

PLANNING SYSTEM

Local planning

Circular	PS 09-028
Issued	26 October 2009
Related	Replaces PS 08-012

Planning for entertainment

The purpose of this circular is to advise councils of changes that have been introduced to the regulation of public entertainment under the *Environmental Planning and Assessment Act 1979*.

Amendments have been made to the planning system to facilitate the wider provision of live entertainment at premises around NSW by removing unnecessary regulation whilst retaining appropriate safeguards to public amenity and safety.

Commencing on 26 October 2009 there will be a simpler and fairer approval system for live entertainment that will replace the place of public entertainment licensing system which has been removed. As part of the changes the term 'place of public entertainment' (POPE) will be removed from relevant planning legislation.

The changes mean that pubs, restaurants, registered clubs and other venues do not need development consent to provide live, or any other form of, entertainment that is part of the venue's main business.

The changes have been put into effect by:

- commencing certain provisions in the *Environmental Planning and Assessment Amendment Act 2008* that repeal the definitions of place of public entertainment and public entertainment and allow for regulations to be made dealing with entertainment venues
- amending the Environmental Planning and Assessment Regulation 2000 to introduce a definition of 'entertainment venue' as cinemas, theatres, concert halls and indoor sports stadiums, which will replace the term POPE and relate to a narrower range of uses. The amendments also allow for councils to impose reviewable conditions on development consents relating to hours of operation and maximum capacity, and make a number of other changes relating to the regulation of entertainment venues and temporary structures
- amending State Environmental Planning Policy (Places of Public Entertainment and Temporary Structures) 2007 (the SEPP) to remove the requirement for development consent for POPEs. The SEPP has also been amended to remove all references to POPEs in the

provisions of the SEPP dealing with temporary structures. As part of the changes, the SEPP will be renamed 'State Environmental Planning Policy (Temporary Structures) 2007'

- amending the Standard Instrument—Principal Local Environmental Plan to change the definitions of restaurant, pub and registered club to include entertainment.

These changes commenced on 26 October 2009 to coincide with the lapsing of any conditions applying to existing POPE approvals that were preserved until that date under the savings and transitional arrangements introduced into the *Environmental Planning and Assessment Act 1979* when POPE licensing was removed in 2007.

The new system will operate as follows:

- POPE licences are no longer needed—venues can have live entertainment as part of their main business without the need for separate approval. Entertainment should now be considered as part of normal activities of pubs, restaurants and registered clubs.
- For new venues, the provision of live entertainment will be considered as part of the development application.
- POPE licences and conditions will no longer have effect from 26 October 2009. However, the conditions on a venue's liquor licence and development consent will remain in force. Where necessary, the NSW Office of Liquor, Gaming and Racing will consider proposals for the application of new liquor licence conditions to regulate security, trading hours, patron numbers and other matters at venues.
- Venues can still apply to the NSW Office of Liquor, Gaming and Racing to modify liquor licence conditions, and to local council to amend development consents.

The role of councils remains important under the new system. Councils will continue to administer the conditions of development consents for venues. If the provision of entertainment breaches a development consent condition, council can take action. Councils can also respond to complaints from residents relating to disruptions that may breach a venue's development consent conditions.

Venue operators must continue to ensure that they do not cause undue disturbance to the quiet and good order of their neighbourhood.

The NSW Office of Liquor, Gaming and Racing has enhanced powers under the *Liquor Act 2007* to deal with complaints, and a range of appropriate measures to respond to issues relating to a venue or its patrons. These include negotiating a workable solution between venue operators and local residents. A venue can also be issued with warnings or directions, or have conditions imposed on its liquor licence.

Councils are reminded that if they are concerned regarding the inadequacy of the fire safety aspects of the premises, they can issue an order under section 121 of the *Environmental Planning and Assessment Act 1979*.

Provisions also exist under the *Protection of Operations Act 1997* to control noise from the premises.

Further information

Information on planning for public entertainment, including *Planning for entertainment guidelines* (October 2009) community brochures and fact sheets can be accessed from the Department of Planning's website at:
<http://www.planning.nsw.gov.au/LinkClick.aspx?link=243&tabid=318>

Copies of the *Environmental Planning and Assessment Amendment Act 2008*, Environmental Planning and Assessment Amendment (Entertainment Venues) Regulation 2009, Standard Instrument (Local Environmental Plans) Amendment (Entertainment Venues) Order 2009 and State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) Amendment (Temporary Structures) 2009 are available on the NSW legislation website at:
<http://www.legislation.nsw.gov.au>

If you have further enquiries, please phone the Planning Information Centre 02 9228 6333 or email information@planning.nsw.gov.au.

Note: This and other Department of Planning circulars are published on the web at <http://www.planning.nsw.gov.au/PlanningSystem/Circularsandguidelines/PlanningSystemCirculars/tabid/81/Default.aspx>.

Authorised by:

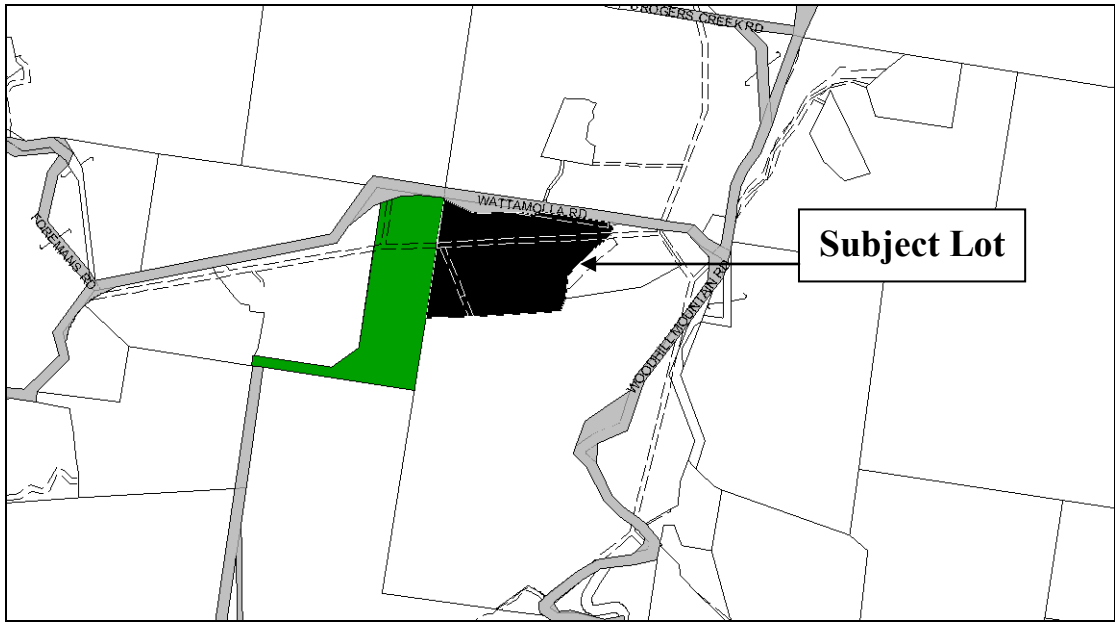
Sam Haddad
Director-General
NSW Department of Planning

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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ATTACHMENT "A"



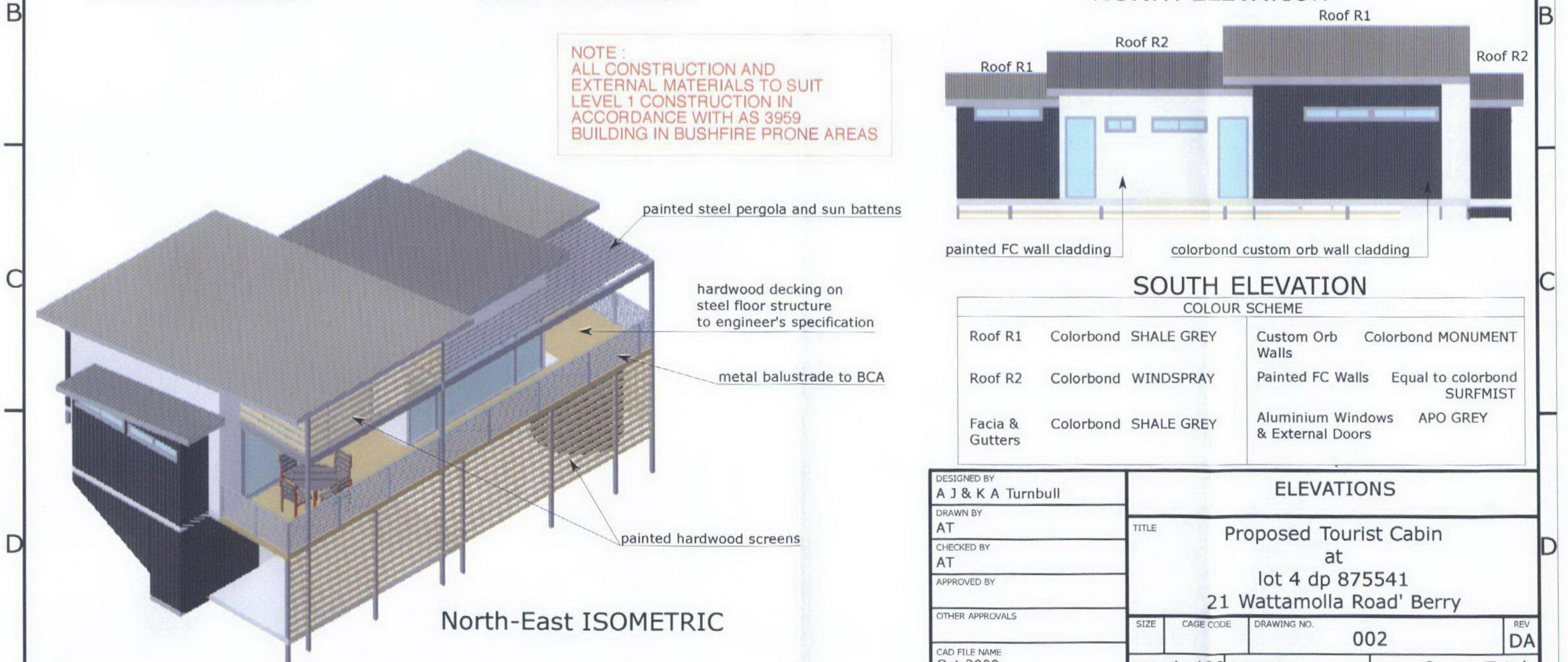


WEST ELEVATION

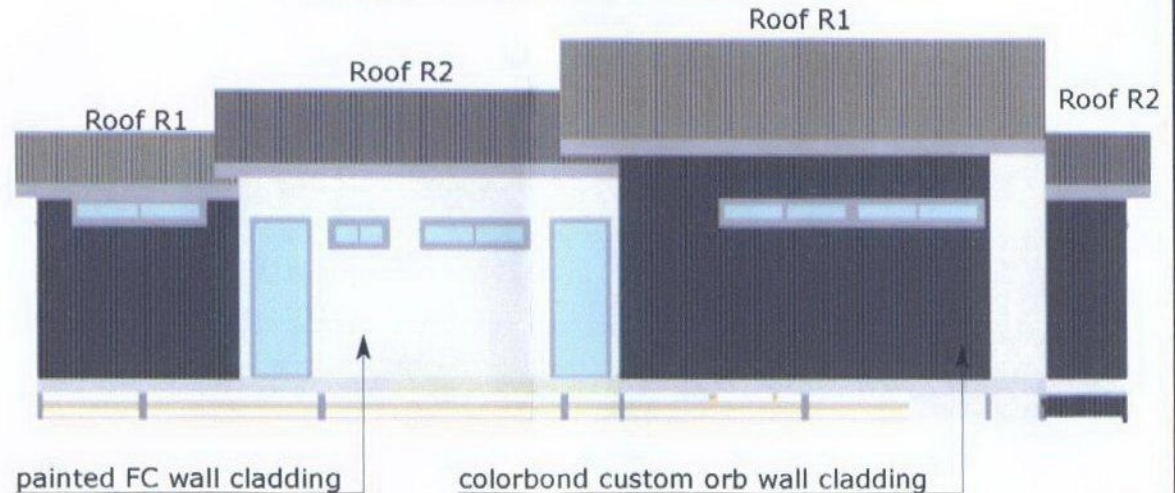
EAST ELEVATION

NORTH ELEVATION

NOTE :
 ALL CONSTRUCTION AND
 EXTERNAL MATERIALS TO SUIT
 LEVEL 1 CONSTRUCTION IN
 ACCORDANCE WITH AS 3959
 BUILDING IN BUSHFIRE PRONE AREAS



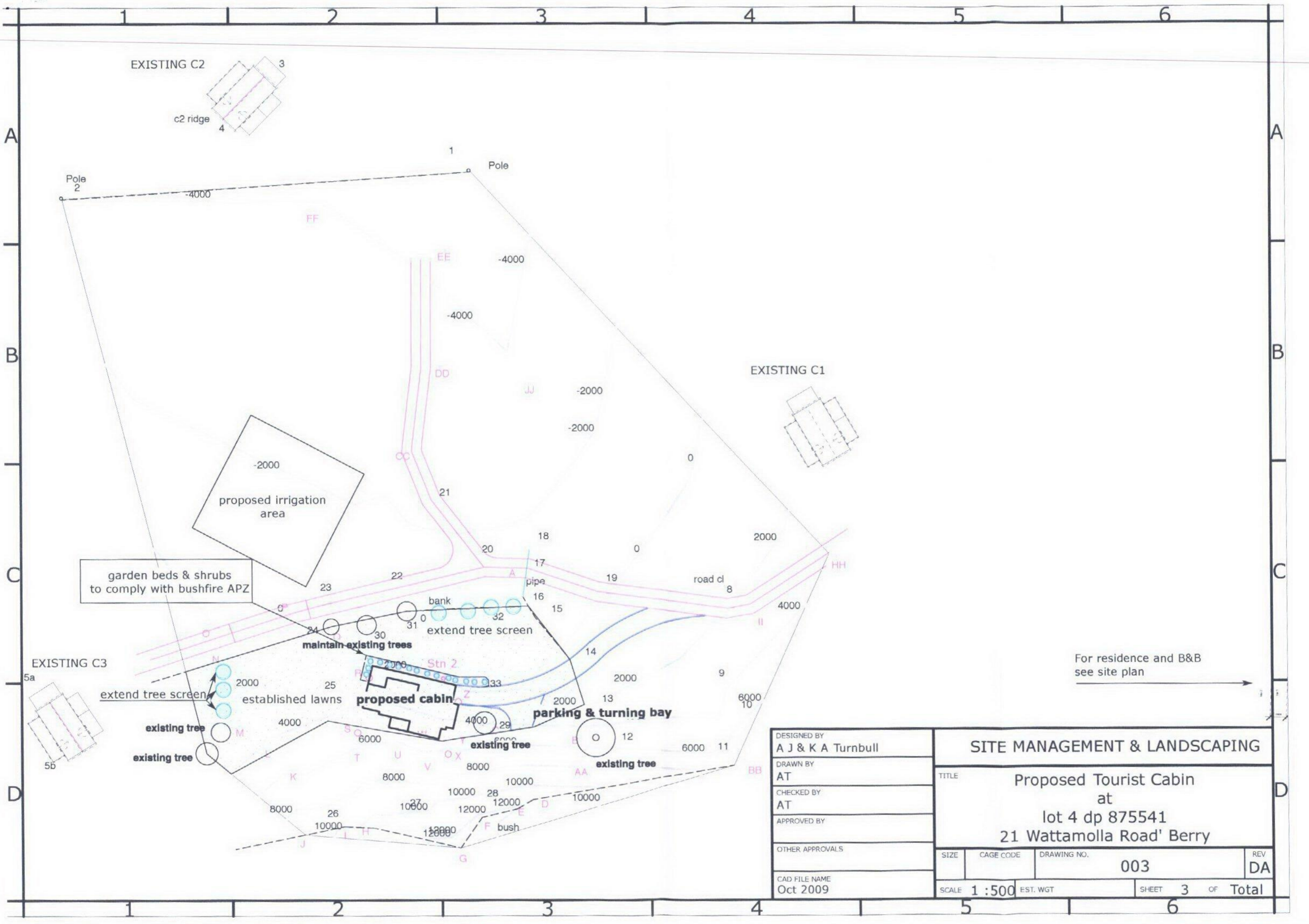
North-East ISOMETRIC



SOUTH ELEVATION

COLOUR SCHEME			
Roof R1	Colorbond	SHALE GREY	Custom Orb Walls Colorbond MONUMENT
Roof R2	Colorbond	WINDSPRAY	Painted FC Walls Equal to colorbond SURFMIST
Facia & Gutters	Colorbond	SHALE GREY	Aluminium Windows & External Doors APO GREY

DESIGNED BY A J & K A Turnbull		ELEVATIONS			
DRAWN BY AT					
CHECKED BY AT		TITLE Proposed Tourist Cabin at lot 4 dp 875541 21 Wattamolla Road' Berry			
APPROVED BY					
OTHER APPROVALS		SIZE	CAGE CODE	DRAWING NO. 002	REV DA
CAD FILE NAME Oct 2009		SCALE 1 : 100	EST. WGT	SHEET 2	OF Total



garden beds & shrubs
to comply with bushfire APZ

proposed irrigation
area

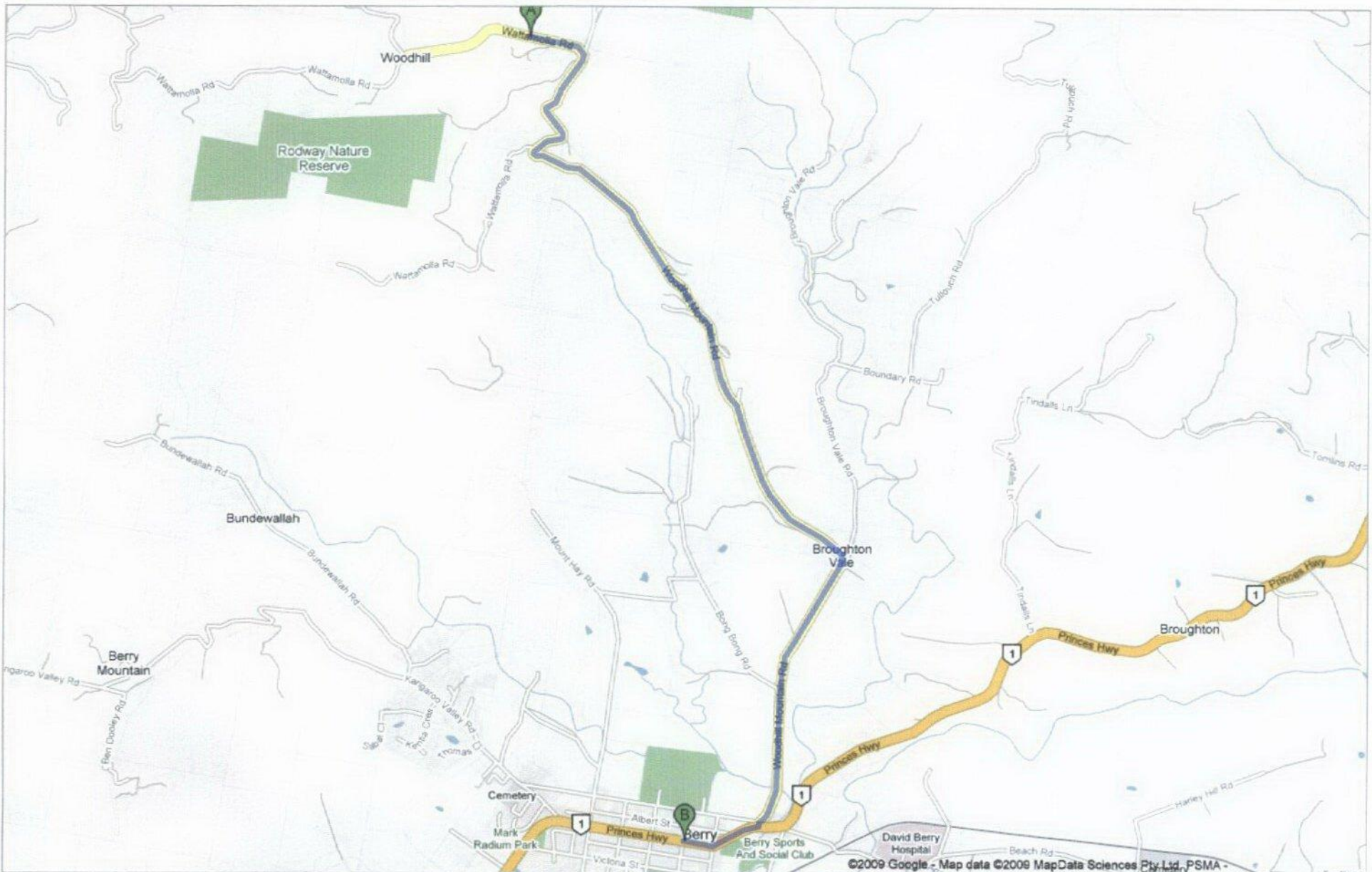
proposed cabin

parking & turning bay

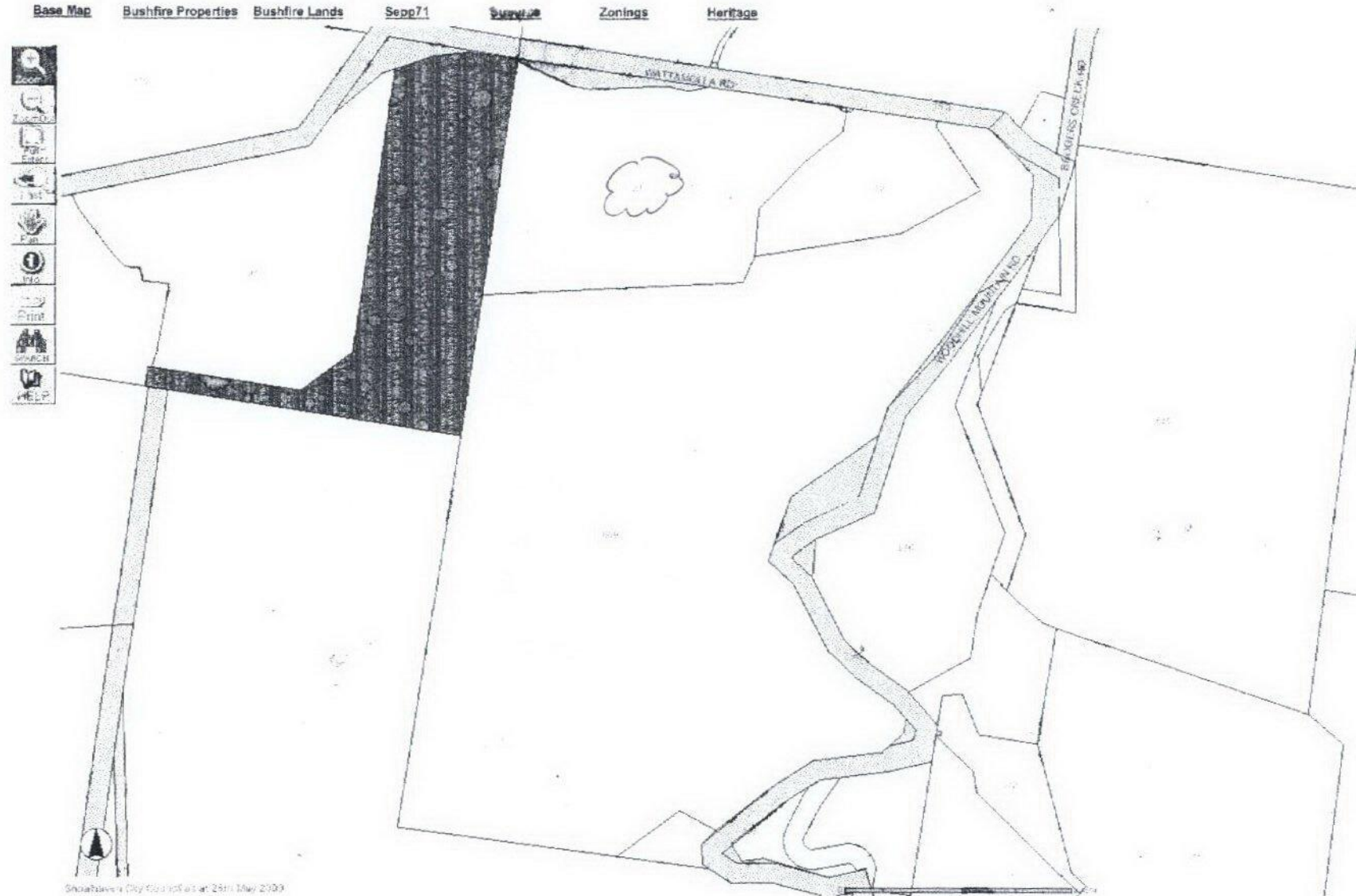
For residence and B&B
see site plan

DESIGNED BY A J & K A Turnbull
DRAWN BY AT
CHECKED BY AT
APPROVED BY
OTHER APPROVALS
CAD FILE NAME Oct 2009

SITE MANAGEMENT & LANDSCAPING			
TITLE Proposed Tourist Cabin at lot 4 dp 875541 21 Wattamolla Road' Berry			
SIZE	CAGE CODE	DRAWING NO. 003	REV DA
SCALE 1:500	EST. WGT	SHEET 3	OF Total



Driving directions to Berry NSW
7.7 km - about 7 mins



Shoalhaven City Council as at 24th May 2009

WATTAMOLLA

ROAD

98 99 100 101

102 103

Lot 4 - 5.88ha

20.145M

North

60.445M

17.15M

79.18M

22.92M

21.1M

133.43M

Pole

49.26M

Pole

C2 EXISTING

88

Pole

LARGE POND

Lot 2

Pole

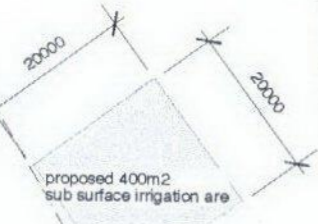
Pole

C1 EXISTING

POND

66.36M

North



90m

TAYLEX MEMBRANE WASTE WATER SYSTEM

PROPOSED

DWELLING

47.0m

46.65M

28.5m

110.2

28.785M

105

104

105

106

C3 EXISTING

100

63m

264.375M

94

95

96

97

98

99

91

92

93

92

91

91

92

Proposed Tourist Cabin at 21 Wattamolla Rd Woodhill - Berry

Lot 4 d.p.875541 Wattamolla Rd Woodhill Mtn.

Site Plan Scale 1 : 1000

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A J & K A Turnbull
2D Old Creamery Lane
Berry NSW 2535

6th October 2009

SHOALHAVEN CITY COUNCIL
DEVELOPMENT SERVICES

ATTENTION Development Services

RE Addition to Existing Tourist Development

“ The Drawing Rooms of Berry”
Lot 4 DP 875541 Parish Broughton.

21 Wattamolla Road
Woodhill / Berry

Dear Sirs

Herewith please find our application proposing an additional tourist cabin to be constructed on the above property.

PREAMBLE The application does not meet the “acceptable solutions” criteria of DCP 63, with regard to Density Standards only, but does so to all other aspects.

We submit that the proposal achieves

- The Relevant Zone Objectives
- The Aims and Objectives of DCP 63
- The Relevant Performance Criteria for each element of DCP 63.

BACKGROUND

The property, 21 Wattamolla Road Woodhill operates under the business name of “The Drawing Rooms of Berry”. The lot is 5.88ha in size, with current development comprising a rural dwelling house containing two rooms for bed and breakfast accommodation, three 2 x bedroom tourist cabins, and a machinery shed.

The operation over the past ten years has proven itself as a very successful tourist development, catering to the higher end of the market. It is an innovative, well designed, quality and quiet development, showcasing one of the most scenic and spectacular mountain areas of the Shoalhaven. The development has preserved the character and environmental quality of our immediate area, with little to no impact on any neighbouring property.

The Drawing Rooms of Berry, while being within a seven-kilometre proximity to the destination town of Berry, has in itself become a destination for tourism. Around 30% of our year round patronage is from returning business, with significantly more being generated by word of mouth.

The operation of the facility is low key, not attempting to project itself in any way as a resort, but rather an exclusive retreat. (See accompanying promotional brochure).

The main thrust of the tourist operation is for the tourist cabins, with the B & B side playing a significantly lesser role.

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We have identified a need in the marketplace for this property to provide for the changing needs of its patronage.

It is proposed to re-furbish the existing facilities to meet this need, and to construct an additional cabin, of a high standard, raising the level of the accommodation on the property above its existing 4.5 star rating. The investment required for refurbishment of the existing facilities would be greatly assisted by the addition of one more cabin. Our proposal is to construct an exclusive 5 star + + one-bedroom cabin to cater to our general clientele, business executives, and honeymoon couples looking for the top end of the market.

AIMS & OBJECTIVES IN RELATION TO DCP 63 Amendment No 5.
"Tourist Development in Rural Areas"

The property 21 Wattamolla Road - Woodhill is zoned
"1a Agricultural Production."

It is situated in a highly scenic location commanding extensive views, and is in a sought after area, which has resulted in the property value far exceeding that of a typical agricultural pursuit. It is well suited for the aims of DCP 63 with regards to tourism operation.

"The Drawing Rooms of Berry" is a highly successful operation, fulfilling the stated aims of DCP 63, being -:

- to foster economic growth through the promotion of tourism
- promote forms of tourist accommodation for short term visitor occupation which are compatible with the scenic quality, natural environment and relaxed lifestyle of Shoalhaven
- maximise opportunities for tourist development, whilst conserving and protecting the natural environment and character of the Shoalhaven, upon which the tourism economy depends.

TOURISM IS A COMMERCIAL INDUSTRY - (Following Information is from Norm White Director - Advance Tourism)

Every commercial operation has three basic components

MARKETS (Customers)	Customers and Markets provide revenue & profits for success.
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PRODUCTS (Or Services)	Products are sold to earn the revenue & profits for success.
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BUSINESS OPERATIONS	Business Structures and Operations are needed to CONNECT the customers with products or services so that revenues and profits can be earned.
------------------------	--

This is fundamental to all commercial operations irrespective of size or industry.

However, TOURISM is like other commercial industry with one significant difference.

MARKETS	<ul style="list-style-type: none">- With Tourism customers do not live locally.- Customers have to be ATTRACTED from distant markets in Australia and overseas.
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BUSINESS OPERATIONS – for tourism is DESTINATION MARKETING

DESTINATIONS –

the products that customers buy are EXPERIENCES, ENJOYMENT, ADVENTURE, RELAXATION – which are provided by DESTINATIONS AND INDIVIDUAL BUSINESSES

With other industries eg retailing, they are able to easily get their marketing messages to their clients because they live locally. Competitor businesses are also local and usually limited in number.

With tourism, the opposite applies

- Tourism customers do not live locally
- Most customers have to buy their holiday destination sight unseen at time of purchase
- In distant markets, local tourism businesses and destinations have tough competition.

Tourism is one of Australia's most competitive industries. Tourism customers in distant markets have a huge array of places and cruises they can select for their holiday or short break.

Every destination, large and small, faces this competition.

Every tourism business is heavily reliant on the popularity and appeal of the destination before visitors can be attracted to become customers of local businesses

It is very important to note that destination marketing activities are ongoing and need to be continuous to guarantee ongoing success.

Marketing of destinations is about

- Knowing your markets
- Always planning for market developments to suit future needs and changing trends
- Developing strategies that successfully target business in key markets and secure business by getting a commitment to visit from customers

DESTINATION MARKETING involves strategic planning, with targeted and tactical marketing.

These are the principals around which the Drawing Rooms of Berry has successfully operated over the past ten years. We have identified a level of tourism for the destination township of Berry, and specifically The Drawing Rooms, which is of a high standard. Berry township, in conjunction with surrounding developments such as wineries and unique restaurant experiences along with the natural beauty of the Shoalhaven, is attracting customers from well established areas such as the Hunter Valley. The Drawing Rooms of Berry is well placed to meet the needs of this type of tourism, but needs to be adapting to these market developments. Hence the proposal to provide an additional "tourist cabin" of particularly high standard, as well as refurbishment of the existing facilities.

The Drawing Rooms of Berry in itself has become a specific tourist destination of the Shoalhaven. This can be evidenced through the high incidence of returning guests, some as many as three to four times in one year. Also a high level of

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customers is a result of recommendations from staying guests, through word of mouth.

Further evidence can be seen from The Drawing Rooms having been featured on a number of national television programs as well as reviews by several newspaper and magazine travel reports. The property was firstly featured on Seven's "The Great Outdoors". Secondly was approached by Nine's "Getaway", and appeared on Prime's "Sydney Weekender". We have recently been approached by Foxtel TV, to participate in the filming of a pilot program, which if successful will become a new regular lifestyle program for the pay television network, to be known as "Eat, Do, and See in Australia". As well as these television features, The drawing Rooms has been reviewed by The Sun Herald, Sydney Morning Herald and a number of magazine articles.

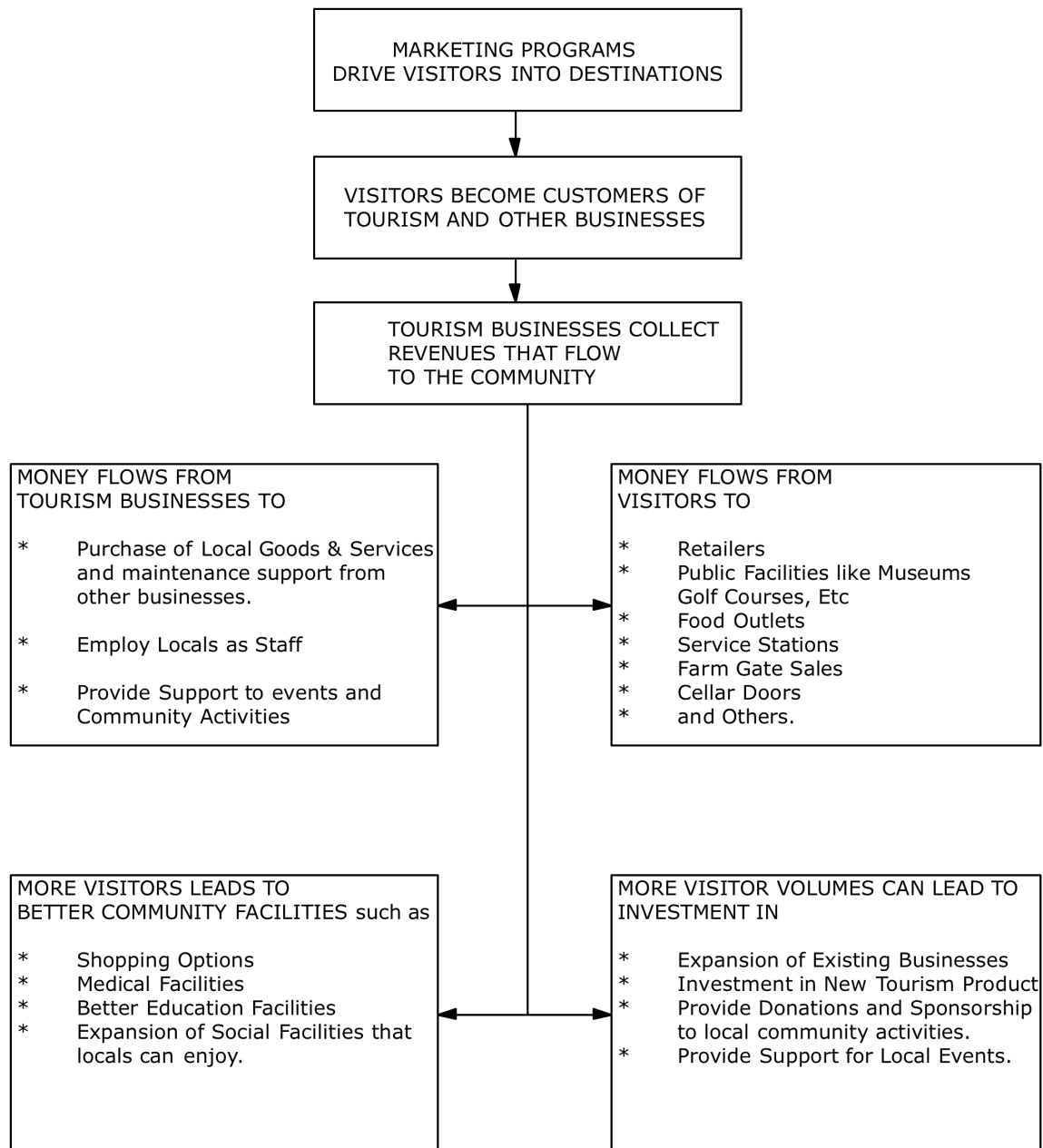
It should be noted that The Drawing Rooms was approached directly by each entity above. We were sought out by them. We were particularly pleased to have been described by the production crew of the Great Outdoors as being "World Class".

This is an indication of what the Drawing Rooms has to offer, as a tourism destination of the Shoalhaven.

The Drawing Rooms brings much economic benefit to the Shoalhaven, through direct investment in infrastructure and facilities on the property, direct employment on the property, as well as offsite services relating to the operation, such as laundry and the like. As well there is significant financial input into the community by the spending of our various workers and contractors, as well as the customers. The monies brought into the community are a benefit not just to the tourism industry, but other businesses throughout the Shoalhaven, and social life of the community.

This can be illustrated by the following chart: -

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SUMMARY - AIMS & OBJECTIVES

The proposal to construct an additional "tourist cabin" at 21 Wattamolla Road will satisfy the aims and objectives of DCP 63. It will add to the current operation on the property as a tourist destination for short term visitor occupation, of a particularly high standard.

The proposal will have little or no impact on the rural character of the property and a neutral effect on the environmental quality of the area. NO neighbouring property will be impacted upon by the proposed development, given the location proposed for the additional structure, (see following site analysis and Statement of Environmental Effects).

The proposal is an extension of a well designed, quality and innovative development that currently operates, and will add to the direct economic benefit of the community.

DEVELOPMENT GUIDELINES.

We note that Council's stated goals under DCP 63 is to seek and encourage "innovative, well designed and sympathetic tourist development in rural areas".

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The Drawing Rooms, having successfully operated over the past ten years, has demonstrated achieving these goals. The development has had no detrimental affect on the local environment, or surrounding neighbouring properties. It is and will continue to be self sufficient with regard to water and wastewater requirements.

The site has been dramatically improved visually through extensive landscaping and tree planting, which serves to screen the property from the roadway and adjoining properties. The current development has not required any clearing of vegetation, nor native habitat. Likewise the proposed extension to the development, by way of an additional cabin, will be of little impact. Clearing of vegetation will be restricted to the understorey "scrubby box thorn" and "lantana" for bushfire mitigation purposes only. The proposed construction methodology is of (steel) pole frame construction to minimize impact on the proposed sloping site.

SITE ANALYSIS

The 5.88ha property is located at the top of Woodhill Mountain. It is north facing, and commands extensive views through 270 degrees. The property ranges from relatively steep slopes from its South boundary, being the lower edge of "Wedding Cake Mountain", and flattening as it extends to the North, where it is bounded by Wattamolla Road. Adjoining properties are 669 Woodhill Mountain Road - an approximately 40 ha property with dwelling to the South, 19 Wattamolla Road – an approximate 2ha property with dwelling to the east, and a vacant property which is an approximate 4ha public reserve. There is currently NO VISUAL IMPACT by the development on the property to any of the surrounding properties. Similarly the proposed location of the additional cabin is in the order of 200metres from the dwelling at 669 Woodhill Mountain Road being totally screened by existing native vegetation, and is around 280metres from the dwelling at 19 Wattamolla Road. This dwelling is also totally screened from the development. These distances also mean that impact from any potential noise and light is nil. Note also that the proposed location is not visible from Wattamolla Road, nor is the majority of the existing development.

The proposed site for the additional cabin is located at the base of the treeline towards the South Of the Property. The site is moderately sloping from South to North. It will be 20 metres to the North of the treeline, which is made up of approximately 80% Acacia Forest (Maiden Wattle), with the remaining 20% being interspersed with Peppermint Gums and Native Daffine. There is a covering of the understorey with Lantana and Boxthorn. Little to no clearing will be required to satisfy bushfire setbacks.

The proposed structure will be completely below the ridge line to the South. The two closest property boundaries will be approximately 63 metres to the Southern boundary, and approximately 90 metres to the Western boundary. There are no creek systems which the proposed structures will impact or be adjacent.

The proposed building will to be North facing, and is designed to gain solar access, while offering spectacular views to the North, East and West. The building achieves a passive solar design efficiency. Wind breaks to the West are already established, and serve to also screen the development from the Western property.

Minimal additional plantings will be required to maintain a good separation and privacy from the already existing buildings on the development. This is highly important to the appeal and success of the current operation.

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DENSITY.

This proposal has put forward earlier the need for tourist operations to be constantly alert to the nature of their industry, and changing nature of a specific market. The Drawing Rooms has developed a niche market for tourism in the Shoalhaven, and we have attempted to demonstrate the consistency with the operation and the aims and objectives of DCP 63. Also, the financial benefit that flows into the community.

We are requesting Council consider favourably this property for an increase in typical density levels for tourist cabins and parallel development for Bed & Breakfast Accommodation. We note that Council is in a position to do so by considering such an application on merit, having the right to allow variations from the development guidelines.

Performance Criteria:

P1 – The density of the development is sustainable having regards to environmental constraints for the area.

There are minimal environmental constraints for the area. While the property falls within the Sydney Catchment Authorities sub-catchment area the proposed development will have a "Neutral or Beneficial Effect (NorBE) on water quality. (See report on water resources and waste water management following).

The property is entirely self sufficient for water resources and wastewater, having satisfactorily operated for around ten years. The proposed additional cabin can be demonstrated as having the capacity to be self sufficient for water. Waste water treatment is proposed to be through its own dedicated system, not putting any additional load on the existing treatment plant. It is noted however that the original design of the waste water treatment system that currently serves the property was based on FOUR cabins at the outset, NOT the three that it currently serves. Notwithstanding, it is proposed to use a much higher level system dedicated to the proposed cabin The new system is an aerated system, but incorporates an ultra-filtration membrane system.

Performance results indicate that the above level of treatment can enable discharge to be reclaimed, and even put directly into stormwater. However it is intended to dispose of the treated effluent by sub-surface irrigation, while maintaining appropriate setbacks and buffer zones per DCP 78 and REP No 1.

Building methodology planned is for a (steel) pole frame structure, which will accommodate the moderately sloping grade. This will ensure minimal disturbance to the terrain.

The proposed site will require no clearing of native vegetation, other than understorey scrub, predominantly lantana and boxthorn. It is proposed to thin the canopy of the predominantly "Maiden Wattle" treeline to the southern upslope, for a distance of around 10.0metres to provide a 30m buffer for bushfire considerations. (See following report). No habitat for native fauna will be affected.

Access to the site is by sealed bitumen and all weather gravel road. All services are available by way of extension of the existing infrastructure on the property. Minimal disturbance to the landscape will be necessary.

P2 – compatibility with the character of the rural area.

The Drawing Rooms has achieved this objective, and has successfully operated with minimal impact on the surrounding rural area. The landscaping on the property has added to the amenity of the local area. This proposal will be an extension of the current operation and will not pose any additional impact. It

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should be noted that the proposed location of the cabin would not be visible from any neighbouring property or Wattamolla road.

P3 – amenity of residents in the rural area will be conserved.

It has been noted previously that the existing development on the property has achieved this objective. There is currently minimal visual impact from the development on the local area and its residents. It can be argued that the general improvements and landscaping of the property over the years has enhanced the appeal of the local area. An additional cabin will have no effect on the amenity of local residents. It will not be seen by any neighbour, nor passing traffic.

Impact by additional traffic movements will be minimal. It is estimated that there would be around 2 to 4 traffic movements each day on weekends and 2 – 3 on any weekday. Weekends would be expected to have around a 90% occupancy, with midweek occupancy of around 1 – 2 days maximum per week.

P4 – Water quality in the locality will be protected.

See above comments relating to P1 above with regard to water resources and wastewater management proposed. Also see water and wastewater consultants report following. It should be noted that the development is required to achieve "Neutral or Beneficial Effect (NorBE) on water quality. The proposed systems achieve this requirement, and therefore will ensure that water quality in the locality will be protected.

P5 - If more than one form of tourist accommodation is proposed the overall proposal is not inconsistent with the acceptable density standards.

There is scope for Council to allow variations from the development guidelines with regard to an increase in density levels for a property, where it can be shown that a proposal will not compromise the aims and objectives of the plan. This application sets out to demonstrate that the performance criteria would be satisfied with an approval of one single bedroom tourist cabin added to the property.

BUILDING DESIGN AND SITE LAYOUT.

Performance Criteria.

P1 Visual impact on scenic, natural landscape and adjoining properties is minimised.

P2 Visual impact is not excessively exaggerated by the scale or built form of the development.

P3 Larger, residential or urban-style buildings are avoided.

The proposed design, being an innovatively designed, single bedroom cabin readily satisfies P1 - P3 above. Its proposed location has no visual impact on the surrounding landscape or neighbouring properties. The design bears no resemblance to a residential or urban style building.

P4 Areas with identified environmental attributes are conserved and protected.

P5 Adaptive re-use of existing buildings
- is not applicable to this proposal.

P6 The design is innovative and incorporates the use of materials appropriate to the locality.

-the design meets this criteria.

P7 Items and places of heritage or landscape conservation value are conserved and protected.

– not applicable to this proposal.

P8 Natural habitat and threatened species are conserved and protected.

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-the proposal achieves this objective.

P9 A high-level of guest amenity is provided, whilst permanent residential occupation is discouraged.

– the proposal achieves this objective.

P10 The development meets the minimum accessibility standards.

- the proposal achieves this objective

P11 Energy and water conservation principles are incorporated into the design of tourist development.

-the proposal achieves this objective.

The building incorporates a passive solar design, and is completely self sufficient with regard to water resources and wastewater management.

Floor Area - The proposed cabin has a floor area made up of 79m² living space, which includes a stairway, and 29m² of decks and verandahs. This below the 120 m² limit.

Building Height – The proposed building does not exceed a maximum height of 7.5m.

Materials – It is proposed to construct a lightweight steel pole and steel subfloor “pole platform” structure. Timber wall and roof construction will be clad with pre-coloured colorbond custom orb roofing and part wall cladding. The remaining external walls will be FC lined and painted in suitable soft and blending colours so as not to stand out from the landscape. It is proposed to achieve a minimum of level one construction in accordance with AS 3959-2009 Construction in Bushfire Prone Areas.

Building Site – the proposed location is not on a prominent ridgeline or knoll. The proposed location exceeds the minimum setback of 30metres from any adjoining property boundary.

The building will be located in an existing cleared area.

Asset protection zone is consistent with the existing development on the property. In order to achieve a 30m IPZ understorey clearing of lantana and box thorn for a 10m extent only will be required. Similarly some thinning only of the canopy of the predominant Maiden Wattle will be required.

Power – an extension of the existing service will be by underground service.

Access is already established from the existing internal roadway, and is of no visual or environmental impact.

MANAGEMENT.

The current operation is well managed by the proprietors, who live on site. The property is promoted as a retreat, and guests are attracted to the relaxed and moderate nature of the property. No surrounding neighbours have had cause for concern nor complaint in the past. An additional cabin would readily fit into the current management of the property. The property at all times in the past and will continue in the future to operate as a short term tourist facility. The current and proposed cabins are not suitable for permanent residents.

ENVIRONMENTAL CONSIDERATIONS. (See separate Statement of Environmental Effects)

P1 The property is located within the Sydney Water Catchment sub catchment area. It is intended to achieve “Neutral or Beneficial Effect (NorBE) on water quality. Local water courses will be protected and conserved by virtue of the high level of treatment of waste water, the disposal of effluent wholly within the site by sub-surface irrigation, while maintaining appropriate setbacks and buffer zones per DCP 78 and REP No 1.

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P2 It is proposed to utilize the next generation in sewage treatment systems. The system will be an aerated waste water treatment system with advanced secondary treatment via an ultrafiltration membrane system. This membrane constitutes an absolute barrier for bacteria and large viruses. (See technical information with waste water report).

P3 The sewage management system will be wholly contained within the property, including times of prolonged wet weather. Sub-surface irrigation will act as wet weather storage. Buffer zones will ensure a minimal impact on the environment and adjoining neighbours. There is sufficient land available to ensure that satisfactory evapotranspirational rates can be met.

P4 & P5 The proposed design accounts for the moderately sloping site. The pole platform proposed relates to the slope of the land, and the low profile roof forms ensure that little to no excavation will be required in order to achieve a maximum overall height of 7.5metres for the structure.

P6 is not applicable to this application.

P7 & P8 the proposal will not have any impact on native flora and fauna. The proposed site is contained wholly within a cleared area. Minor underscrubbing and tree canopy thinning only will be required to the southern upslope for bushfire protection. No habitat, such as hollow logs, dead trees or stumps are required to be removed.

P9 & P10 are not applicable to this application.

NATURAL HAZARDS

BUSHFIRE – the property is identified on Shoalhaven Council maps as being located in a bushfire prone area. This extends to around 50% of the property when measured from the Southern Boundary. The proposed location of the building is located within the zone which is identified as being bushfire prone, having a 100m and 30m buffer zone. The property is considered as generally at a low risk from bushfire attack. A bushfire protection assessment is provided (see attached assessment), indicating that to achieve a satisfactory bushfire protection outcome for the proposed building a predominantly passive approach and to a lesser extent an active approach is to be taken to ensure the built assets and human life (including firefighters) are protected during a bushfire event. Access for fire fighting vehicles to and from the property is clear and well maintained. Permanent water is available for firefighting purposes from two large dams. The maintenance of APZ 's and an appropriate level of construction in accordance with Planning for Bushfire Protection is proposed.

FLOODING - There is no risk from flooding to the property.

STEEP OR UNSTABLE LAND – it is not proposed to build on excessively steep nor unstable land. The design of the pole platform structure is intended to accommodate the moderately steep slope, with minimal disturbance to the land.

Development Committee 1 December 2009 - Item 9

SUMMARY.

This application is consistent with the AIMS and OBJECTIVES of DCP 63.

The application identifies the need for niche markets, such as the current operation, (i.e. "Destination Markets"), to be constantly adapting to the changes occurring within the market.

The application identifies the economic benefit to the community that niche marketing brings, and in this development's case, notably by the "upmarket" nature of the operation.

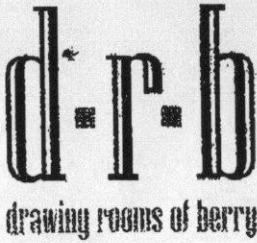
The application demonstrates that an increase in density would have no adverse impact on the property itself, the amenity of the existing development and its patrons, neighbouring properties, or the community.

It is within the scope of DCP 63 for Council to approve an increase in density for a specific property on merit. This application has sought to demonstrate the merit of an increase in density by approving the addition of one only single bedroom cabin, when taking account of the nett overall benefit of an approval.

Declaration - I declare to the best of my knowledge and belief that all particulars mentioned above are true and correct in every detail as the information has been supplied.

Signed Adrian Turnbull. (Owner & Applicant)

DA 09/2339



SHOALHAVEN CITY COUNCIL

ATTENTION: JAMES BONNER.

RECEIVED
- 9 NOV 2009
COUNTER SERVICES

Ph: (02) 4464 3360
Fax: (02) 4464 1741

21 Wattamolla Rd,
Berry NSW 2535
info@drawingrooms.com.au

www.drawingrooms.com.au

FAX
P.H. No 4429 3178

HELLO JAMES

FOLLOWING PLEASE FIND "AMENDED APPLICATION"
FOR D.A. 09/2339 AS DISCUSSED

Regards. A.T.

5 PAGES FOLLOWING.

Development Committee 1 December 2009 - Item 9

A J & K A Turnbull
2D Old Creamery Lane
Berry NSW 2535

6th November 2009

SHOALHAVEN CITY COUNCIL
DEVELOPMENT SERVICES

ATTENTION James Bonner
Development Services

RE AMENDED APPLICATION

DA 09/2339

Addition to Existing Tourist Development

"The Drawing Rooms of Berry"
Lot 4 DP 875541 Parish Broughton.

21 Wattamolla Road
Woodhill / Berry

Dear Mr Bonner

Further to our current application under consideration by Council for one single bedroom tourist cabin to the existing tourist operation at the above property, we request that Council amend the application to include THREE guest bedrooms from the two in the current B&B operation.

The property has operated as a tourism concern for the past ten years. In that time we have identified a need in the area to grow the tourist market, hence our application for an additional tourist cabin.

With regard to the B & B side of the current operation we have experienced over the years a strong demand for a facility which will accommodate small groups, typically groups of three couples. This was something that was not contemplated by us at the beginning of our development in 2000. However since our family requirements have changed with all of our children now living elsewhere, our B&B is well suited to meet this demand.

The result being that we request that Council consider our application to include an additional single bedroom tourist cabin, as well as the B&B operation being formally recognized as having not two, but three B&B bedrooms associated with the dwelling. Please find an attached floor plan indicating the third bedroom referred to in this application. No construction or alterations and additions will be required for a third bedroom, but use of an existing bedroom is proposed.

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WATER RESOURCES & WASTE WATER CONSIDERATIONS.

With regard to Council considering the existing dwelling, with two B&B guest bedrooms being increased to three, and the implications on existing water resources and waste water treatment please note the following.

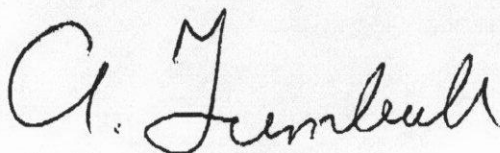
The dwelling is a six bedroom house, which originally catered for our large family and two bed and breakfast bedrooms. The overall demand for water resources and the treatment of waste water will not increase by deeming one of the bedrooms being made available for B&B guests, as opposed to a family member. In fact the demand would be lessened, given the temporary nature of tourist occupation, as opposed to full time family member living on the property. Demands for cooking, bathing, laundry etc are reduced.

We advise Council that the original development proposal put to Council in 1999 – 2010 was for FOUR tourist cabins and the dwelling having two B&B guest bedrooms, (along with the remaining bedrooms in the house for permanent family members.) That approval was amended to THREE cabins only, but significantly all water and wastewater calculations at the time were factored on the demand for four cabins. It should be noted that the current application for an additional cabin has been deliberately designed to incorporate a stand alone waste water system, thereby not impacting any additional load on the existing development's treatment plant.

Attached please find part of the original report prepared by Morse McVey & Associates indicating the basis for the report being for FOUR cabins and the dwelling.

Yours faithfully

Adrian Turnbull
For A.J & K.A. Turnbull



REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 3 NOVEMBER 2009

DEVELOPMENT AND ENVIRONMENTAL SERVICES

1. **Development Control Plan 99 (Draft Amendment No 1) - Huskisson Business 3(g) Zone Development Precincts - Urban Design Guidelines and Development Controls - POL09/61. File 20891E (PDR)**
-

PURPOSE OF THE REPORT:

The purpose of this report is to present Council with the draft amendments to Development Control Plan (DCP) 99 - Huskisson Foreshore Business Development Zone 3(g) Duncan, Bowen, Fegen and Nowra Streets; which further incorporates three (3) other Business 3(g) zoned precincts in Huskisson. This report also recommends that Council adopt the draft amendments to DCP 99 for public exhibition in accordance with Clause 18 of the *Environmental Planning and Assessment (EP&A) Regulation 2000*.

RECOMMENDED that:

- a) **Council adopt draft Amendment No 1 to Development Control Plan 99 and place the draft document on public exhibition, in accordance with Clause 18 of the *Environmental Planning and Assessment (EP&A) Regulation 2000*;**
- b) **In relation to Recommendation 1 above, complementary amendments be made to the Section 64 submission of draft Shoalhaven Local Environmental Plan (SLEP) 2009, to reflect:**
- **on the floor space ratio (FSR) map that maximum FSR of 0.8:1 to apply to Precinct 1; and**
 - **on the zoning map that the Zone E2 Environmental Conservation to apply to part Precinct 4A and Precinct 4B (as shown in Map 2 of this report).**
- c) **Amendments to the Contributions Plan be prepared (under Section 94 of the EP&A Act 1979), to allow the levying of developers' contribution relating to the service lanes affecting Precincts 1, 2 and 3 associated within DCP 99 (draft Amendment No 1), and be reported to Council separately for their inclusion into Council's draft Contributions Plan 2010.**

OPTIONS:

- a) Council adopts the recommendations as presented in this report; or
- b) Council not adopt the recommendations presented in this report and provide staff with further direction.

DETAILS/ISSUE:

Background

Council, at its meeting of 25 June 2009, resolved to proceed with the drafting of the amendments to DCP 99 in accordance with the Ruker Urban Design Strategy and further investigate the design for the three (3) lanes affecting Precincts 1, 2 and 3 associated with DCP 99 (draft Amendment No 1), for inclusion into Council's new draft Contributions Plan 2010. Accordingly, the amendments to DCP 99 have now been made and a copy of this document is attached in the Councillors' Information Folder.

Draft Amendments to DCP 99

The proposed amendments to DCP 99 have been drafted in a performance-based format. The original DCP 99 has been amended to include three (3) other Business 3(g) zoned Precincts in Huskisson, and is based on the Ruker Urban Design Strategy, being:

- Precinct 1: Bounded by Duncan, Fegen, Nowra and Bowen Streets, as per land applying to the original DCP 99.
- Precinct 2: Bounded by part Fegen Street, Nowra Street, Beach Street and Winnima Lane; shares a boundary to the north with Huskisson Beach Tourist Caravan Park. This Precinct is known as "Beach Street North". The Huskisson Beach Tourist Caravan Park is located to the south of Precinct 2.
- Precinct 3: Bounded by an unformed road reserve of Tapalla Avenue, Beach Street, Jervis Street and an unformed and unnamed lane. This Precinct is known as Beach Street South. The Huskisson Beach Tourist Caravan Park is located to the north of Precinct 3.
- Precinct 4A & 4B: Precinct 4A and 4B is bounded by unformed road reserve of Currambene and Moona Streets, National Park boundary, Murdoch, Burrill and Berry Streets. It is located on the very southern edge of Huskisson Town on the foreshores of Moona Creek. The area is adjacent to a National Park. The eastern part of Precinct 4A and its frontage to Burrill and Murdoch Streets form part of the southern entry to Huskisson.

Map 1 - Precincts to which the draft DCP applies



The re-drafted DCP is now divided into three (3) main parts:

- Part 1 - General Information about the DCP.

This Part provides background information on this DCP, procedural context and general rationale of the Plan.

- Part 2 - Specific Criteria and Guidelines for each Precinct.

Firstly, this Part provides an explanation of the existing urban structure of the four (4) Precincts; particularly the physical characteristics of each Precinct in relation to their surrounding. The visual setting for each Precinct is also provided to ensure appropriate built form outcomes are achieved. A summary of the existing urban structure and visual setting principles are provided so that they can be considered in the preparation and the assessment of DAs.

Secondly, this Part sets out the objectives for future development within each Precinct.

Thirdly, this Part provides development controls applying to both private and public domains within each Precinct, comprising a set of Performance Criteria and associated Acceptable Solution, which shall be achieved.

- Part 3 - Generic Control Definitions, Calculation Rules and Design Guide for all 4 Precincts

This Part outlines the general development control definition, calculation rules, style guidelines and desirable design solutions for development of the Precincts encouraging appropriate built form for all the four (4) Precincts.

Development Constraints affecting part Precinct 4A and Precinct 4B

It should be noted that the Ruker Urban Design Strategy identifies much of Precinct 4A and 4B as unsuitable for urban development, given that endangered ecological communities (EEC) habitat extends over most of the entire Precinct (which constitutes

Bangalay Sand Forest and Coastal Sand Swamp), other than the small portion of land along Burrill and Moona Streets. The Ruker Urban Design Strategy finding is based on Council's Threatened Species Officer's initial assessment of Precinct 4A and 4B, which further recommends that a review of Council's SLEP 1985 be undertaken to include an environmental protection zoning for the land.

In line with the Ruker Strategy, this report recommends that the sensitive natural environment of this Precinct be protected by way of rezoning to Zone E2 Environmental Conservation. The effect of this recommendation is that the suggested rezoning will prevent development that could impact, damage or otherwise have an adverse effect on the EEC within that precinct. In this regard it is recommended that an amendment to the zoning of the affected area to Zone E2 Environmental Conservation, be made to the Section 64 submission of draft Shoalhaven Local Environmental Plan (SLEP) 2009.

Map 2 – Area recommended to be rezoned to Zone E2 Environmental Conservation



Matters for Consideration under Section 64 submission of draft Shoalhaven Local Environmental Plan 2009

The processes undertaken to formulate development controls and urban design guidelines for the four (4) Business 3(g) zoned precincts have justified certain corresponding amendments that are recommended to be made to the Section 64 submission of draft Shoalhaven Local Environmental Plan (SLEP) 2009, as follows:

- For Precinct 1 - Amend the floor space ratio (FSR) map to reflect a maximum FSR of 0.8:1 instead of 0.6:1; and
- For part Precinct 4A and Precinct 4B (as shown in Map 2) - Amend zoning from Zone B4 Mixed Use Zone to Zone E2 Environmental Conservation.

The recommended changes to the draft LEP may have to be altered following public exhibition of the DCP as a final position on these matters will not be fully resolved until Council has adopted the DCP.

Development of the Contributions Plan for service lanes in Precincts 1, 2 and 3

Following Council's resolution of 25 June 2009 to proceed with investigating the design for the three (3) lanes affecting Precincts 1, 2 and 3 for inclusion into Council's new draft Contributions Plan 2010, work in this area commenced concurrently with the work on the formulation of the draft amendments to DCP 99. The Design Engineer's Concept Plan suggests that land acquisition is required to allow for the construction of turning areas and future drainage for the proposed service lanes in Precincts 2 and 3. In this regard, work is currently progressing on the matter and the formulation of the Contributions Plan will be reported separately to Council. This work will form part of Council's draft Contributions Plan 2010, and further upon adoption, be reflected in DCP 99.

ECONOMIC, SOCIAL AND ENVIRONMENTAL (ESD) CONSIDERATION:

Economic consideration - Council at its meeting of 24 February 2009 resolved that the consideration of DA08/2051 for 19 Fegan Street, Huskisson be deferred until such time as DCP 99 underwent a review and that the matter be reported when the DCP is presented to Council. The process of amending the DCP has included the commissioning of Ruker Urban Design to undertake a comprehensive Urban Design Strategy for all the Business 3(g) zoned area in Huskisson (excluding the town centre). In light of the time it has taken from the point of lodgement of DA08/2051 until the formulation of the draft amendments to DCP 99, it is prudent that draft DCP 99 be progressed so as to not further economically disadvantage the proponents of that DA. In this regard, DA08/2051 is currently undergoing notification (between 26 October and 9 November 2009) having been re-designed following consideration of the Ruker report.

Social consideration - The process of formulating the Ruker Strategy has included two (2) residents' workshops. The Strategy not only considers the views of affected landholders but also takes into account the views and aspirations of the wider community of Huskisson. In light of the extensive input from the community into the process and that amendments to DCP 99 have been drafted, it is timely that draft DCP 99 be considered and progressed so that a set of clear-cut guidelines is available for future development proposals affecting Business 3(g) zoned sites in Huskisson and surrounding residents. It should also be noted that additional representations have been made by landowners within Precinct 1 (i.e., providing a separate study undertaken by Elton Consulting), seeking to provide an alternative basis for the preparation of the draft DCP (i.e. with respect to Precinct 1). Given that Council has resolved to prepare the DCP in accordance with the Ruker Strategy it is considered that this report should be taken as a submission and will be assessed during the public exhibition of draft DCP 99. A copy of the report is provided in the Councillors' Information Folder.

Ecologically sustainable development - ESD matters are considered within the draft DCP itself.

FINANCIAL CONSIDERATIONS:

One financial consideration of this report is related to the Contributions Plan component to allow for the levying of developers' contribution relating to the service lanes. It would

be ideal if this Contributions Plan could be reported to Council together with the reporting of draft amendments to DCP 99, so that in the event that draft DCP 99 is adopted, the Contributions Plan could also be adopted, and Council could charge the relevant levy for the construction of the service lanes should a DA within Precinct 2 or 3 be lodged.

Nevertheless, it is anticipated that the Contributions Plan component will be reported to Council in the near future. If Council adopts the amendments to DCP 99 following its public exhibition, the inability to impose a levy under this Contributions Plan may only be temporary until such time as the Contributions Plan undergoes due process of being publicly exhibited prior to adoption. In such a situation Council would need to rely on conditions of consent or temporary arrangements to address servicing issues.

Other financial considerations of this report are that if Council resolves to adopt the recommendations, there will be general administrative costs associated with:

- the advertising of the public exhibition of the draft DCP in the South Coast Register; and
- notifying affected landholders and CCBs via mail.

CONCLUSION:

Given that the amendments to DCP 99 have been drafted in accordance with the Ruker Urban Design Guidelines, Council is now in a position to adopt the draft amendments to DCP 99 for public exhibition in accordance with Clause 18 of the *Environmental Planning and Assessment (EP&A) Regulation 2000*. This will enable draft DCP 99 to be placed on public exhibition for land owner and community comment.



**SHOALHAVEN CITY COUNCIL
 DRAFT S94 CONTRIBUTION PLAN
 LOCALITY MAP
 AMENDMENT NO.101
 ROADS**

FILE NO: 40529E
 FACILITY:ROADS
 PROJECT: 03 ROAD 0117, 03 ROAD 0118, 03 ROAD 0119

