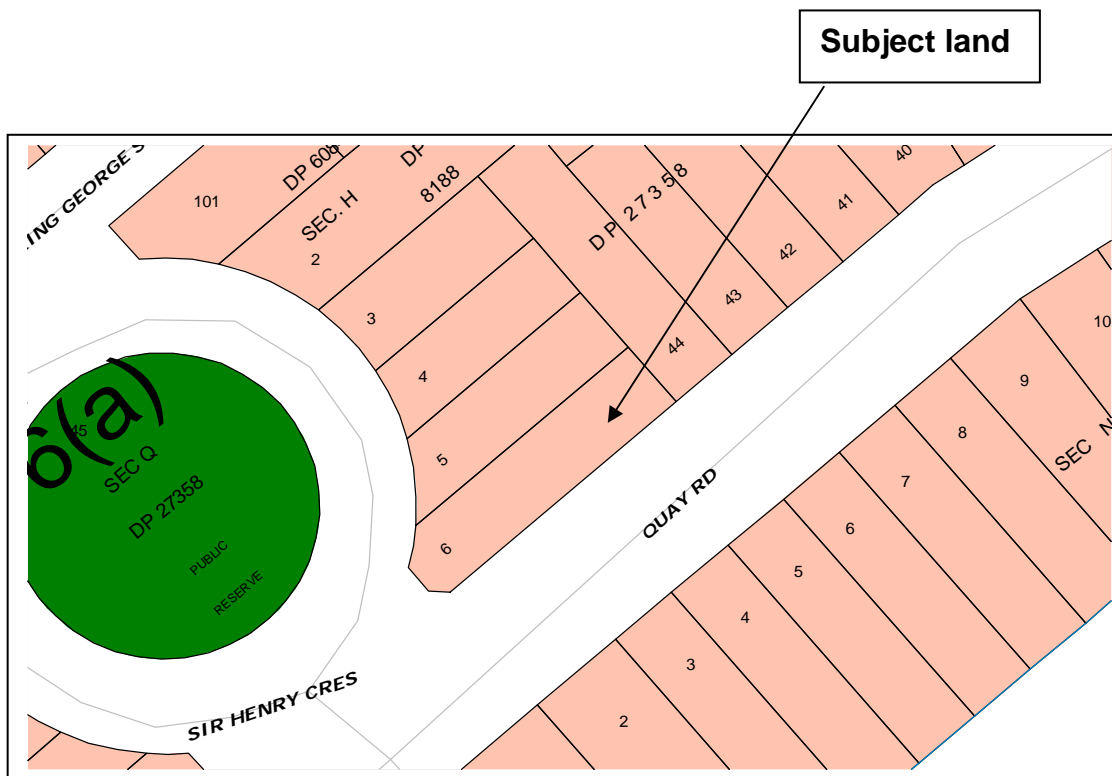
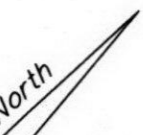


Attachment A - Subject Land

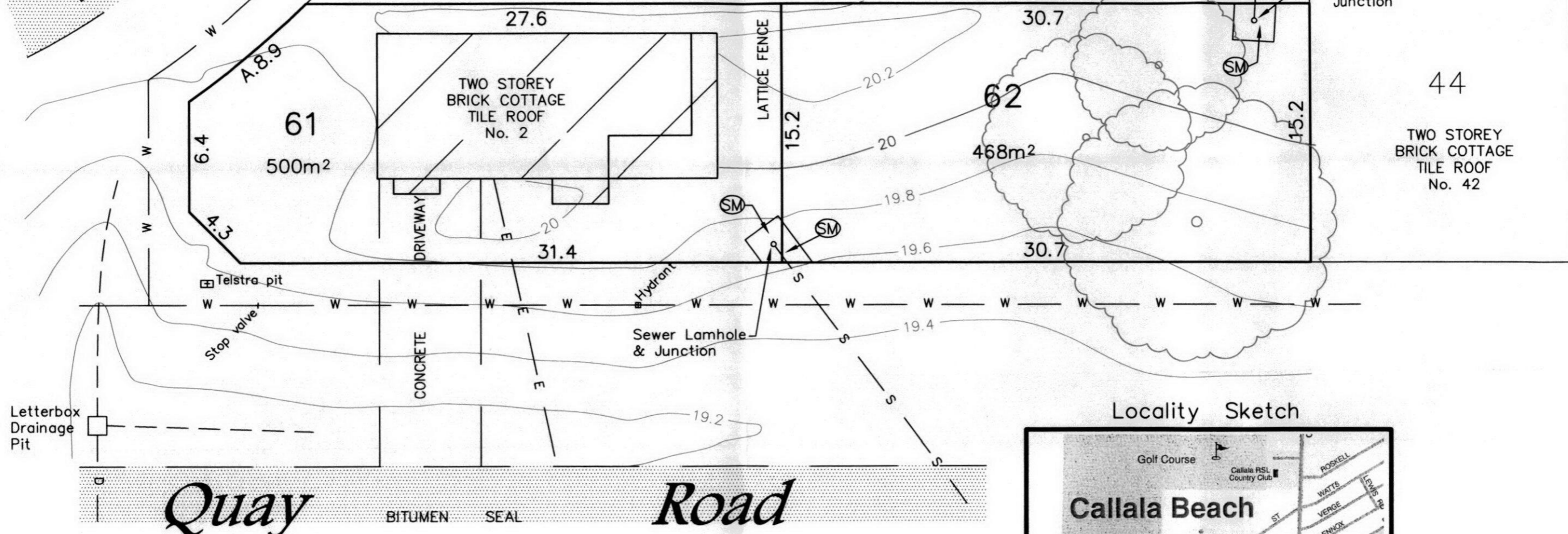


**Sir Henry Crescent**



BITUMEN SEAL

DP 27358  
SEC H

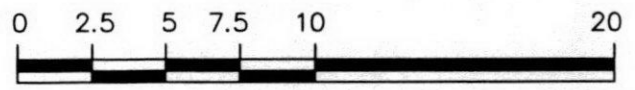


Locality Sketch



Map drawn and published by Cartodraft Aust P/L

SM PROPOSED EASEMENT FOR SEWER MAIN



scale: - 1:250

- S — DENOTES APPROXIMATE POSITION OF SEWER MAIN PLOTTED FROM SHOALHAVEN CITY COUNCIL RECORDS
- W — DENOTES APPROXIMATE POSITION OF WATER MAIN PLOTTED FROM SHOALHAVEN CITY COUNCIL RECORDS
- E — DENOTES APPROXIMATE POSITION OF OVERHEAD ELECTRICITY LINE

NOTE: CONTOURS HAVE BEEN TAKEN FROM BUILDING PLANS SUPPLIED

REVISION	BY	DATE

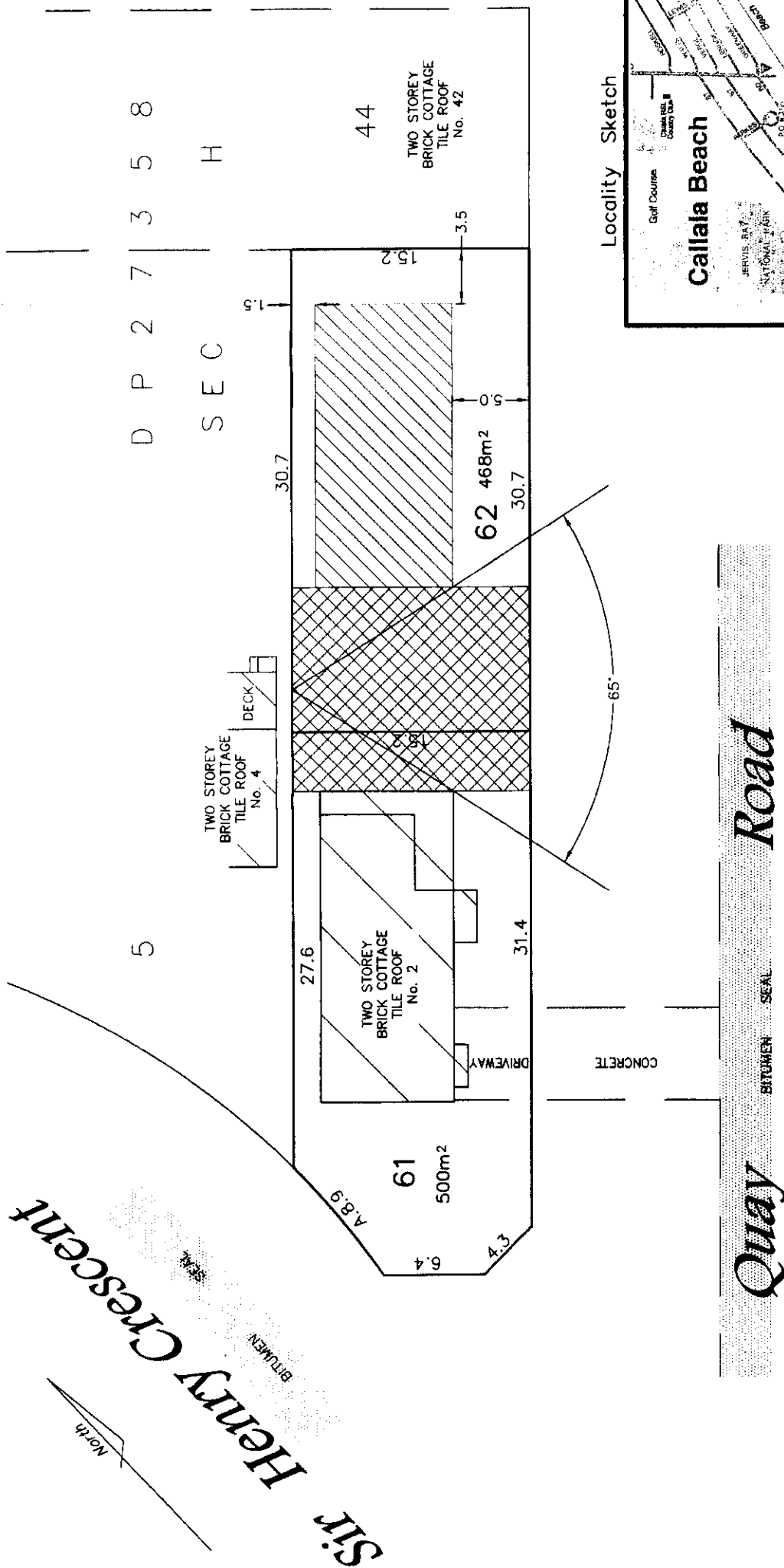
RATIO: 1:250	DATUM: ASSUMED
	ORIGIN: 
	DATE OF PLAN: AUGUST 2008

**allen, price & associates**  
 land and development consultants  
 75 plunkett street, nowra, nsw. 2541  
 phone:(02) 4421 6544 fax:(02) 4422 1821 DX 5310 nowra  
 consultants@allenprice.com.au www.allenprice.com.au

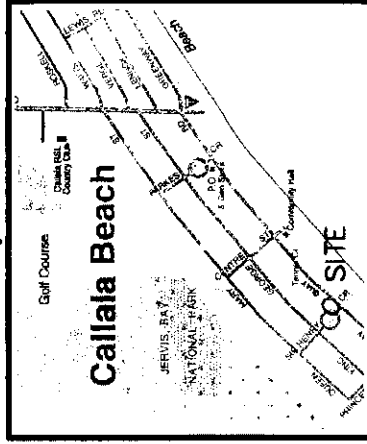
PLAN OF PROPOSED SUBDIVISION  
 OF LOT 6 SEC H DP 27358  
 AT CORNER OF QUAY RD & SIR HENRY CRES  
 CALLALA BEACH FOR MR & MRS SLATER

REF. No. 25058-01
REVISION







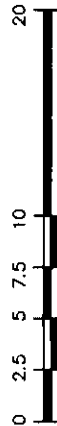
Locality Sketch



Map drawn and published by Cartodraft Aust P/L



-  BUILDING ENVELOPE
-  VIEW CORRIDOR - NO BUILDINGS PERMITTED



scale: - 1:250

BY	DATE

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PROPOSED BUILDING CONTROLS RELATING TO  
 SUBDIVISION OF LOT 6 SEC H DP 27358 AT  
 CORNER OF QUAY RD & SIR HENRY CRES  
 CALLALA BEACH FOR MR & MRS SLATER

REF. NO. **25058-02**



allen, price & associates  
land and development consultants

15<sup>th</sup> December 2008

Our Ref: 25058LDC

Shoalhaven City Council Your Ref: SF10053

The General Manager  
Shoalhaven City Council  
DX 5323  
NOWRA

Received

-7 JAN 2009

File No. SF 10053

Attention: Elizabeth Downing

Referred to: LST

Dear Elizabeth

DEVELOPMENT APPLICATION FOR SUBDIVISION AT SIR HENRY CR CALLALA BEACH FOR SLATER

I refer to your letter dated 17<sup>th</sup> of November 2008.

We have prepared a revised sketch plan which provides additional details particularly in relation to the future siting of a dwelling on the proposed new lot. The plan should be considered in conjunction with the additional justification / performance based assessment of the proposal against the provisions of DCP 100 provided below.

I also provide a response to the submissions Council received after advertising the development application.

***Performance Based Assessment - Development Control Plan 100***

Shoalhaven City Council's subdivision code was adopted by Council on the 18<sup>th</sup> of December 2001. The aims of the plan are as follows;

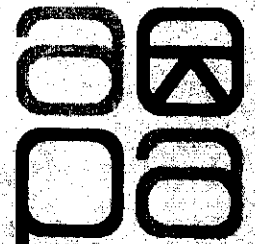
*The aims of this DCP are:*

- *To encourage high quality urban design and residential amenity;*
- *To set appropriate environmental criteria for subdivision development;*
- *To provide a comprehensive design approach for residential, rural, industrial and commercial subdivision;*
- *To provide a user friendly document with flexible performance-based criteria to guide development; and*
- *To provide for the ecologically sustainable subdivision of land.*

75 Plunkett Street, Nowra NSW 2541 • PO Box 73, Nowra NSW 2541 DX5310  
tel 02 4421 6546 • fax 02 4422 1821 • email consultants@allenprice.com.au  
directors RJ Douglas, AR Aufsebrook, MJ Phikpott, AF Isaac • associate PW Rowell • consultants PM Price, EA Panucci

ABN 69 141 099 670  
a partnership of • Ross Douglas Surveys Pty Limited • Tayinda Pty Limited • Fororoka Pty Limited • Balatoo Pty Limited

Liability limited by a scheme approved under Professional Standards Legislation





Council's Subdivision Code – DCP 100 contains performance based provisions for new subdivision proposals as opposed to prescriptive development controls. It is stated within DCP 100 that through the use of performance criteria (rather than prescriptive development controls) a higher standard of subdivision may be achieved.

Performance criteria cover a range of matters that need to be addressed in order to achieve a desired result (called the objective). Acceptable solutions are provided as examples of what is considered acceptable to enable the performance criteria to be achieved, but DCP 100 indicates that these *should not be interpreted as an alternative prescriptive form of regulation. They are examples of what is considered acceptable, but they do not preclude other solutions which achieve the desired performance.*

DCP 100 indicates that alternatives to the *acceptable solution* examples may be proposed by applicants if it can be demonstrated to the satisfaction of Council that the alternative will satisfy the relevant element objectives and associated performance criteria.

Element RE14 of Council's subdivision code sets out its provisions relating to the creation of new residential allotments. The objectives of Element RE14 of DCP 100 are as follows;

- *To provide a range and mix of lot sizes to suit a variety of dwellings and household types, with areas and dimensions to meet user requirements.*
- *To provide lots that are oriented where practicable to enable the application of energy conservation principles.*
- *To provide lots of sufficient size to protect environmental features and take into account site constraints.*
- *To provide for smaller lots in locations adjacent to neighbourhood centres, public transport stops and adjacent to higher amenity areas.*

Element RE 14 states that the above objectives may be achieved where:

1. *Lots have the appropriate area and dimensions for the siting and construction of a dwelling and ancillary outbuildings, the provision of private outdoor space, convenient vehicle access and parking.*
2. *Lot areas and dimensions take into account the slope of the land and the desirability of minimising earthworks / retaining walls associated with dwelling construction.*
3. *Lot areas and dimensions enable dwellings to be sited to:*
  - *Protect natural or cultural features*
  - *Acknowledge site constraints including soil erosion and bushfire risk*
  - *Retain special features such as trees and views*
4. *Lot frontages are oriented to streets and open spaces so that personal and property security, deterrence of crime and vandalism, and surveillance of footpaths and open spaces are facilitated.*
5. *Lot design precludes the need to reverse onto a major or minor distributor road.*
6. *Lots to provide appropriate dimensions for the siting and construction of residential development and ancillary outbuildings or facilities.*



The examples given in DCP 100 of what is considered by Council as acceptable to enable the above performance criteria to be achieved are as follows:

1. **Standard residential allotments** – The minimum lot size in any subdivision is to be 500 square metres.
2. **Rectangular non-corner lots** – Square width minimum 16 metres, Depth minimum 30 metres
3. **Rectangular corner lots** – Square width 20 metres Depth 30 metres
4. **Irregular shaped lots** – Square width 12 metres, Width at building line – 16 metres Mean width 18 metres Depth 30 metres
5. **Corner Splays** 4 metres minimum

It is proposed to create two allotments of land as follows:

**Proposed Lot 61 (contains ex. dwelling):**

- Depth: 15.2m
- Width: 34.5 (at widest point)
- Area: 500m<sup>2</sup>

**Proposed Lot 62:**

- Depth: 15.2m
- Width: 30.7m
- Area: 468m<sup>2</sup>

As can be seen from a review of the above information and the submitted plans, the main inconsistency between this subdivision proposal and the 'acceptable solutions' of Element RE14 relate to the total area and depth of the newly proposed Lot 62. The acceptable solutions of Element RE14 suggest a minimum lot area of 500m<sup>2</sup> for new residential lots with a minimum depth of 30m. Proposed Lot 62 has a total area of 468m<sup>2</sup> and a depth of 15.2m.

It is considered that despite not being entirely consistent with the acceptable solutions for the creation of new residential lots as expressed within DCP 100, the proposed subdivision is entirely consistent with the performance criteria of Element RE14. It must be remembered that DCP 100 states that 'acceptable solutions' are provided as examples of what is considered acceptable to enable the performance criteria to be achieved. They should not be interpreted as an alternative prescriptive form of regulation. *They are examples of what is considered acceptable, but they do not preclude other solutions which achieve the desired performance.*

Each of the listed performance criteria relating to the creation of new residential allotments will now be addressed.

1. ***Lots have the appropriate area and dimensions for the siting and construction of a dwelling and ancillary outbuildings, the provision of private outdoor space, convenient vehicle access and parking.***

Proposed Lot 61 will contain the existing dwelling house and as can be seen by viewing the submitted plan, the proposed lot will contain adequate areas of private open space. The area of proposed Lot 61 is 500m<sup>2</sup> which is consistent with the acceptable solution of the DCP.

Proposed Lot 62 will be created as a vacant lot with an area of 468m<sup>2</sup>. It has been demonstrated on the submitted sketch plan (ref: 25058-02) that a reasonably sized dwelling with a floor area of over 200m<sup>2</sup> with appropriate side, rear and front setbacks can be accommodated on site without complication. The amount of open space available on site with taking into consideration the footprint of the building envelope proposed would be about 315m<sup>2</sup>. The foot print of a future dwelling within the nominated envelope we have proposed would only cover 33% of the site.

The existing dwelling, which is to be situated upon proposed lot 61 has a minimum setback to Quay Road of 5m. A future dwelling on proposed lot 62 with the same setback will have not any kind of negative impact on the streetscape qualities of the area.

**2. Lot areas and dimensions take into account the slope of the land and the desirability of minimising earthworks / retaining walls associated with dwelling construction.**

Proposed Lot 61 will contain an existing dwelling house. The lot falls to the street. It is not envisaged that any earthworks would need to take place in order to carry out the proposed subdivision and create lot 61.

Proposed Lot 62 is relatively level however gently falls to Quay Road. There is no reason to believe that any future dwelling constructed on the proposed lot will necessitate any excessive earthworks.

**3. Lot areas and dimensions enable dwellings to be sited to:**

- **Protect natural or cultural features**
- **Acknowledge site constraints including soil erosion and bushfire risk**
- **Retain special features such as trees and views**

The proposed subdivision will not have any adverse affects on any natural or cultural features unique to the Callala Beach area. The land is not bushfire prone and the site has no unique features or trees that should be retained.

With respect to maintaining views, it is proposed to limit the erection of future buildings on the newly created lot to those areas shown on the sketch attached to this letter. As can be seen from a review of this sketch it is proposed to provide adjoining land owners with a view corridor of about 13m wide providing a approx 65° views though the site. This is considered to be extremely generous given that the properties that will benefit from the proposed viewing corridor are located such that it may be considered unreasonable for occupants of such properties to expect a view to be maintained 2 rows of houses removed from the water front. It must be recognised that any dwelling constructed on the eastern side of Quay Road up to the maximum height allowable under Council's DCP 62 would most certainly erode any notable view from any property located on the opposite side of the street including the subject land.

**4. Lot frontages are oriented to streets and open spaces so that personal and property security, deterrence of crime and vandalism, and surveillance of footpaths and open spaces are facilitated.**



Both proposed Lots 61 & 62 address the adjacent public street. The orientation of each proposed lot is such that they present excellent opportunities for the casual surveillance of public spaces.

**5. Lot design precludes the need to reverse onto a major or minor distributor road.**

Proposed lot 61 will contain an existing dwelling house with direct vehicular access to Quay Road.

Proposed lot 62 will achieve direct access of Quay Road also which is not considered to be a major or heavily trafficked road.

**6. Lots to provide appropriate dimensions for the siting and construction of residential development and ancillary outbuildings or facilities.**

Proposed lot 61 contains an existing dwelling house and has an area of 500m<sup>2</sup>. The proposed creation of lot 61 is consistent with the performance criteria for the siting and construction of residential development.

Proposed lot 62 contains sufficient space for the construction of a dwelling house. It has been demonstrated on the submitted sketch plan (ref: 25058-02) that a reasonably sized dwelling with a floor area of over 200m<sup>2</sup> with appropriate side, rear and front setbacks can be accommodated on site without complication. The amount of open space available on site taking into consideration the footprint of the building envelope proposed would be about 315m<sup>2</sup>. The foot print of a future dwelling within the nominated envelope we have proposed would only cover 33% of the site.

The existing dwelling, which is to be situated upon proposed lot 61 has a minimum setback to Quay Road of 5m. It is not unreasonable to suggest that a future dwelling on proposed lot 62 with the same setback will have any kind of negative impact on the streetscape qualities of the area.

**Conclusion – Development Control Plan 100 Assessment**

It is considered that the proposed subdivision is consistent with the provisions of the performance based development control plan No. 100 – Subdivision Code. It has been demonstrated that where the proposal is inconsistent with the 'acceptable' solutions of DCP 100 as outlined in Element RE14, the proposal clearly meets its performance criteria.

It has been demonstrated that each lot to be created will have sufficient area for the siting and construction of a dwelling house and the provision of outdoor open space. Further, it has been demonstrated that there should be no foreseeable reason for any amount of excessive earthworks. No natural or cultural features of the locality will be affected by the proposal and the subdivision allows for better casual surveillance of the area.

**Response to Submissions**

- *The proposal represents an overdevelopment of the land*





Development of the land per se is not yet proposed. What is proposed is the subdivision of land. Development of the new lot will occur once it has been legally created. Further development of the new lot will be subject of a subsequent development application which will be assessed against Council's controls for such development. We have proposed certain restrictions relating to the future development of the new lot to ensure that overdevelopment of the site does not occur. The lot proposed containing the existing dwelling house will not be over developed. Under Council's existing DCP 91, the total floor space ratio will be 0.47:1. Council's maximum FSR is 0.5:1.

We disagree with the claim that the proposal represents an over development of the land.

- *Development should comply with Council regulations*

The proposal does comply with Council regulations. It has been demonstrated above that the proposal complies with the provisions of DCP 100. DCP 100 is a performance based document. The 'acceptable solutions' of the DCP, which are so often regarded by others as prescriptive development controls that should not be varied, are only examples of how one may comply with the performance criteria of the DCP. Applicants are able to submit proposals to Council that meet the performance criteria of the DCP. This is precisely what has occurred.

DCP 91 relates to the construction of dwellings on residential land. As this proposal is for a subdivision, DCP 91 does not strictly apply. We have however satisfied ourselves that after the subdivision has been carried out, a dwelling could be erected on the new lot in accordance with the provisions of DCP 91. Further we are satisfied that the lot containing the existing dwelling is of a sufficient size so as to not render it a non-compliant structure after the subdivision has occurred. We have proposed a 5m front building line for the new lot which is consistent with the building line of the existing dwelling. A new dwelling on the new lot with a building line of 5m will not have a detrimental impact on the streetscape qualities of the area.

- *Non-compliance with minimum lot area*

There is no minimum lot area contained within DCP 100. The acceptable solution of 500m<sup>2</sup> is simply an acceptable solution. *Acceptable solutions should not be interpreted as an alternative prescriptive form of regulation. They are examples of what is considered acceptable, but they do not preclude other solutions which achieve the desired performance.* A performance based assessment of the proposal has been completed above.

- *Non-compliance with square width dimension of 16m*

There is no minimum lot width contained within DCP 100. The acceptable solution of 16m square width is simply an acceptable solution. In any case, the square width of each proposed lot is over 30m. *Acceptable solutions should not be interpreted as an alternative prescriptive form of regulation. They are examples of what is considered acceptable, but they do not preclude other solutions which achieve the desired performance.* A performance based assessment of the proposal has been completed above.

- *Proposed lot depth of 15.2m, non compliance with DCP 100*

There is no minimum lot depth contained within DCP 100. The acceptable solution of 30m square width is simply an acceptable solution. *Acceptable solutions should not be interpreted as an alternative prescriptive form of regulation. They are examples of what is considered acceptable, but they do not preclude other solutions which achieve the desired performance.* A performance based assessment of the proposal has been completed above.

- *Proposed lot depth of 15.2m, likely non compliance with DCP 91 – Front setback*

We have proposed a 5m front building line for the new lot which is consistent with the building line of the existing dwelling. A new dwelling on the new lot with a building line of 5m will not have a detrimental impact on the streetscape qualities of the area.

- *Proposed lot depth of 15.2m, unreasonable degree of variation (50%)*

There is no minimum lot depth contained within DCP 100. The acceptable solution of 30m square width is simply an acceptable solution. *Acceptable solutions should not be interpreted as an alternative prescriptive form of regulation. They are examples of what is considered acceptable, but they do not preclude other solutions which achieve the desired performance.* A performance based assessment of the proposal has been completed above.

- *Nil vegetation to be retained (non compliance with RE14 P3)*

None of the trees located on the subject land are considered to be *special*. My client has the ability to remove the trees from his property now without Council approval due to the proximity of these to nearby buildings. This is regardless of the outcome of this development application. I refer Council to its tree management policy in this regard.

- *Adverse impact on character of area*

The area is a developed urban environment with a range of dwelling types. The construction of an additional dwelling in Callala Beach is not going to impact on the character of the place.

- *Scale and location & size of existing house is too big for proposed lot*

This is simply incorrect. Under Council's existing DCP 91, the total floor space ratio will be 0.47:1. Council's maximum FSR is 0.5:1.

- *Proposal inconsistent with scale, FSR, and average lot size of existing development*

Yes, the subject land will be subdivided into lots less than the average size of most allotments in Callala Beach. There are however quite a number of lots of 500m<sup>2</sup> or less in the area. Callala Beach is an area undergoing extensive redevelopment of its housing stock, as this occurs, it is to be expected that the built environment will alter in terms of scale and lot size.

- *Submitted information, allegedly misleading/incorrect*

We refute this assertion.

- *Allegedly a misrepresentation to compare SF9461 with this application*

We refute this assertion.

- *Loss of views*

A generous viewing corridor is proposed. The details of this have been explained above.



- *Due to likely positioning of new dwelling – adverse impact due to loss of privacy and additional noise*

The subject land is located within an urban area which is fully developed. It is our contention that each lot proposed will not be overdeveloped. It is conceded that there may be impacts on adjoining owners when a new house is constructed on the new lot, however such impacts are unlikely to be significant and are considered reasonable in an urban environment.

- *Due to likely positioning of new dwelling – overshadowing and loss of air from prominent NE breezes*

The viewing corridor will assist in maintaining existing breezes. Any new dwelling on the new lot will cast a shadow in the opposite direction to any adjoining houses. Shadows will be cast over Quay Road.

- *Adverse economic impact on adjoining property due to adverse impact on amenity*

The measures now proposed as part of this application ensure that the proposal will not have any unacceptable adverse impacts on adjoining properties.

- *There have already been adverse impacts from the existing dwelling, which would be exacerbated by the proposal, and future dwelling*

The measures now proposed as part of this application ensure that the proposal will not have any unacceptable adverse impacts on adjoining properties.

- *The proposal is considered to be unreasonable, unnecessary and unfair*

My clients will decide upon what is either necessary or unnecessary when it comes to the development of their land. As for the proposal being labelled unreasonable and unfair, we refute this.

- *Others in the area have built according to Council's laws, and want such laws upheld*

The subdivision proposed is in accordance with Council's laws which happen to be performance based.

- *Lack of valid reason or argument to deviate from Council guidelines*

The application does not involve any deviation from Council's guidelines. We have proposed alternatives to the suggested way one should subdivide land according to Council's acceptable solutions, which according to DCP 100 should not be interpreted as an alternative prescriptive form of regulation.

### **Concluding Remarks**

I trust the additional information provided to Council herewith is to its satisfaction. Accordingly, I trust that Council will now determine the application favourably.



Shoalhaven City Council  
15 December 2008  
Page 9

If Council requires any additional information or would like to meet with representatives from Allen, Price & Associates together with the owners of the subject land we would be happy to oblige. Contact can be made with the undersigned during business hours on 44216544.

Yours faithfully  
ALLEN, PRICE & ASSOCIATES



Lee Carmichael

Enc