

## TWEED SHIRE COUNCIL MEETING TASK SHEET

### User Instructions

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

### Action Item - PLANNING COMMITTEE MEETING Thursday, 1 May 2014

Action is required for Item 3 as per the Planning Committee Recommendation outlined below.

### ATTENTION:

**PLEASE NOTE THE ADOPTION OF THE COMMITTEE RECOMMENDATIONS BY COUNCIL AT ITS MEETING HELD Thursday, 1 May 2014 (Minute No 254 Refers)**

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**TITLE:** [PR-PC] Development Application DA13/0678 for the Erection of a Garage with Shower and Toilet and Colourbond Fence with Privacy Screen to a Height of 2.1m at Lot 2 SP 38780 No. 2/1 Beatrice Court, Pottsville

**Cr B Longland  
Cr K Milne**

**RECOMMENDED** that Development Application DA13/0678 for the erection of an outbuilding with shower and toilet at Lot 2 SP 38780 No. 2/1 Beatrice Court, Pottsville be refused for the following reasons:

1. In accordance with Section 79C (1)(a)(iii) of the Environmental Planning and Assessment Act 1979 (as amended), the proposed development is not considered to be compliant with the following development control plan controls:
  - i. The development does not satisfy the requirements of Tweed DCP 2008 - Section A1, Residential and Tourist Code, particularly Section 2.2 in that it does not provide sufficient deep soil zones to either the rear or front of the property and it does not satisfactorily integrate with the character of the locality and streetscape in terms of its visual impact on existing urban development;
  - ii. The development does not satisfy the requirements of Tweed DCP 2008 - Section A1, Residential and Tourist Code, particularly Section 4.5, in that it fails to satisfactorily address the need for acoustic privacy due to its location (as a workshop/boat storage facility) less than one metre from the main bedroom window of the adjoining property.
  - iii. The development does not satisfy the requirements of Tweed DCP 2008 - Section A1, Residential and Tourist Code, particularly Section 6.2 in that the proposed structure is not visually consistent with the design of the existing dwelling, it fails to reinforce the desired future character and streetscape of the area, particularly the Beatrice Court precinct, and it fails to preserve the amenity of the adjoining property.

The Motion was **Carried**

***FOR VOTE - Cr C Byrne, Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland***  
***AGAINST VOTE - Cr P Youngblutt, Cr W Polglase***

**TITLE:** [PR-PC] Development Application DA13/0678 for the Erection of a Garage with Shower and Toilet and Colourbond Fence with Privacy Screen to a Height of 2.1m at Lot 2 SP 38780 No. 2/1 Beatrice Court, Pottsville

**SUBMITTED BY:** Development Assessment

**FILE REFERENCE:** DA13/0678 Pt1



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.1	Ensure actions taken and decisions reached are based on the principles of sustainability
1.1.1	Establish sustainability as a basis of shire planning and Council's own business operations

### SUMMARY OF REPORT:

The proposal seeks approval for the erection of an outbuilding (41.7m<sup>2</sup>) that contains a shower, toilet and sink. The site was currently zoned 2(a) Low Density Residential and contains an existing attached dual occupancy development that has vehicle access from Andrew Avenue. The proposal complies with all relevant policies in particular DCP A1 Residential and Tourist Development Code. The application was notified for a period of 14 days, during the notification period Council received two submissions objecting to the proposal.

The original plans sought approval for a second driveway, garage 45.5m<sup>2</sup> in size, with a zero setback to the adjoining property boundary with a wall height of 3.58m. The applicant was advised that the second driveway and zero setback to the property boundary would not be supported. The applicant amended the plans removing the proposed second driveway, proposed a one metre setback from the dwellings façade, however the structure was still proposed on the property boundary and retained off-street car parking spaces in front of the garage. The applicant was advised that the proposal would not be supported. The applicant amended the proposal increasing the side setback to the property boundary to 450mm, removed reference to off-street car parking, and reversed the roof pitch so the low side faces the neighbouring property with a height of 3m. The applicant made a final amended design which related to the roof pitch only, the roof pitch is now located in the middle of the roof with the height of the gutters being 2.9m. The proposed roof design is consistent with the surrounding roof designs. This final design is considered the most appropriate, in terms of streetscape and amenity.

The final plans are considered compliant with Council's DCP Section A1 by being setback 450mm from the rear boundary where no greater than 4.5m in height (3.53m proposed), the proposed outbuilding is less than 60m<sup>2</sup> (41.7m<sup>2</sup> proposed), contains a shower, toilet and wash basin, the design and materials are compatible with the dwelling house. The proposed use of the outbuilding is for storage and is not to be used as a separate dwelling, a condition relating to this is recommended if the application were to be approved.

The application is being reported to Council at the request of Councillor Milne and Councillor Bagnall.

**RECOMMENDATION:**

That Development Application DA13/0678 for the erection of an outbuilding with shower and toilet at Lot 2 SP 38780 No. 2/1 Beatrice Court, Pottsville be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos JP - 300 sheet 1-4 Revision C prepared by D-Zyn Drafting Services and dated March 2014, except where varied by the conditions of this consent.

[GEN0005]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

3. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then application shall be made to Council's Engineering Division for approval of such works.

[GEN0155]

4. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

5. The construction of the outbuilding subject to this approval must at no time result in additional ponding occurring within neighbouring properties.

[GENNS01]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

6. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

**PRIOR TO COMMENCEMENT OF WORK**

7. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

8. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (c) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
9. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
- [PCW0225]
10. Residential building work:
- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
    - (i) in the case of work for which a principal contractor is required to be appointed:
      - \* in the name and licence number of the principal contractor, and
      - \* the name of the insurer by which the work is insured under Part 6 of that Act,
    - (ii) in the case of work to be done by an owner-builder:
      - \* the name of the owner-builder, and

- \* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

11. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, 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 site is prohibited.

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.

[PCW0255]

12. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

13. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

14. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

**DURING CONSTRUCTION**

15. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved construction certificate, drawings and specifications.

[DUR0005]

16. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:

**Monday to Saturday from 7.00am to 6.00pm**

**No work to be carried out on Sundays or Public Holidays**

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

17. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.

[DUR0245]

18. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

19. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

20. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

21. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

22. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:

- Noise, water or air pollution.
- Dust during filling operations and also from construction vehicles.
- Material removed from the site by wind.

[DUR1005]

**23. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.**

[DUR1875]

**24. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.**

[DUR1945]

**25. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blow from the site.**

[DUR2185]

**26. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:**

- (a) internal drainage, prior to slab preparation;**
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;**
- (c) external drainage prior to backfilling.**
- (d) completion of work and prior to occupation of the building.**

[DUR2485]

**27. Plumbing**

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.**
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.**

[DUR2495]

**28. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.**

[DUR2545]

**29. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:**

- \* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and**
- \* 50°C in all other classes of buildings.**

**A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.**

[DUR2555]



30. House drainage lines affected by the proposal are to be relocated to Council's satisfaction. Prior to the relocation of any plumbing and drainage lines, a plumbing permit and the relevant plumbing permit fee is to be submitted to Council. Inspection of drainage works prior to covering is required

[DUR2565]

31. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not affect or be affected by the sewer main.

[DUR2645]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

32. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

33. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

34. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

#### **USE**

35. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

36. The outbuilding subject to this approval is not to be used for any habitable, commercial or industrial purpose without prior approval of Council.

[USE0455]

37. The outbuilding subject to this approval is not to be used or adapted for separate residential habitation or occupation.

[USE0465]

**REPORT:**

**Applicant:** Mrs J Sladen  
**Owner:** Mrs Janice Sladen & Mr Peter R Sladen  
**Location:** Lot 2 SP 38780 No. 2/1 Beatrice Court, Pottsville  
**Zoning:** 2(a) Low Density Residential  
**Cost:** \$24,000

**Background:**

The proposal seeks approval for the erection of an outbuilding that contains a shower, toilet and sink. The site contains an existing attached dual occupancy development that has vehicle access from Andrew Avenue. The site has a land area of 808.2m<sup>2</sup> with frontage to Andrew Avenue and Beatrice Court.

The owners of the subject unit have recently constructed a 1.80m high colour bond fence on the property boundary separating No. 1 and No. 2 Beatrice Court and also along the front property boundary of Beatrice Court. At the time the fence was constructed, the fence was exempt under the SEPP (Exempt and Complying Development Codes) 2008 (version 5 July 2013 21 February 2014).

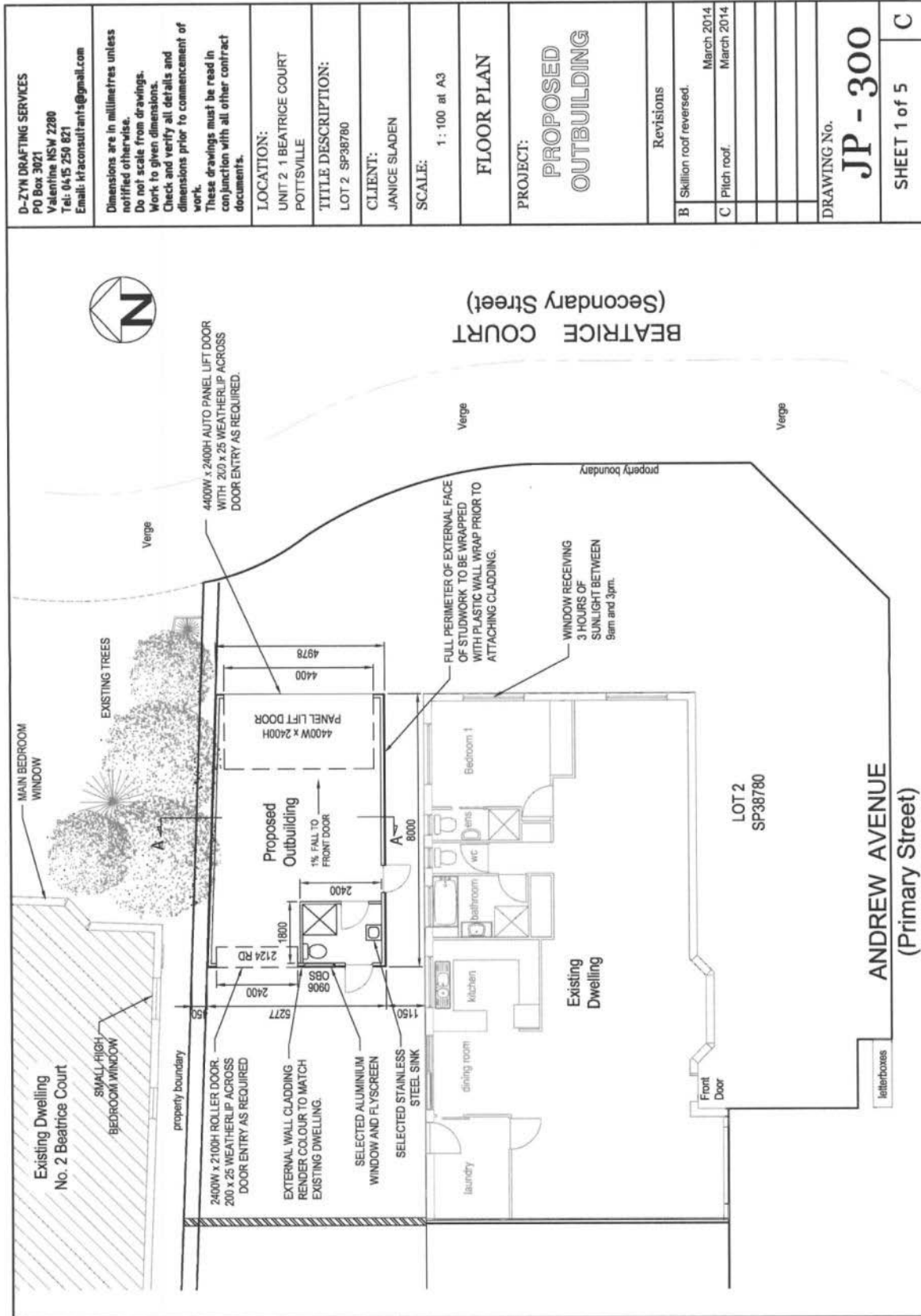
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The final plans are considered compliant with Council's DCP Section A1 by being setback 450mm from the rear boundary where no greater than 4.5m in height (3.53m proposed), the proposed outbuilding is less than 60m<sup>2</sup> (41.7m<sup>2</sup> proposed), contains a shower, toilet and wash basin, the design and materials are compatible with the dwelling house. The proposed use of the outbuilding is for storage and is not to be used as a separate dwelling, a condition relating to this is recommended if the application were to be approved.

The application was lodged prior to gazettal of the Tweed Local Environmental Plan 2014 and therefore is subject to the savings provisions which requires assessment of the application as if the Tweed Local Environmental Plan 2014 had not commenced.



**DEVELOPMENT/ELEVATION PLANS:**



D-ZYM DRAFTING SERVICES  
 PO Box 3021  
 Valentine NSW 2280  
 Tel: 04 15 250 821  
 Email: ktconsultants@gmail.com

Dimensions are in millimetres unless notified otherwise.  
 Do not scale from drawings.  
 Work to given dimensions.  
 Check and verify all details and dimensions prior to commencement of work.  
 These drawings must be read in conjunction with all other contract documents.

LOCATION:  
 UNIT 2 1 BEATRICE COURT  
 POTTSVILLE

TITLE DESCRIPTION:  
 LOT 2 SP38780

CLIENT:  
 JANICE SLADEN

SCALE:  
 1 : 100 at A3

FLOOR PLAN

PROJECT:  
**PROPOSED  
 OUTBUILDING**

Revisions

B	Skillion roof reversed.	March 2014
C	Pitch roof.	March 2014

DRAWING No.

**JP - 300**

SHEET 1 of 5

C

<p><b>D-ZYN DRAFTING SERVICES</b>                  P.O. Box 3021                  Valentine NSW 2280                  Tel: 04 75 250 821                  Email: kzaconsultants@gmail.com</p>	<p>Dimensions are in millimetres unless notified otherwise.                  Do not scale from drawings.                  Work to given dimensions.                  Check and verify all details and dimensions prior to commencement of work.                  These drawings must be read in conjunction with all other contract documents.</p>	<p><b>LOCATION:</b>                  UNIT 2 1 BEATRICE COURT                  POTTSVILLE</p>	<p><b>TITLE DESCRIPTION:</b>                  LOT 2 SP38780</p>	<p><b>CLIENT:</b>                  JANICE SLADEN</p>	<p><b>SCALE:</b>                  1 : 100 at A3</p>	<p><b>ELEVATIONS AND SECTION</b></p>	<p><b>PROJECT:</b>  <b>PROPOSED                  OUTBUILDING</b></p>												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Revisions</th> <th style="width: 50%;">Date</th> </tr> <tr> <td>B Skillion roof reversed.</td> <td>March 2014</td> </tr> <tr> <td>C Pitch roof.</td> <td>March 2014</td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </table>								Revisions	Date	B Skillion roof reversed.	March 2014	C Pitch roof.	March 2014						
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<p><b>C</b></p>																			

**NORTH ELEVATION  
 VIEW FROM  
 No. 2 BEATRICE COURT**

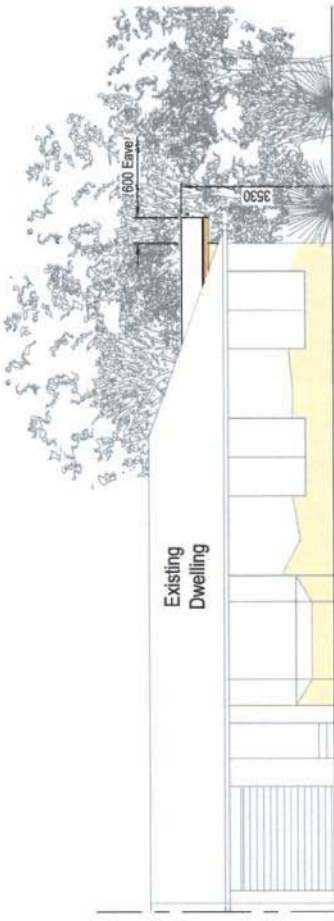
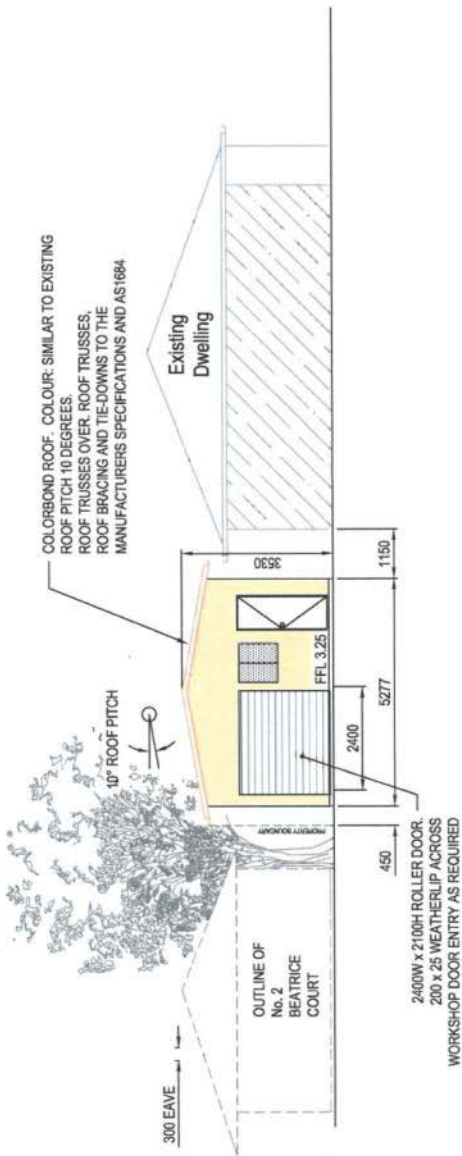
Annotations: 10° ROOF PITCH, INSTALL SISALATION UNDER ROOF SHEETING, ROOF TRUSSES TO MANUFACTURERS SPECIFICATIONS 10° PITCH, CEILING AND WALLS INSULATION - R2.5 BATTS, R.C. SLAB TO ENGINEERS DESIGN AND DETAILS, WRAP ALL WALL FRAMES WITH PLASTIC WALL WRAP. WALL FRAMING, TIE DOWNS AND BRACING TO MANUFACTURERS SPECIFICATIONS.

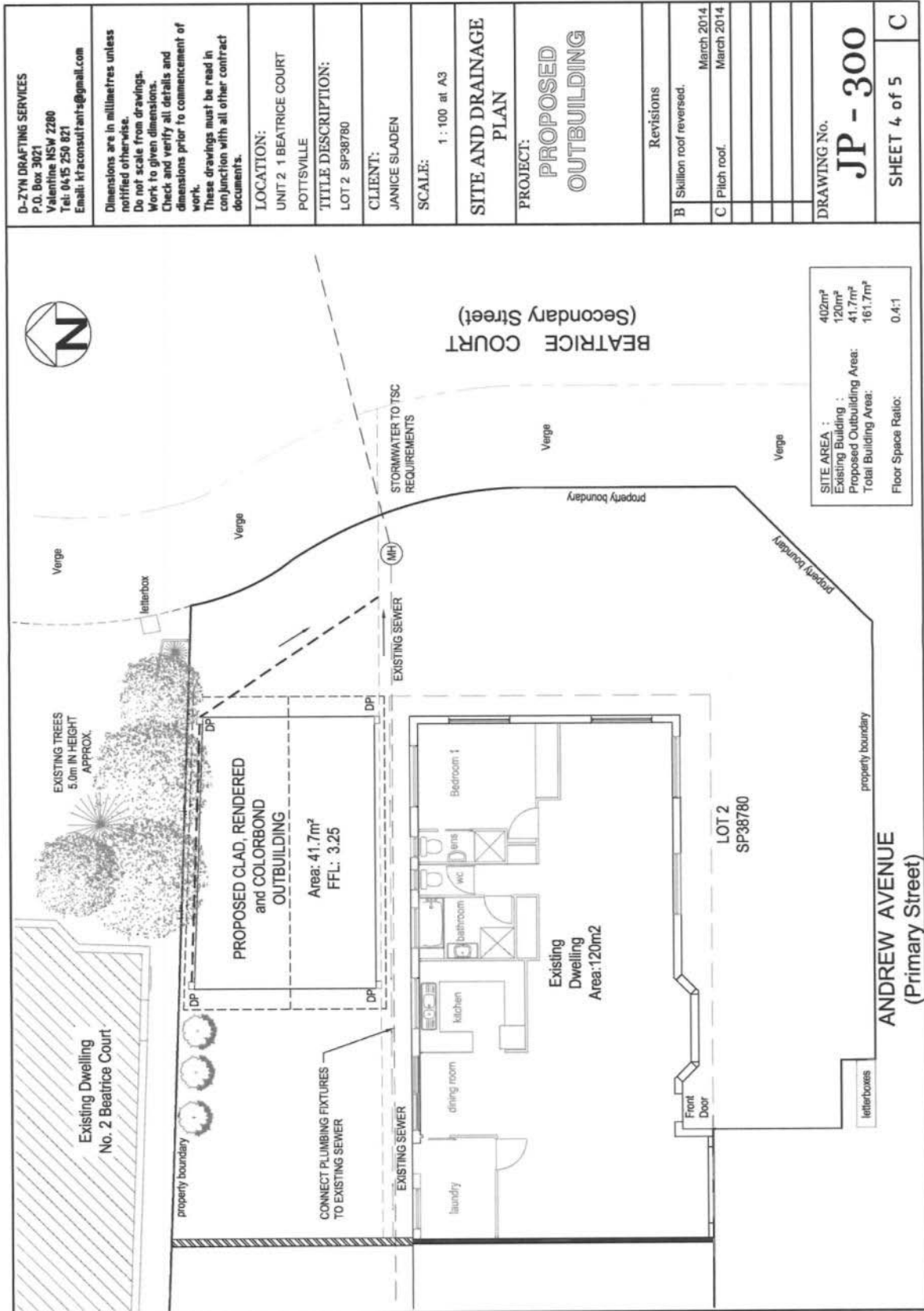
**SECTION A-A  
 DESIGN AND DETAILS**

Annotations: SELECTED COLORBOND GUTTER COLOUR: SIMILAR TO EXISTING FASCIA AND DOWNPIPE TO THE MANUFACTURERS SPECIFICATIONS, 300 EAVE, 10° ROOF PITCH, COLORBOND ROOF. COLOUR: SIMILAR TO EXISTING. ROOF PITCH 10 DEGREES. ROOF TRUSSES OVER ROOF TRUSSES, ROOF BRACING AND TIE DOWNS TO THE MANUFACTURERS SPECIFICATIONS AND AS1684, 4400W x 2400H AUTO PANEL LIFT DOOR. 200 x 25 WEATHERLIP ACROSS DOOR ENTRY AS REQUIRED.

**EAST ELEVATION**

Annotations: 10° ROOF PITCH, 300 EAVE, 4400W x 2400H AUTO PANEL LIFT DOOR. 200 x 25 WEATHERLIP ACROSS DOOR ENTRY AS REQUIRED.

<p><b>D-ZYN DRAFTING SERVICES</b>                  P.O. Box 3021                  Valentine NSW 2200                  Tel: 0415 250 821                  Email: ktaconsultants@gmail.com</p> <p>Dimensions are in millimetres unless notified otherwise.                  Do not scale from drawings.                  Work to given dimensions.                  Check and verify all details and dimensions prior to commencement of work.                  These drawings must be read in conjunction with all other contract documents.</p>	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">  <p style="text-align: center;"><b>SOUTH ELEVATION</b></p> </div> <div style="width: 45%;">  <p style="text-align: center;"><b>WEST ELEVATION</b></p> </div> </div>						
<p><b>LOCATION:</b> UNIT 2 1 BEATRICE COURT POTTSVILLE</p> <p><b>TITLE DESCRIPTION:</b> LOT 2 SP 38780</p> <p><b>CLIENT:</b> JANICE SLADEN</p> <p><b>SCALE:</b> 1 : 100 at A3</p>	<p><b>ELEVATIONS</b></p> <p><b>PROJECT:</b> <b>PROPOSED OUTBUILDING</b></p>						
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<p>DRAWING No. <b>JP - 300</b></p>							
<p>SHEET 3 of 5</p>							
<p><b>C</b></p>							



**D-ZYN DRAFTING SERVICES**  
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**LOCATION:**  
 UNIT 2 1 BEATRICE COURT  
 POTTSVILLE

**TITLE DESCRIPTION:**  
 LOT 2 SP38780

**CLIENT:**  
 JANICE SLADEN

**SCALE:**  
 1 : 100 at A3

**SITE AND DRAINAGE PLAN**

**PROJECT:**  
**PROPOSED OUTBUILDING**

Revisions

B	Skillion roof reversed.	March 2014
C	Pitch roof.	March 2014

**DRAWING No.**  
**JP - 300**

**SHEET 4 of 5**

**C**

## Considerations under Section 79c of the Environmental Planning and Assessment Act 1979:

### (a) (i) The provisions of any environmental planning instrument

#### Tweed Local Environmental Plan 2000 (TLEP 2000)

##### Clause 4 - Aims of the Plan

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan. The vision of the plan is “*the management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced*”. Clause 4 further aims to provide a legal basis for the making of a DCP to provide guidance for future development and land management, to give effect to the Tweed Heads 2000+ Strategy and Pottsville Village Strategy and to encourage sustainable economic development of the area which is compatible with the Shire’s environmental and residential amenity qualities.

The proposed development is considered consistent with the aims of the plan.

##### Clause 5 - Ecologically Sustainable Development

The minor scale of the proposed development does not contravene the four principles of ecological sustainable development. The development results in:

- a) No irreversible environmental damage.
- b) The environment is maintained for the benefit of future generations.
- c) The biological diversity and ecological integrity is retained and a fundamental consideration.
- d) The environmental qualities of the locality are retained.

##### Clause 8 - Consent Considerations

The proposed development is consistent with the primary objectives of the zone, with all other aims and objectives of the plan relevant to the development have been considered and addressed within the body of this report. The proposed development is considered not to have an unacceptable cumulative impact on the local community.

##### Clause 11 - Zone Objectives

The site was zoned 2(a) Low Density Residential, the objectives of the zone are:

##### **Primary objectives**

*In the case of land within Zone 2 (a) between the Tweed Heads Bypass and Cobaki Bridge:*

- *to minimise the number of dwellings subject to unacceptable aircraft noise and to limit development within the Kennedy Drive traffic catchment so that development is compatible with Kennedy Drive traffic capacity.*

*In the case of all other land within Zone 2 (a):*

- *to provide for and maintain a low density residential environment with a predominantly detached housing character and amenity.*

##### **Secondary objectives**



- *to allow some diversity of housing types provided it achieves good urban design outcomes and the density, scale and height is compatible with the primary objective.*
- *to allow for non-residential development that is domestically based, or services the local needs of the community, and does not detract from the primary objective of the zone.*

The proposed outbuilding retains the existing population density of the site, housing character and amenity. The proposal is considered consistent with the objectives of the site. The proposed outbuilding is ancillary to the existing residential use of the site.

#### Clause 15 - Essential Services

All necessary urban services are available to the site, with the outbuilding proposing to connect to the internal, water, sewer and stormwater. Accordingly it is considered that the proposal complies with this Clause.

#### Clause 16 - Height of Building

The proposed height of the outbuilding is single storey within a two storey height restricted area. The height of the surrounding dwellings are single to two storey in height. The proposal is considered to comply.

#### Clause 17 - Social Impact Assessment

The proposed development is minor and is not likely to have a significant social or economic impact in the locality, therefore a Social Impact Assessment is not required.

#### Clause 35 - Acid Sulfate Soils

The site is identified as having class 3 ASS, works are not likely 1m below the natural ground level or likely to disturb the watertable or ASS.

#### Clause 34 - Flooding

The site is affected by the PMF, however the site is not affected by the Q100. The proposed Outbuilding is not for habitable use, with the proposal unlikely to be affected by flooding or create flooding impacts on adjoining properties. The proposal is considered to comply with the clause.

#### Clause 54 - Tree preservation order

The site is covered by TPO 'Bushland affected by Tree Preservation Order (2011)', however the removal of vegetation is not proposed or required. It is noted that vegetation is located adjacent to the proposed Outbuilding, these trees are within 8m of the existing dwellings and proposed outbuilding.

### **State Environmental Planning Policies**

#### **SEPP (North Coast Regional Environmental Plan) 1988**

##### Clause 32B Development control - coastal lands

The proposal is considered not to negate the objectives of the following policies:

- the NSW Coastal Policy 1997,
- the Coastline Management Manual, and
- the North Coast: Design Guidelines.

The proposed development is considered not to contravene the objectives of Clause 32B by: not creating any significant adverse effects to the public access to

the foreshore, create overshadowing to beaches, waterfront open space before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time).

#### Clause 43 – Residential development

The proposal occurs within an existing 2(a) low density residential zone, and is not considered to adversely affect the environmental features of the land, there is suitable access to services and physical suitability of the site is satisfied with erosion management controls proposed. The proposal is therefore considered to comply with the objectives of clause 43 of the NCREP.

#### 81 Development control - development adjacent to the ocean or a waterway

The subject site is within 100m of a waterway, accordingly the clause applies. The proposal will not permanently reduce or affect access to or along the foreshore open space. The proposed outbuilding will not detract from the amenity of the waterway, with the proposal consistent with the principles of any foreshore management plan applying to the area. The proposal is considered to comply with the clause.

#### SEPP 71 – Matters for Consideration

The site is located within the area to which the policy applies. The proposed development is not within 100m below the mean high water mark of the sea, a bay or an estuary being significant coastal development but the development is within 100 metres above the mean high water mark of the sea, a bay or an estuary being sensitive coastal location. The proposal is considered not to adversely affect the access to and along the coastal foreshore, limit overshadowing of foreshore areas and that the type, bulk, scale and size of the development is appropriate within the SEPP 71 zone.

### **(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

#### **Draft LEP 2012**

The site is covered by the Draft LEP 2012, it is pertinent to note that the Draft LEP 2014 was adopted on 4 April 2014. The proposed outbuilding is permissible with consent and complies with the permitted building height of 9m and floor space ratio of 0.8:1. The proposal is considered consistent with the Draft LEP 2012.

### **(a) (iii) Development Control Plan (DCP)**

#### Tweed Development Control Plan

##### A1 Residential and Tourist Development Code

The proposed outbuilding is considered to comply with the code, refer to A1 assessment on file for further detail.

##### A2 Site Access and Parking

The proposal does not require or propose additional site access or parking. The proposal is considered to comply with the code.

##### A3 Development of Flood Liable Land

The site is affected by the PMF, however the site is not affected by the Q100. The level of next highest flood level is 2.6m AHD, with the existing ground level at approximately 3m. The proposed outbuilding is not for habitable use, with the proposal unlikely to be affected by flooding or create flooding impacts on adjoining properties. The proposal is considered to comply with the policy.

##### A11 Public Notification

The application was notified for a period of 14 days from Wednesday 8 January 2014 to Wednesday 22 January 2014. During the notification period two submissions were received, the contents of the submissions addressed later within this report.

B21 Pottsville Based Locality Code

The development comprises the construction of a single storey detached outbuilding within a previously approved Council subdivision. It is considered that the development would be consistent with the surrounding residential area and the design and density are in keeping with the general character and surrounding development.

The development is considered to be in accordance with section B21.

**(a) (iv) Any Matters Prescribed by the Regulations**

Clause 92(a) Government Coastal Policy

No implications.

Clause 92(b) Applications for demolition

No implications.

Clause 93 Fire Safety Considerations

Not Applicable.

Clause 94 Buildings to be upgraded

Not Applicable.

**(a) (v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),**

**Tweed Shire Coastline Management Plan 2005**

Not Applicable.

**Tweed Coast Estuaries Management Plan 2004**

Not Applicable.

**Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)**

Not Applicable.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Context and Setting

The development is considered to create acceptable environmental impacts on the natural and built environments and acceptable social and economic impacts in the locality. The proposal is for an outbuilding/shed to be used for the storage of residential goods ancillary to the existing dwelling. The proposal is considered not to create an unacceptable impact on the locality.

**(c) Suitability of the site for the development**

Surrounding Landuses/Development

A number of the matters identified above have previously been discussed throughout the report, it is determined that the site is suitable for the proposed development when considering those matters. The proposal is for an

outbuilding/shed to be used for the storage of residential goods ancillary to the existing dwelling, the site is considered suitable for the proposed development.

**(d) Any submissions made in accordance with the Act or Regulations**

The application was notified for a period of 14 days from Wednesday 8 January 2014 to Wednesday 22 January 2014. During the notification period two submissions were received, the contents of the submissions are addressed in the table below.

Summary of Submissions	Response
Impact on Streetscape.	<p>The proposed outbuilding is single storey in height with a pitched roof matching the roof of the existing dwelling on the subject site and neighbouring dwelling roof style. The outbuilding has a maximum pitch height of 3.530m with the gutters having a height of 2.8m. The proposed height complies with Council's building height requirements of 4.8m.</p> <p>The outbuilding is setback 5.7m and 3.3m from the secondary property boundary due to the irregular shape of the site due to the irregular shape of the cul de sac of Beatrice Court, this is compliant with Council's requirements of a 3m minimum setback to secondary street frontage on corner allotments. The front and side/rear property boundary, where the outbuilding is proposed, contains a solid 1.8m high colour bond fence which assists in screening the majority of the outbuilding from the street or neighbouring property.</p>
Impact on amenity of front elevation of the neighbouring front yard.	<p>The outbuilding is setback 450mm from the side/rear boundary to the neighbouring property, which complies with Council's requirements, also the side/rear boundary contains a solid 1.8m high colour bond fence and vegetation which assists in screening the proposal from the neighbouring property.</p>
Ponding/Drainage.	<p>The subject site and neighbouring property are level, however, a condition prohibiting additional ponding occurring within neighbouring properties is recommended. The condition reads as follows: <i>"The construction of the outbuilding subject to this approval must at no time result in additional ponding occurring within neighbouring</i></p>

Summary of Submissions	Response
	<i>properties."</i>

### **Public Authority Submissions Comment**

No public authority comments were required or received regarding the application.

### **(e) Public interest**

The proposal is consistent with Council's DCP requirements and therefore is within the public interest.

### **OPTIONS:**

That Council:

1. Approves the application subject to recommended conditions.
2. Refuses the application and provides reasons for refusal.

Council officers recommend Option 1.

### **CONCLUSION:**

The proposed is permissible with consent, consistent with relevant environmental planning instruments, and Council policy requirements. The proposal is considered suitable and appropriate for the subject site, and considered not to create a significant adverse impact on the natural or built environments or have detrimental social or economical impact on the locality.

### **COUNCIL IMPLICATIONS:**

#### **a. Policy:**

Corporate Policy Not Applicable.

#### **b. Budget/Long Term Financial Plan:**

Not Applicable.

#### **c. Legal:**

The applicant may lodge an appeal against Council's determination in the Land and Environment Court.

#### **d. Communication/Engagement:**

Not Applicable.

### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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