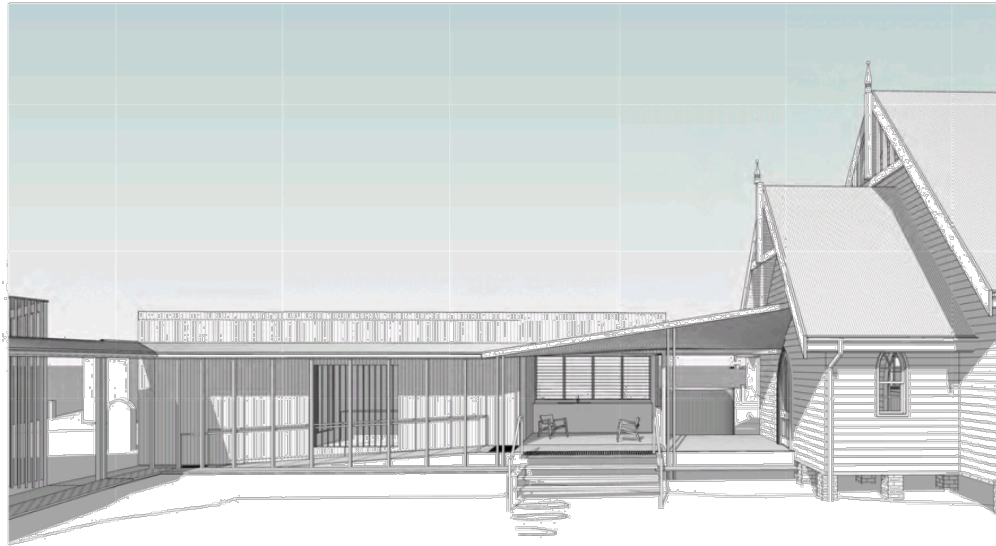
DWG NO.

DA 100

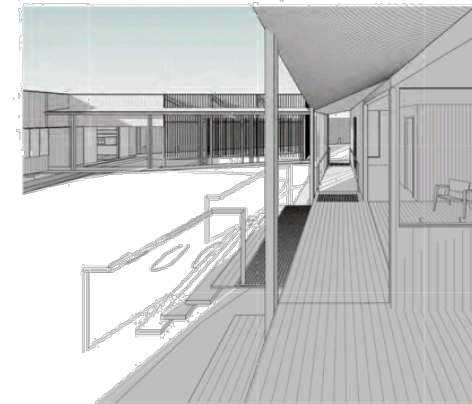
ISSUE DATE

B 15.01.2020

SCALE: |



VIEW FROM STUDIO ACROSS COURTYARD



VIEW FROM REAR OF GALLERY

MARGUERITE POLLARD
ARCHITECT

0405 328 932
www.margueritepollard.com

PROJECT

Rous Mill Pottery Studio

ADDRESS

36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER

Ray Cavill

TITLE

3D VIEWS

DWG NO.

DA 101

ISSUE DATE

A 27.05.2020

SCALE: |



VIEW FROM CARPARK

MARGUERITE POLLARD
ARCHITECT

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PROJECT

Rous Mill Pottery Studio

ADDRESS

**36 Rous Mill Rd,
Rous Mill, NSW, 2477**

CLIENT/SITE OWNER

Ray Cavill

TITLE

3D VIEWS

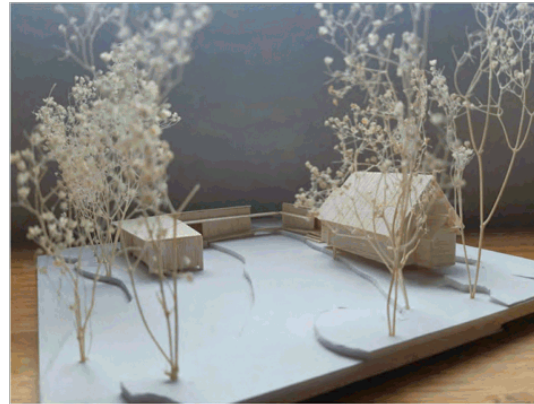
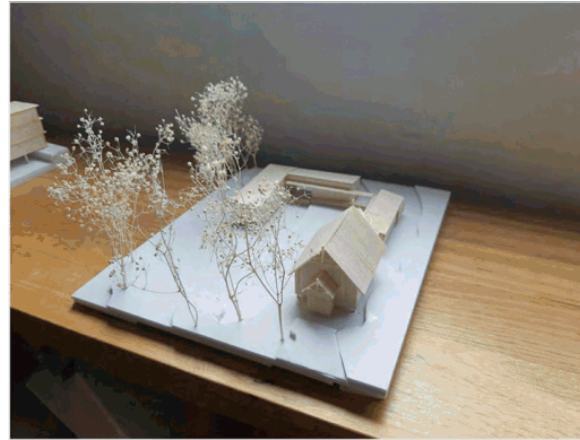
DWG NO.

DA 102

ISSUE DATE

A 27.05.2020

SCALE: |



MARGUERITE POLLARD
ARCHITECT

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PROJECT
Rous Mill Pottery Studio

ADDRESS
36 Rous Mill Rd,
Rous Mill, NSW, 2477

CLIENT/SITE OWNER
Ray Cavill

TITLE
DESIGN MODEL

DWG NO.
DA 103

ISSUE DATE
A 27.05.2020

SCALE: |

Melissa Towner
59 Rous Mill Road
Rous Mill
NSW 2477

To Ballina Shire Council
40 Cherry St
Ballina
NSW 2477

I am writing a submission to object some details within the Development Application for 36 Rous Mill Road Rous Mill NSW 2477 (2020/450.1).

My objections are aimed at the Caretakers Accommodation for the following reasons:

The owner bought the property in 2018 knowing there was no building entitlement. If Council allow this Caretakers Accommodation then it sets a precedent for other landholders without building entitlements to also make similar applications. With many of these Rural blocks bought at Rural not Residential prices.

The Property is closely bordered by Macadamia trees and does not comply with current regulations for allowing distance between Macadamia trees and a dwelling. It then has a higher fire risk.

At the back area of the Church were proposed infrastructure is to be built there is a headstone where at least 2 people are buried. Their graves are listed under the National Trust Cemetery Master List and date back to the very early settlers. This I believe would need to be investigated further before any works were to be allowed.

I have minimal objections to the Church being converted to an Art Gallery but would ask Council to consider the Heritage of the existing building and it's aesthetics within the Rous Mill Village when allowing any further development.

Yours Sincerely

Melissa Towner

Ballina Shire Council
Customer Service Centre
PO Box 450
BALLINA NSW 2478

Dear Council,

My name is Charmaine Leu. I live at 39 Rous Mill Road, Rous Mill opposite the Church. I am writing to object to DA 2020/450.1 at 36 Rous Mill Rd Rous Mill.

I object to this development because it has no dwelling entitlement, the applicant has not consulted with anyone I know, parking for twenty people will be difficult without parking on the street, water will flow over the sewerage trench into the neighbour's place in wet weather, and reflective materials used in the building may reflect a lot of light onto my property.

Sincerely,



Charmaine Leu
24 August 2020

Chris Knight
33 Rous Mill Road
Rous Mill NSW 2477
P: 0402 497 404
E: chriskn1@hotmail.com

Ballina Shire Council
council@ballina.nsw.gov.au

To whom it may concern,

My name is Chris Knight and I have lived at 33 Rous Mill Road, Rous Mill for almost thirty years. My home is directly across the road from the proposed development relating to an art gallery, art studio and associated artist in residence/caretaker's accommodation. I have provided reasons for objecting to the development application, and made suggested changes if it is to proceed.

DA Reference Number: **2020/450.1**
Property Address: **36 Rous Mill Rd**
Rous Mill 2477 NSW
Lot: 23 DP: 805799

Reasons for objecting

- **No Dwelling Entitlement** – The land area is only 2,448 m², which was created by special purpose (church) subdivision approved in DA No.1990/53 and does not have a dwelling entitlement.

Several years ago, the property was considerably larger and it had a church residence located to the rear of the property. The boundary was subsequently adjusted to make the property the size it is today, and the dwelling entitlement and residence were moved to a property to the east in Rous Mill Road.

The *Ballina Local Environment Plan 2012* (NSW) defines a 'dwelling' as 'a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.' The caretaker's accommodation falls within this definition.

- **Purchase Price** – The property was purchased for \$175,000 on 23 June 2018 after being publicly advertised as – ‘Note – no dwelling entitlement’. Several interested parties refrained from bidding on the basis that there was a restriction that there be no dwelling entitlement. This was reflected in the purchase price.
- **Caretaker’s Accommodation** – No floor plan design has been provided showing the location of the bathroom, the kitchen, the toilets and other rooms in the accommodation building. From the information provided, it appears to be a separate dwelling with its own private toilet, bathroom and kitchen facilities made to look like they are part of the art gallery building to circumvent the issue of no dwelling entitlement.
- **Opinion of Probable Cost** – An estimate of \$342,472 has been provided, of which \$161,200 (47%) of the probable cost is listed as ‘Residential’ by Marguerite Pollard Architect.

The breakdown excludes the costs associated with the toilet facilities, water tanks and site works, estimated at a total of \$43,000. If only 47% of those costs are also taken into account, the total cost of the dwelling aspect of this development increases to \$181,410 (53%).

Considering this development includes various aspects, being the art gallery, a kiln shed and store room, a pottery studio and the dwelling, there is no question that the primary purpose of this development is for a dwelling entitlement.

- **Disabled Access** – Excluding reference to one ‘accessible’ parking space, there does not appear to be any provision for disabled toilet facilities or ramps.
- **Construction Materials** – The visual character of the site will be substantially changed by this development. The use of highly reflective zincalume materials on all structures will reflect sunlight, and it is not consistent with any of the surrounding heritage style structures.
- **Art Exhibitions/Openings** – Numbers quoted could be substantially more as they do not seem to be based on any historical data. Parking may quite reasonably become a major issue due to the narrow country road.
- **Fire Safety** – A Rural Fire Service assessment has not been submitted. The land, and structures on the land, are very closely surrounded by macadamia and camphor laurel trees.

- **LUCRA Guidelines Discrepancies** – The ‘Land Use Conflict Resolution Assessment’ Guidelines (‘LUCRA’) provides for buffer zones, minimising the impact of harmful chemicals and other land use conflicts. It appears this application has downplayed the LUCRA ‘Risk Ranking’, and it cannot comply with guidelines relating to macadamia farming. In particular, the minimum buffer separation distance cannot be met, due to the small land size, and the chemicals typically used on macadamias are known to be potentially harmful.
- **Airbnb Rental** – There is potential for the site to be used for short-term rental accommodation if this proposal is approved in its current form. Regular neighbour disputes may arise, and compliance will be quite difficult due to the location of the property.
- **Burial Site** – Preliminary research indicates a small cemetery exists at the property. The application states that a selected area was surveyed using ground penetrating radar, but no report or details of the survey were made available.

The National Trust includes an item listing in their ‘Cemetery Master List’ as – ‘Rous Mill Uniting Church– Kennedy Grave’. Contact was made with a descendant of the Kennedy Family, who appear to be of Scottish heritage.

The Alstonville Plateau Historical Society provided some information relating to the inscription on the headstone, recorded before it became almost impossible to read. The question marks depict what could not be read at the time. The inscription read:

Sacred to the memory of Donald Kennedy who departed this life 27th September 1887, aged 89 years, also Marguretta ??s Kennedy, Relict of the above, departed this life May ?? 1???, aged ?? years

The Kennedy Family member provided the following information, he advised was taken from the Richmond-Tweed Family History Society Inc. book:

Donald Kennedy shows died Sept 1887 age 89 RM1 and Marguretta died ? 1893 RM1 Rous Mill Cemetery R1- R217 (including 1 headstone Rouse Mill Uniting Church -RM1)

Ballina Shire Council’s ‘Ballina Cemetery - Interment Register’ does not list Donald or Marguretta Kennedy as being buried in any of the listed cemeteries. Based on this, and the information provided above, it appears the land is also the Rous Mill Cemetery, and there are potentially at least two persons buried there.

Of interest is the result of a search of 'Australia Convict Ships 1786-1849'. A 'Donald Kennedy' appears in the series 'Musters And Other Papers Relating To Convict Ships 1790-1849 (Nrs 1159), available through findmypast.co.uk. An extract of that document has not been obtained at this stage.

- **Community Consultation** – The applicant appears to have only had a discussion with one adjoining property owner about farming programs. There does not seem to have been any community consultation with neighbours.
- **Potable Water** – There is an issue with chemical overspray from the adjoining properties onto the roof, which will contaminate the proposed water supply.
- **Fencing** – There does not appear to be appropriate fencing.
- **Onsite Wastewater Management** – There is a serious potential issue with water flowing over the land where the effluent trenches will be placed, as the known water course, according to neighbours of many years standing, will pick up this effluent material and spread it on to adjoining properties.
- **Invasive Tree Roots** – The application does not address the issue of invasive tree roots which could see the septic trenches blocked and destroyed. Camphor laurel tree roots are renowned for causing such problems.
- **Security** – There has never been a problem with security in the area which would require 24-hour on-site supervision.
- **Dangerous Precedent** – Approving this application in its current format will set a dangerous precedent, which will allow a number of property owners holding property with no dwelling entitlements to seek approval for quasi-dwellings in order to circumvent clear and unambiguous past planning decisions.

Suggested changes

- **Security** – Instead of a caretaker's residence, the applicant could include security lighting, a back-to-base alarm system, remotely accessible CCTV cameras and regular security patrols if necessary.
- **Ethical Decision Making** – The art gallery, kiln shed, store room and pottery studio will function well without the addition of the optional and expensive luxury of accommodation. Most businesses see their employees drive to and from work every day. Council should both do things right and do the right thing. This development should not proceed with any form of dwelling entitlement.

If you require any further information, do not hesitate to contact me on the details provided.

Regards,


Chris Knight

Helen Towner
61 Rous Mill Road
Rous Mill NSW 2477
Ph 0429542876
E. helen.towner13@gmail.com

Ballina Shire Council
council@ballina.nsw.gov.au

To whom it may concern,
My name is Helen Towner and I live at 61 Rous Mill road, for 46 years.

I am objecting to the D.A. Reference number 2020/450.1
Property Address: 36 Rous Mill Road.
Rous Mill, NSW 2477
LOT: 23 D.P. 805799.

Objection for DA.

- Council stated definitely no dwelling entitlement prior to sale, which ultimately reflected the price the property was sold for.
- Buffer Zone

The boundary buffer zones for this D.A. are inadequate for a new dwelling to be allowed. The land surrounding the property is prime agricultural and must be protected from encroachment.

Helen Towner.
H Towner

Melissa Towner
59 Rous Mill Road
Rous Mill
NSW 2477

To Ballina Shire Council
40 Cherry St
Ballina
NSW 2477

I am writing a submission to object some details within the Development Application for 36 Rous Mill Road Rous Mill NSW 2477 (2020/450.1).

My objections are aimed at the Caretakers Accommodation for the following reasons:

The owner bought the property in 2018 knowing there was no building entitlement. If Council allow this Caretakers Accommodation then it sets a precedent for other landholders without building entitlements to also make similar applications. With many of these Rural blocks bought at Rural not Residential prices.

The Property is closely bordered by Macadamia trees and does not comply with current regulations for allowing distance between Macadamia trees and a dwelling. It then has a higher fire risk.

At the back area of the Church where proposed infrastructure is to be built there is a headstone where at least 2 people are buried. Their graves are listed under the National Trust Cemetery Master List and date back to the very early settlers. This I believe would need to be investigated further before any works were to be allowed.

I have minimal objections to the Church being converted to an Art Gallery but would ask Council to consider the Heritage of the existing building and it's aesthetics within the Rous Mill Village when allowing any further development.

Yours Sincerely

Melissa Towner

Noel Towner,
61 Rous Mill Road,
Rous Mill NSW 2477
Ph: 66295268

Ballina Shire Council
council@ballina.nsw.gov.au

To whom it may concern,

My name is Noel Towner, resident of 61 Rous Mill Road having lived 69 years at this address. I am a full time farmer of 52 years, having grown cane, potatoes, dairy, beef and macadamias.

I am objecting to the DA Reference number 2020/450.1
Property Address: 36 Rous Mill Road
Rous Mill NSW 2477
lot: 23DP:805799

My objections are:

- No Dwelling Entitlement
The building (Church) and property were sold with no dwelling entitlement, clearly advertised as such. The previous dwelling entitlement went with the manse and became Number 7 Rous Mill Road, approximately 1990. The purchase price ultimately reflected, NO dwelling entitlement. There were many interested parties including myself, for my longstanding family history with the church. Upon enquiries, council related definitely NO dwelling entitlement because of the 150 metre buffer zone to macadamias.

(2)

Cont'd on under: No dwelling entitlement.

We did not pursue acquiring the property, as we respected council authority.

Further concerns, are that the council may allow a concessional dwelling entitlement, which certainly would double the value, at the expense of the Uniting church.

• Caretakers Residence.

We object to the caretakers residence as it leaves the door open for occupation other than described in the D.A.

• Security

Applicant states the caretakers residence is primarily for security, however spending approximately \$150,000 to occupy the residence, on not many nights over the year, is pointless.

Do other local galleries have accommodation for security? I think not. Electronic surveillance and lighting, would be a better option.

• Re: Buffer Zone.

Macadamias are growing no more than 30 metres away on the western and northern boundary and 60 metres to the east. It would be grossly unfair to create a new concessional dwelling within these boundaries. There are 2 more blocks in Rous Mill Road which have no entitlements for a dwelling. If this concessional dwelling D.A. passes through council, there will be a rush with other smaller macadamia holdings to gain building entitlements for their blocks.

③

In closing, I feel if council pass this DA, there must be a sunset clause on the accommodation, relating directly to the functioning business, if it ceases trading. As the applicant stated, the business is reliant on the caretakers accommodation.

If you require any further information, I can be contacted on 66295268.



Trading as N.F. TOWNER

Dear Sir/Madam,

Regarding DA NO: DA 2020/450 for property: Lot 23DP 805799, 36 Rous Mill Road ROUS MILL

We are the owners of the property 495 Dalwood road which corners onto the proposed development site. Our property is an established macadamia farm with a macadamia orchard within 10 m from the fence. We want to raise our concerns regarding the proposed development – in particular the caretaker's accommodation. According to the submitted plan, there will be no buffer zone as the building will be less than 10m from the border.

We follow safe and environmentally friendly farming practices but there is always risk involved. Our concerns include the possible noise, dust and chemical drift that could potentially be a problem.

Regards

Thomas and Fransisca de Jager

16th August 2020

Ballina Shire Council
40 Cherry Street
Ballina NSW 2478

council@ballina.nsw.gov.au

Dear Sir/Madam

I the undersigned wish to lodge my objection to the Development Application No: 2020/450.1 proposed for the property situated at 36 Rous Mill Road, Rous Mill, NSW

When Mr Cavill purchased the said parcel of land he was knowingly aware there was NO Building Entitlement and as such, this was reflected in the price that he paid for the property. Why should he now be able to come along and change it to suit himself.

I have no issue with the property being converted to an Art and Pottery studio as this will have people coming and going the same as when it was utilised as the Uniting Church, but I most strongly object to the construction of living accommodation on the site.

As this block is situated within metres of a macadamia orchard, the allowing of accommodation is contravening the buffer zone required for homes and as Mr Cavill is wanting to have "caretaker accommodation" i.e. able to reside at the property, this would be breaking the rules that other property owners must abide by.

By allowing Mr Cavill to build accommodation at the property, this would also set a precedence for other properties in the Ballina Shire Council area with NO Building Entitlement, of which there are 2 in very close proximity, namely the old tennis courts next door and the old stables at the Rous Mill crossroads.

Thank you for your time.



Adrian Lenton
107 Rous Mill Road
Rous Mill

0414 295 021

Email: anklenton@yahoo.com.au

16th August 2020

Ballina Shire Council
40 Cherry Street
Ballina NSW 2478

council@ballina.nsw.gov.au

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Thank you for your time.



Keith Frederiksen
136 Rous Mill Road
Rous Mill

6629 5261

Email: keithfrederiksen83@gmail.com

16th August 2020

Ballina Shire Council
40 Cherry Street
Ballina NSW 2478

council@ballina.nsw.gov.au

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Thank you for your time.



Kiel Lenton
107 Rous Mill Road
Rous Mill

0432 741 020

Email: kalenton1@gmail.com

On Thu, 27 Aug 2020 at 11:23 am, Paul Towner <rousmillhoney@gmail.com> wrote:

Attention Ballina Shire Council

CC.

-General Manager

-Planning and a Environmental Health Division.

In Regard to DA 2020/450.1

Property : Lot 23 DP:805799

36 Rous Mill Rd , Rous Mill 2477

As a resident of Rous Mill (my children are the 6th generation here on the farm)
I have concerns with the proposed DA to further develop our former church into an Art Gallery and Studio with Caretakers residence.

The Church was sold by the Uniting Church in June 2018 with full knowledge to all that there was NO DWELLING ENTITLEMENT.

I was a registered bidder at that auction and the final sale price of \$175,000 was reflective of the above fact.

Prior to this many enquires had been made with both local government and state government agencies both on behalf of myself (as potential investment) and on behalf of the church (as a congregation member) so as the value could be further enhanced.

We had looked at Grant options to try and secure it possibly with our local community hall to maintain it for the future. Nothing was forthcoming quick enough.

If this property had a dwelling entitlement , it's value would have been substantially more > \$200,000 + than the purchase price.

Does potential approval of this DA place Ballina Shire Council in a poor light ,when the decision was a definite NO DWELLING a little over 2 years ago .

I have NO OBJECTION to the building being used as a gallery and additions within reason for this to occur .

BUT any form of caretakers residence is a DWELLING and should not be allowed

Due to :

-Councils Previous stance on the issue - NO DWELLING ENTITLEMENT

-Does not meet buffer zones for new dwellings in prime agricultural areas

-Insufficient understanding of the "Inflammable" status of Macadamia Plantations (Needs better Fire study) is a Kiln in close proximity , a potential ignition source.

The reasons of security and visiting artists for the purpose of a caretakers residence could be construed as a means of furthering " the need for a dwelling ".

There has never been a crime issue in this area ? Is a gallery going to change this and how then does the owner protect his other business interests interstate?

The size / capability of the composting toilet lends itself to the fact that it can handle a lot more of a " Permanent" capability than the "Occasional" use .

If Council proceeds with passing this DA in its entirety, then how do they propose to "police and monitor" the supposed minimal use of the "DWELLING".

Will council add clauses that if the gallery / business is not functioning or does not meet any "activity audits " then the dwelling will be removed and cannot be sold in the future as having such said Caretaker (DWELLING) approval.

It has potential (from the footprint) to be occupied more often than not.

Yours Sincerely
Paul Towner
59 Rous Mill Rd
Rous Mil 2477

Catherine Bolton
101 Rous Mill Road
Rous Mill 2477

Daniel Neukirch
Development Applications
Ballina Council

Dear Sir

DA 2020/450 R Cavill – Objection to proposed development

I object to the proposed development of 36 Rous Mill Road Rous Mill on the grounds that the use of the building as an art exhibition space may include commercial/retail activity which is not allowable within RU1. I also object on the grounds that the local roads are not engineered to accommodate the potential increased traffic due to business customers and tourism.

The development application includes 2 uses - education facility and art gallery. If the art is for sale this in effect means that the facility is a commercial/retail art gallery not an “exhibition space”. The applicant also states that the hours of business will be limited but then states in 4.2.7 “**normal hours for the public will initially be minimal until the studio and exhibition space is established.**”

I submit that if there are any sales of artworks from the facility then it is the intention of the applicant to develop a commercial/retail space and that over time the increased opening hours will increase the numbers of visitors and ultimately increase traffic to the village/hamlet.

Rous Mill Road is very narrow and requires cars to pull onto the unsealed sections when a car is coming from the opposite direction. The art gallery customers and increased road users would negatively impact the road infrastructure.

The gallery will also bring more tourists/visitors to an area that is not designed nor zoned to accommodate increased commercial activity and tourism. This potentially could increase the amount of sightseeing road traffic by customers and tourists venturing further down Rous Mill Road which will create more noise and may disrupt the creek habitat near the road which currently has 4 platypuses.

Increased sightseeing will also result in increased traffic down the very narrow Marom Creek Road which is already a difficult road to negotiate for passing traffic.

In conclusion, Rous Mill is fundamentally a rural residential and farming area. The road and parking infrastructure is limited as a result. The application to start a commercial art gallery with its resulting increase in traffic due to customers visiting the gallery and the potential for increased tourists driving through the village will place significant pressure on the infrastructure and rural habitat and does not accord with the RU1 zoning and should not be allowed. Furthermore, if the art is for sale this, in effect, means that the facility is a retail facility which is expressly not allowed under RU1.

Your sincerely

Catherine Bolton

DA 2020/450
Rous Road
Rous Mill 2477

4th May, 2021

To Whom It May Concern,

I have lived in the Rous Mill community for more than 25 years, living in 1100 Marom Creek Roud, Rous Mill. I have also been a part of the Rous Mill Hall Committee for the past 10 years holding the Secretary Position for 9 years.

I very much support the development application 2020/450 submitted by Ray Cavill, that will see the conversion of the old church to a Ceramics Studio / Art Gallery space.

We have a very creative community in Rous Mill, including an Art Studio, a Recording Studio and many creative ventures that happen at the Rous Mill Hall. These include monthly Unplugged Music nights, weekly Pilaties nights, Yoga workshops, Art workshops, Film nights and more.

We see that there is a real opportunity for Rous Mill to continue to grow as a creative hub. We are glad that the old church building remains in the village rather than being removed or relocated. We are very excited about it being used in a way that will benefit the community and bring life and attention to our village, complimenting existing activites and building on the interests of the people living here.

We also see that there are ways that the hall committee and the Ceramic Studio/ Art Gallery can work together to continue to provide exciting opportunities for the people of Rous and outlying areas. This is a very positive opportunity for our community.

Please do not hesitate to contact me personally on 66 295448

Regards,

Miriam O'Grady
Miriam OGrady

Chris Knight
33 Rous Mill Road
Rous Mill NSW 2477
P: 0402 497 404
E: chriskn1@hotmail.com

6 May 2021

Ballina Shire Council
council@ballina.nsw.gov.au

To whom it may concern,

My name is Chris Knight and I have lived at 33 Rous Mill Road, Rous Mill for almost thirty years. My home is directly across the road from the proposed development relating to an art gallery, art studio and associated artist in residence/caretaker's accommodation. I have previously provided reasons for objecting to the development application and made suggested changes if it is to proceed.

This submission is in addition to my previously provided reasons for objecting dated 26 August 2020.

DA Reference Number: **2020/450.1**
Property Address: **36 Rous Mill Rd**
Rous Mill 2477 NSW
Lot: 23 DP: 805799

Reasons for objecting

- **No Dwelling Entitlement**

The *Ballina Local Environment Plan 2012* (NSW) defines a '**dwelling**' as 'a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.'

The minor name change adjustments made to the plans still fall within this definition. No noticeable structural changes have been made.

- **Caretaker's Accommodation**

From the new information provided, what was formally listed as the caretaker's bedroom and a bathroom is now listed as an office and a storeroom. The area still appears to be a separate dwelling with its own bathroom and kitchen facilities made to look like they are part of the art gallery building to circumvent the issue of no dwelling entitlement.

- **Opinion of Probable Cost**

The costs previously provided by the applicant seem quite excessive considering only five students and one teacher are expected one day each week. There appears to be another purpose for the development.

- **Art Exhibitions/Openings –**

Considering that items will be produced onsite in what still appears to be a commercial venture, there are ongoing concerns that items will also be sold onsite. Such items may include both pottery items and food items produced and sold through the kitchen, leading to a defacto market situation evolving.

- **LUCRA Guidelines Discrepancies –**

The applicant's submission clearly states that there is no doubt that potential exists for land use conflict. This is an ongoing concern.

- **Airbnb Rental –**

There is still potential for the site to be used for short-term rental accommodation if this proposal is approved in its current form.

- **Burial Site**

Although the applicant initially withheld information relating to the burial site on the land, it is noted that the applicant has since made efforts to address various concerns. It is also noted that there was more than one internment located on the land.

It is possible there may be more internments beneath the current location of the church building, as this is not the location of the original church building. The original church was built in 1880, with the current church being built 24 years later in 1904. This concern is based on the GPR survey showing that a child internment was located immediately alongside the rear stairs of the current church building.

- **Potable Water**

There are still concerns about chemical overspray from the adjoining properties onto the roof. It is not clear how the applicant will test for contamination of the proposed water supply.

- **Fencing**

The applicant has not addressed the safety issue relating to appropriate fencing around young children being close to heavy farm machinery.

- **Dangerous Precedent**

There are still concerns about how the suite of rooms in the over-development of this rural land will be used if the plans are approved in their current form.

I am also concerned that there does not appear to be any undertaking or intention on the part of the applicant to ensure that the site is not used as a dwelling at some point in the future. To address this concern, it would be prudent for council to include a condition on any development consent that clarifies the position relating to no dwelling entitlement. This will facilitate any future enforcement action pursuant to any breach.

If you require any further information, do not hesitate to contact me on the details provided.

Regards,

Chris Knight

Andrew Roberts

28 Hewetsons Lane Rous Mill 2477 | 0407453755
andrew2013roberts@gmail.com

13th December 2020

Ballina Shire Council

Re: Development Application 2020 / 450
Lot 23 DP 805799 36 Rous Mill Rd Rous Mill

To whom it may concern,

I have been a resident of Rous Mill since 2011. During that time, I have seen the premises at 36 Rous Mill Road Rous Mill being the Uniting Church deteriorate due to limited usage and lack of patronage. In 2018 the Lot was sold to a private entity.

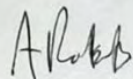
I support the development application 2020/450 as it will bring life to an otherwise abandoned building in our community. The last thing I want is for the building to become derelict like the Marom Creek Hall which is close to being condemned and demolished.

I have no connection to the current owner of the subject premises other than meeting him once or twice. I am optimistic that his development application is successful as it will bring life to a historic building which would otherwise be left to ruin.

I have no objection to the premises being run as an arts' studio and believe that it will be attended by both members of the Ballina Shire Community and beyond which will have a positive economic

benefit to the community. I believe the impact of this development to the community will be of a positive nature only.

Sincerely,



Andrew Roberts

28 April 2021

Ballina Shire Council
Planning and development
council@ballina.nsw.gov.au

Dear Ballina Shire Council,

RE: letter of support for DA number is 2020/450.

This is a letter of support for Ray Cavill's development application submitted with council to sympathetically restore the old Uniting Church building across the road from the hall on Rous Mill Road.

Both my husband Mike, our children Monty and Flora and I are residents of Rous Mill (7 Molly's Grass Road). I'm a committee member at the Rous Mill Hall and Mike is president of Alstonville Rotary Club.

Our family support the application to transform the old Uniting Church space into a ceramic gallery, with new accompanying ceramic studio/workshop development.

Mike and I feel very positive the site will be developed sympathetically and creatively. I have seen a version of the plans he has proposed at a Rous Mill Hall committee meeting and feel the ceramic studio and gallery will be attractive and a valuable, beneficial part of our community culture.

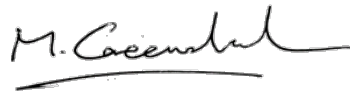
We both wholeheartedly support and endorse the proposal. I feel the character, heritage and history of the beautiful old church will be celebrated in its new role as gallery. I also feel the workshop/studio will provide opportunity for Northern Rivers artists, (in addition to national and international artists) to practice their craft, further enhancing and strengthening the arts culture in our region.

I'm available for any additional comment if required.

Sincerely yours,



Danielle Greenslade



Mike Greenslade

7 MOLLY'S GRASS ROAD, ROUS MILL, 2477, NEW SOUTH WALES
MOBILE 0407082357

Scott Leslie
316 Rous Road
Rous NSW 2477
P. 0403863282
E.rousmill@bigpond.com

Date 5/5/2021
Page 1

Ballina Shire Council

To The Town Planners,

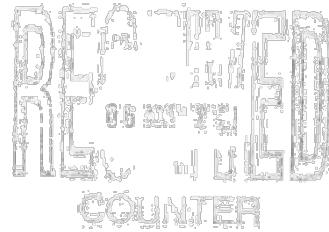
I Scott Leslie am the owner of 60 Rous Mill Road , Rous Mill NSW 2477. My family & I grow & harvest macadamias on this property & this is our main source of income .

I am objecting to the submission of

D A Reference Number; 2020/450.1
Property Address. ; 36 Rous Mill Road
Rous Mill NSW 2477

Reasons for objecting

1. **Reduced Farming Rights**
2. **Spraydrift & chemical residues**
3. **Lucra guidelines**
4. **Dust**
5. **Noise**
6. **Increased Excess Water**
7. **Kiln Positioning**
8. **Fencing concerns**



Explained Reasons

1. **Reduced Farming Rights** ; To have a commercial venture that is trading 4-5 days a week so close to my income producing macadamia farm has the potential to reduce my ability to farm effectively . We have a local insect pest monitoring business come in to assess our orchard insect pressures and to advise us on the need to spray. My concern is that although we follow the guidelines of spraying on correct wind directions etc that the closeness of the proposed development to our fence line and macadamia trees will result in complaints regarding the smell etc . As I have to be able to respond quickly to pest issues, I feel that this will reduce the effectiveness of our pest control program.
2. **Spray drift & Chemical Residues** : Macadamia farming involves the use of harsh poisonous chemicals.Each chemical is effective on one type of pest , hence the number of rounds has increased for us over the the calendar year.
My concern here is the chemical residue staying active for 3-10 days after spraying the intended area.
My macadamia trees are 6 metres off Mr Gavill's northern boundary and 10 metres off Mr Cavill's western boundary.
Mr Cavill has his water tank and water catchment 3 metres off his northern boundary[putting tank within 10metres of macadamias] placing health concerns of the stored potable water for visitors and potential litigation against me.
3. **LUCRA Guidelines** : The 'The Land Use Conflict Resolution Assessment'
Guidelines of 'LUCRA' provides for guidelines for buffer zones , minimilising the impact of harmful chemicals and other land use conflicts . I feel that Mr Cavill is down playing the Risk Ranking of these guidelines on the buffer zones on macadamia farming, in particular the minimum buffer separation distance. The recommended distance is currently 150 metres.

Scott Leslie
316 Rous Road
Rous NSW 2477
P. 0403863282
rousmill@bigpond.com

5/5/2021
Page 2

4. **Dust** ;With the use of mulchers /mowers/slathers and air blast fans , the creation of dust is unavoidable. Dust moves on any wind direction which is uncontrollable . This is a concern to me as the potential for a complaint regarding dust is extremely high .

5. **Noise** ; Having high powered machines around the church site could be a factor to a forced work time zone if Mr Cavill wanted more 'tranquility'

6. **Increased excess Water** ; The intended construction of more buildings and a car park will certainly increase the excess water entering my property to the west of the church. Even the water overflow from the water tank will add to this problem . The total excess water volume will be potentially devastating with increased erosion through my orchard.

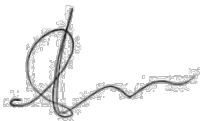
7. **Kiln Positioning** ; If the kiln was to be placed near the boundary , this would be a fire hazard to my macadamia orchard , especially in dryer seasoned times .

8. **Fencing** ; Currently the boundary is a four barbed wire fence . Fencing concerns for safety of students and visitors especially children. Who will be supervising them and the risk of them wandering into the macadamia orchard during harvesting times ?

Will Mr Cavill Indemnify the macadamia farmers from any future claims brought about from our day to day activities ? Eg. Noise ,allergies ,dust , skin allergies . Asthma etc

In Summing Up; In the original discussion with Mr Cavill , I was not aware of the size and scope of this development . The land use conflict of a development so close to an income producing macadamia farm is high . The increased potential for litigation and the impact that these factors can have on my ability to continue to produce an income is a huge concern for me and my family.

If you require any further information ,do not hesitate to contact me on the details provided.



Scott Leslie

Simon Chate
PO Box 321
Alstonville, 2477
0401 022 927
simonchate@gmail.com
14 December, 2020

Dear Sir/ Madam,

I'm writing this letter to you in support of the proposed Art Gallery by the renowned pottery artist Ray Cavill. I have seen the plans and it looks like a wonderful addition to the Rous Mill Hall community.

While I live in Alstonville, I am extensively involved in the Rous Mill community as I am one of the main organisers of the monthly Rous Unplugged performance nights, held in Rous Mill hall.

The creation of this new art gallery and teaching space by Master Potter Ray Cavill in the Rous Mill community will bring a breath of cultural fresh air into the community. It literally has the potential to put Rous Mill on the map. So while I understand that the proposed development could be seen as challenging and different, I also believe that this proposed development will be excellent for the Rous Mill community. It really has the potential to bring life and energy into the community.

I just wanted to take the time to let you know that I fully support Ray Cavill's proposed development and Rous Mill Hall.

Yours sincerely,
Simon Chate. (B. Cont. Mus., Dip. Ed.)

From: Martyn Mills <janday@aapt.net.au>
Sent: Wednesday, 5 May 2021 8:51 AM
To: Ballina Shire Council
Subject: [EXTERNAL SENDER] DA number 2020/450.

CYBER SECURITY WARNING - This message is from an external sender - be cautious, particularly with links embedded within the message and/or attachments.

Dear Sir or Madam

I live in Rous Mill and have done since 1996.

I applaud the development proposal of the old Uniting Church site in the village of Rous Mill. The church was very underused before it was decommissioned and just there.

The Rous Mill Hall that is opposite the proposed development site is increasingly a community hub for dance, community get togethers and music. The Hall has just had a substantial investment in the form of a deck that will likely increase the use across all use areas.

The proposed development of the Church site as an art studio and ceramics work area fits well with the Hall usage. It will also give the underused site a lift without any significant change to village life.

I know there will be objections from a small but vocal minority within the village who want the village to remain completely undeveloped. That is unrealistic.

This is the same demographic who were very much against the deck on the Hall being built and were responsible for abusing the builder and council inspector.

I know people in the village who will not come out and support the development of the Church site as they fear retribution from neighbours who will be ardently against it.

I do hope that the development is approved without any further amendments.

Yours sincerely,

Martyn Mills BA, LLB (Hons) Dip Sustainability

From: tjftmba1@tpg.com.au
Sent: Wednesday, 5 May 2021 7:11 PM
To: Ballina Shire Council
Subject: [EXTERNAL SENDER] No Subject

CYBER SECURITY WARNING - This message is from an external sender - be cautious, particularly with links embedded within the message and/or attachments.

Dear Sir/Madam,

Regarding DA NO: DA 2020/450 for property: Lot 23DP 805799, 36 Rous Mill Road ROUS MILL

Our established commercial macadamia farm corners onto the proposed development site with a macadamia orchard within 10 m from the fence. As there will not be a sufficient buffer zone, we want to raise our concerns regarding the proposed development. We follow safe and environmentally friendly farming practices but want to again bring under your attention that there are always risks involved. Our concerns include the possible noise, dust and chemical drift that could potentially be a problem in the future.

Regards Thomas and Fransisca de Jager

495 Dalwoodroad Rous Mill 2247

DRAFT CONDITIONS**GENERAL CONDITIONS****(1) Plans**

To confirm and clarify the terms of consent, the development shall be carried out in accordance with the following plans, and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent:

Drawing Title	Drawing No.	Stamped Approved Date	Plans prepared by	
Site Constraints	DA 04 Issue B		Marguerite Architect	Pollard
G.P.R.S Location Map	DA 05 Issue A		Marguerite Architect	Pollard
Proposed Site Plan	DA 10 Issue C		Marguerite Architect	Pollard
Floor Plan – Whole Site	DA 11 Issue D		Marguerite Architect	Pollard
Floor Plan – Rear Work	DA 12 Issue C		Marguerite Architect	Pollard
Floor Plans – Church Renovation	DA 13 Issue D		Marguerite Architect	Pollard
Staging Plan	DA 14 Issue D		Marguerite Architect	Pollard
Shadow Studies	DA 15 Issue B		Marguerite Architect	Pollard
Elevations	DA 20 Issue C		Marguerite Architect	Pollard
Elevations	DA 21 Issue C		Marguerite Architect	Pollard
Sections	DA 30 Issue D		Marguerite Architect	Pollard
3D Views	DA 100 Issue B		Marguerite Architect	Pollard
3D Views	DA 101 Issue A		Marguerite Architect	Pollard
3D Views	DA 102 Issue A		Marguerite Architect	Pollard

(2) Construction certificate to be consistent with DA

Any Construction Certificate issued in association with this development must ensure that any certified plans are consistent (in terms of site layout, site levels, building location, size, internal/external design, external configuration and appearance) with the approved Development Application plans.

(3) Building to comply with BCA

All aspects of the building design shall comply with the performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of

structural efficiency, safety, health, and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions,
- (b) formulating an alternative solution which:
 - (i) complies with the performance requirements, or
 - (ii) is shown to be at least equivalent to the deemed to satisfy provision.
- (c) combination of (a) and (b).

Details are to be included with the plans and specification accompanying a Construction Certificate application.

(4) Heritage requirements

To ensure the heritage significance of the site is maintained, the following heritage requirements apply during construction and the continued ongoing use of the site:

- (a) The development must be carried out in accordance with the approved Conservation Management Strategy, dated April 2021, prepared by Conrad Gargett.
- (b) The development must retain / repurpose as many original internal features of the church as practicable, including (but not limited to) the following agreed items:
 - (i) the altar
 - (ii) timber pews
 - (iii) communion rail
- (c) The tracks located on the church site are highly likely to be tram tracks associated with the operation of the Rous Sugar Mill – 1882-1901. These items are to be left in situ on the site and preferably interpreted to add to the wider understanding of the site's history and heritage values. Refer to the Heritage Office / Premier & Cabinet publication "Interpreting Heritage Places and Items Guidelines" for further information.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE – For the FIRST STAGE of the Development (unless stated otherwise)

(5) Construction Certificate – (Both Stages)

Prior to construction of the approved development it is necessary to obtain a Construction Certificate. Either Council or an appropriately accredited certifier may issue a Construction Certificate. A separate application, complete with detailed plans and specifications, must be made to the Principal Certifying Authority for a Construction Certificate.

(6) Long Service Levy

In accordance with Section 6.8 of the EP & A Act a Construction Certificate will not be issued with respect to the plans and specifications for construction works until any long service levy payable under section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate is 0.35% of the cost of the construction works costing \$25,000 or more.

(7) Section 68 – Plumbing and Drainage

A Section 68 Application for Plumbing and Drainage works, under the provisions of the Local Government Act, must be submitted to Council for approval and approval obtained prior to the issue of the Construction Certificate.

Hydraulic drawings, prepared by a hydraulics consultant, must be submitted with the Plumbing and Drainage Section 68 application. Hydraulic drawings must address all water supply, drainage, trade waste and fire services.

The plans are to be designed in accordance with AS3500 and NSW Code of Practice and other relevant Australian Standards regarding any essential fire services.

(8) Section 68 – Onsite Sewage Management System

An OSSM (Onsite Sewage Management System) Section 68 Application, under the provisions of the Local Government Act, must be submitted to Council for approval and approved obtained prior to the issue of the Construction Certificate. An on-site sewage management report prepared by a suitably qualified person must be submitted with the Section 68 application.

(9) Landscaping Plan

A landscaping plan must be submitted to and approved by the Principal Certifying Authority prior to the release of a Construction Certificate. The landscaping plan must:

- be designed to achieve a vegetative buffer to the eastern, northern and western boundaries
- include a diagram showing the location, spacing and height of the vegetation
- include a list of plant species to be planted
- details of advanced tree species to be planted on the eastern boundary
- Contain a range of performance goals that are measurable and include a commitment that unless the goals are achieved the landscape program will be extended and enhanced until they are achieved.
- The vegetation shall provide a permeable barrier which will allow air to pass through the buffer (at least 20% of the screen should be open space)
- A timetable for the implementation of all planting and maintenance
- Measures to be implemented to ensure that all buffers are managed to attain a 5 metre height, approximately 20% optical porosity and will be maintained and protected for the life of the development

(10) Photographic record - Heritage

Prior to the carrying out of any development works on the site or the issue of a Construction Certificate, an archive quality digital photograph record is to be made of the building and site (including Donald's headstone) to capture the current state of the building, its moveable heritage, and the overall setting of the building before these elements are subject to any new changes. The photographic record is to be prepared in accordance with the heritage office guidelines for making a photographic archive record.

The photographic record is to be submitted to Council and the Ballina Library prior to the issue of a Construction Certificate.

(11) Civil works

Prior to the issue of the Construction Certificate, engineering design drawings shall be submitted to and approved by Council for civil/subdivision works required by this consent. These drawings shall also include associated works required under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act for the following civil works.

Details are to be in accordance with the current Northern Rivers Local Government Development Design and Construction Manuals and/or in accordance with other design requirements from Austroads, Australian Standards and/or Roads & Maritime Services where specified.

(12) Property access (rural)

The design and construction of all rural driveways shall be in accordance with AS 2890 and Standard Drawings R14 & R15 of the Northern Rivers Local Government Development Design and Construction Manuals. Details are to be submitted to and approved by Council prior to the issue of the Construction Certificate.
The minimum width of the access driveway is to be 5.5 metres.

(13) Car parking & vehicular access

The development shall provide a minimum of **eight** parking spaces on-site which are constructed from all-weather dust free material. The design of all car parking and vehicular accesses are to be in accordance with the Australian Standard AS/NZS 2890.1:2004. Design plans are to be certified by a suitably qualified professional and approved by the Principal Certifying prior to issue of the Construction Certificate.

(14) Car parking for disabled

The design of the disabled car parking space is to be in accordance with Australian Standard AS/NZS 2890.6: 2009 and must be constructed from concrete or have a bitumen surface. The proposed accessible parking space (shown in Proposed Site Plan – DA 10 - Issue C – Dated 15.01.2020) is to be rotated to be perpendicular with the access driveway to allow entry and exit from the site in a forward direction. Design plans are to be certified by a suitably qualified professional and approved by the Principal Certifying prior to issue of the Construction Certificate.

(15) Flooding and Stormwater – (Both Stages)

Stormwater controls shall be provided on site in accordance with the Water Sensitive Design requirements of Council's Combined Development Control Plan Chapter 2 – Section 3.9 – Stormwater Management. This is to include the shaping of driveways and paved areas to drain to landscaped/vegetated areas/road reserve. Overland flow paths must be incorporated into the design directing overflows to the street or public drainage systems. Overland flow paths must not to be impeded by structures or landscaping. A Stormwater Management Plan and detailed design, prepared by a suitably qualified hydraulics consultant and/or Engineer, must be submitted to and approved by the Principal Certifying prior to the issue of the Construction Certificate.

(16) Section 138 Driveway Approval

Prior to the issue of a Construction Certificate, a Section 138 application is to be made and fee paid for works on the road reserve. The driveway is to be a minimum width of 5.5 metres. The fee is subject to review and may vary from the time of consent till time of payment see Councils schedule of Fees and Charges for the current rates.

(17) Developer Contributions

Prior to issue of a Construction Certificate where building work is proposed, payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 7.11 of the Environmental Planning & Assessment Act, 1979:

Contribution Plan/Development Servicing Plan	Adopted
Cumalum Urban Release Area Precinct A Contributions Plan 2015	26 February 2015
Ballina Shire Roads Contribution Plan Version 4.1	26 July 2018
Ballina Shire Open Spaces and Community Facilities Contributions Plan 2016	1 January 2017
Ballina Shire Carparking Contributions Plan 2014	14 May 2014
Ballina Shire Heavy Haulage Contribution Plan	27 October 2011

The Contribution Plans provide for the indexing of contribution amounts and are also subject to amendment. The contribution rates payable will be the rates that are applicable at the time payment is made. Copies of the Contribution Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au.

The Contribution amounts applicable at the time this consent is issued are as per Schedule 1 (attached).

PRIOR TO CONSTRUCTION WORK COMMENCING – For the FIRST STAGE of the Development (unless stated otherwise)

(18) Builder's toilet

A suitable builder's toilet is to be provided on-site before building work commences. Such facility is to either connect to Council's sewer or a suitable approved chemical closet is to be provided.

(19) Building waste containment – (Both Stages)

A suitable waste container capable of holding blowable type building waste must be made available on the building site during the course of construction. Building waste such as paper, plastic, cardboard, sarking etc. must be regularly cleaned up and placed in the waste container so that it cannot be blown off the building site and litter the locality.

(20) Safety barrier

The proposed site excavations are to be provided with an adequate safety barrier to protect the public.

(21) Erection of Signs – (Both Stages)

- (1) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.
- (2) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (3) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with Section 109R of the Act, to comply with the technical provision of the NSW Government's building laws.

(22) Building/Demolition works – Asbestos – (Both Stages)

Where building or demolition work involves disturbance, removal or repair of friable or non friable (bonded) asbestos the following applies:

- a) Work involving asbestos removal work (inclusive of repair or disturbance) that involves any amount of friable asbestos or non-friable asbestos (formerly known as bonded asbestos) that exceeds 10 square metres, must be undertaken only by a person who carries on a business of such removal work in accordance with the appropriate licence under Part 8.10 Division 1 of the Work Health and Safety Regulation 2017;
- b) The person having the benefit of this consent must provide the Principal Certifier and/or consent authority with a copy of a signed contract with such a person before issue of the Construction Certificate and or commencement of works;
- c) Any such contract must indicate whether any friable or non- friable asbestos will be removed, and if so, must specify the approximate amount (m2) and the landfill site (that may lawfully receive asbestos) to which the friable or non-friable asbestos material is to be delivered. Note: Ballina Shire Council's Waste Facility does NOT currently accept any material containing asbestos;
- d) In accordance with clause 79 of the *Protection of the Environment Operations (Waste) Regulation 2014* information relating to the movement of any load in NSW of more than 10m² of asbestos sheeting, or 100 kilograms of asbestos waste must be provided to the EPA. To fulfil these requirements waste transporters must use *WasteLocate*. Receipts for disposal shall be retained as evidence of proper disposal;
- e) Notification of asbestos removal work shall be provided to Council, NSW Safe Work and neighbours in the vicinity of the asbestos removal site;
- f) The asbestos removal site shall be adequately fenced and signed prior to any asbestos repair, disturbance or removal; and
- g) If more than 10 square metres of non-friable asbestos (formerly known as bonded asbestos) or any amount of friable asbestos is removed then a suitably qualified person is to undertake a clearance inspection following the asbestos removal work and have a clearance certificate issued in accordance with the requirements of section 473 and 474 of the Work Health & Safety Regulation 2017. A copy of the clearance certificate is to be provided to Public and Environmental Health Section of Council.

(23) Tree protection fencing

To ensure the protection of the trees to be retained on the site, protective fencing is to be installed in accordance with the recommendations within the Arboricultural Impact Assessment Report prepared by Northern Tree Care dated 30 November 2020.

(24) Notice of commencement of civil works

Prior to the commencement of construction, the contractor must submit a completed copy of the "Notice of Commencement of Civil Development Work" form and a copy of their \$20M Public Liability Insurance Policy to Council. Copies of the form are available from Council's website.

(25) Traffic control

All traffic control shall be in accordance with the Roads and Maritime Services "Traffic Control at Work Sites Manual". A Traffic Control Plan must be prepared and submitted to Council by a person holding a current "Design & inspect Traffic Control Plan" qualification. The traffic control plan must be certified and include the designers Name & Certificate Number. Details are to be submitted to Council prior to the commencement of construction.

(26) Soil erosion and sediment control measures – (Both Stages)

shall be designed, installed and maintained in accordance with Managing Urban Stormwater - Soils and Construction, LANDCOM, March 2004.

DURING CONSTRUCTION – For the FIRST STAGE of the Development (unless stated otherwise)

(27) Construction – (Both Stages)

The hours of operation for any noise generating construction activity (including the delivery of materials to and from the site) on the proposed development are to be limited to within the following times:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm

No noise generating construction activities are to take place on Sundays or public holidays.

(28) Fill material – (Both Stages)

The applicant shall ensure that any fill material imported to the site for the proposed development is obtained from fill sources that have an approved testing regime. The supplier of the fill material must certify to the Principal Certifier at the completion of the construction of the development that the material was free of contaminants, being natural or otherwise.

(29) Erosion and sediment control – (Both Stages)

Soil erosion and sediment control measures shall be designed, installed and maintained in accordance with Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004.

(30) Construction waste – (Both Stages)

All demolition, construction or the like waste is to be transported and disposed of to an approved waste facility. If alternative disposal methods are sought, the prior written approval of Council must be obtained.

(31) Contamination – (Both Stages)

Any new information that becomes known during remediation, demolition or construction works which has the potential to alter previous conclusions about the site contamination must be immediately notified to the Council and the Principal Certifying Authority.

(32) Noise – (Both Stages)

Noise associated with the mechanical plant must not give rise to any one or more of the following:

- (a) Transmission of 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy;
- (b) A sound pressure level at any affected property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the mechanical plant at the subject premises. The source noise level must be assessed as LAeq, 15 minute; or
- (c) Notwithstanding compliance with (a) and (b) above, the noise from the mechanical plant must not be audible within any habitable room in any residential property between the hours of 12.00 midnight and 7.00am.

(33) Tree protection

To ensure the protection of the trees to be retained on the site, during construction the recommendations within the Arboricultural Impact Assessment Report prepared by Northern Tree Care dated 30 November 2020 are to be adhered to.

(34) Archaeological Protocol – (Both Stages)

The Applicant must ensure works proceed in accordance with the archaeological protocol presented in Former Uniting Church Rous Mill, Archaeological Protocol, prepared by Everick Heritage dated 24 March 2021.

(35) Unexpected Archaeological Deposits – (Both Stages)

The Applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified as required by s146 of the Heritage Act 1977. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

(36) Civil Works

All civil construction works shall be completed in accordance with the minimum requirements of the Northern Rivers Local Government Development Construction Manuals (as current at the time of construction works commencing) and/or in accordance with other design requirements from Austroads, Australian Standards or Roads & Maritime Services where specified. Inspections and approval of the road, drainage, water & sewer works shall be required by Council's Engineer (or an approved certifying authority) in accordance with the Manual.

(37) Traffic Control

All traffic control during construction shall be in accordance with the Roads and Maritime Services - Traffic Control at Work Sites Manual and the certified traffic control plan. At least one person at the site must be qualified to "Apply Traffic Control Plans" (Yellow Card).

(38) Inspection (driveway and drainage)

Inspection and approval of the driveway and drainage works approved within the road reserve is required by Council's Engineer (Ph 6686 4444) at the time of excavation and prior to sealing of the works. Should the inspection reveal unsatisfactory subgrade material, the developer shall be required to remove the unsuitable material for a further depth of 700 mm and replace with approved sand fill.

(39) Damage to Council infrastructure – (Both Stages)

Damage to any grass verge, footpath, kerb and guttering, utility services or road within the road reserve as a result of construction works related to the development shall be immediately reinstated to a satisfactory and safe condition. Council's Engineer must be contacted on telephone 6686 4444 at the time any damage occurs to ensure appropriate reinstatement works are undertaken.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE – For the FIRST STAGE of the Development (unless stated otherwise)

(40) Fire safety certificate – (Both Stages)

On completion of the erection of the building, the owner is required to provide Council with a Fire Safety Certificate certifying that all essential services installed in the building have been inspected and tested by a competent person and were found to have been designed and installed to be capable of operating to the minimum standard required by the BCA.

(41) Occupation certificate – (Both Stages)

An Occupation Certificate is to be obtained prior to commencement of use or occupation of the premises. Where Council is not the Principal Certifying Authority the applicant shall ensure that a Certificate of Occupation prepared by the Principal Certifying Authority is submitted to Council prior to occupation of the building.

(42) Water Quality Assurance Program

All Private Water Supplies must be managed in accordance with NSW Health's Private Water Supply Guidelines (2014). The potable water shall generally meet the Australian Drinking Water Guideline's requirements. A water quality assurance program (QAP) shall be developed and submitted to NSW Health. A copy of the QAP and NSW Health cover letter shall be submitted to and approved by Council prior to the release of any Occupation Certificate.

(43) Mosquito Management / First Flush Diversion

In accordance with Ballina DCP 2012 Chapter 2 Part 3.6 'Mosquito Management' all windows, external doors and other openings on the new buildings must be provided with effective insect screening and any rainwater tanks shall be fitted with screening of a durable material to prevent mosquito breeding and insect entry. Tanks must be fitted with a 'first flush diversion' device installed by a licenced plumber. The screening and structures shall be maintained to continue to prevent entry of mosquitoes.

(44) Access and mobility – (Both Stages)

To ensure the completed development has been constructed to provide access and facilities for people with a disability or limited mobility in accordance with the principles of the Disability Discrimination Act 1992 and the Council's planning instruments, written verification shall be provided by a suitably qualified Access and Mobility Specialist.

The document shall verify that the completed development is accessible to people with a disability in accordance with:

- AS 1428.1 Design for access and mobility – General requirements for access – New building work,
- The provisions of the Disability (Access to Premises – Buildings) Standards 2010.

This verification statement is to be provided to the Principal Certifying prior to the issue of any Occupation Certificate for Stage 1 and 2.

Nothing in this condition alters any obligations imposed under the Disability Discrimination Act 1992.

(45) Civil works

All civil works approved under Section 138 of the Roads Act 1993, are to be completed to the satisfaction of Council prior to issue of an Occupation Certificate. All works are to be completed in accordance with the Northern Rivers Local Government Development Design and Construction Manuals and the approved design.

(46) Property access (rural)

An all-weather access is to be constructed in accordance with AS 2890 and Standard Drawings R14 & R15 of the Northern Rivers Local Government Development Design and Construction Manuals. All works are to be completed and approved by the Principal Certifying Authority prior to issue of the Occupation Certificate.

(47) Car parking (standard)

The construction of all car parking and vehicular accesses is to be in accordance with the approved Construction Plans and Australian Standard AS/NZS 2890.1: 2004. All works are to be certified by a suitably qualified consultant prior to issue of the Occupation Certificate.

(48) Car parking (disabled)

The construction of all disabled car parking spaces is to be in accordance with the approved Construction Plans and Australian Standard AS /NZS 2890.6: 2009. All works are to be certified by a suitably qualified consultant prior to issue of the Occupation Certificate.

(49) Heritage Act 1977 – (Both Stages)

Prior to the issue of an Occupation Certificate, the Applicant shall supply to the Principal Certifier a copy of written correspondence from the Heritage Council of NSW or its delegate confirming that their requirements under any issued Heritage Act 1977 approval have been satisfied.

CONDITIONS OF USE/DURING OCCUPATION – For BOTH STAGES of the Development (unless stated otherwise)

(50) Confirmation and limitations of approved development

The development is confirmed as being for, and limited to, the purpose of the establishment of an Information and Education Facility (art gallery and studio) comprising conversion of existing church building to gallery space, erection of pottery studio and kiln shed for educational classes, and ancillary amenities and associated infrastructure works.

An information and education facility is defined under *Ballina Local Environmental Plan 2012* as:

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

Any retail sale of artworks must remain a subordinate and ancillary component of the primary purpose of the art gallery, being for the exhibition and display of items / art.

To further clarify the limitations of the consent, the approved development:

- Must have no more than five students attending the pottery classes on the site at any one time.
- Is restricted to holding a maximum of eight specialised exhibitions per year.
- Must not incorporate the retail sale of food and drinks from the premises.
- Must not provide foods to guests that involve cooking and/or other preparation without prior written consent from Council.
- Must not be used at any time for any form of residential accommodation. Note: The subject site, Lot 23 DP 805799, does not benefit from a dwelling entitlement.

(51) Operational hours

The hours of operation for the development are limited to:

Pottery teaching studio

- Seven days a week 10am to 5pm

Art gallery / exhibitions

- Monday to Friday (and one weekend a month) 10am to 5pm
- The opening day only of the approved maximum eight specialised exhibitions per year is permitted to operate from 10am to 8pm i.e. if eight specialised exhibitions proceed in any given year, these extended hours are limited to occurring a maximum of eight days per year.

(52) External Lighting

All external lighting to be installed and operated on site shall comply with the AS 4282:2019 "Control of the obtrusive effects of outdoor lighting".

(53) Amenity

The land use on site shall not interfere with the amenity of the locality by reason of the emission of noise, vibration, odours, fumes, smoke, vapour, steam, dust, water, waste products and the like.

(54) Offensive Noise

The use and occupation of the proposed development, including all plant and equipment installed thereon, and the undertaking of normal operational activities must not give rise to any offensive noise within the meaning of The Protection of the Environment Operations Act, 1997. Offensive Noise means noise:

1. That, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances;
 - a. is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted;
 - b. interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted; or
2. That is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

(55) Waste storage

Waste storage area/s shall be screened from the street frontage and located behind the building line or set back.

(56) Vegetated buffer – (Stage 1)

The vegetated buffer must be completely planted, in accordance with the approved landscape plan within three months of the commencement of works.

(57) Fire safety statement

The owner of the building must provide Council with an annual Fire Safety Statement at least once in each twelve months certifying that the essential and statutory fire safety measures in the building have been inspected and tested by a competent person and were found to have been designed, installed and capable of operating to the minimum standard required by the Fire Safety Schedule. A copy of the Annual Fire Safety Statement together with a copy of the Fire Safety Schedule are to be forwarded to the Commissioner, NSW Fire Brigades, and a copy of the Fire Statement and Schedule, prominently displayed in the building.