

Late Report Ordinary Meeting Of Council



Wollondilly Shire Council

Late Report – Monday 17 July 2017

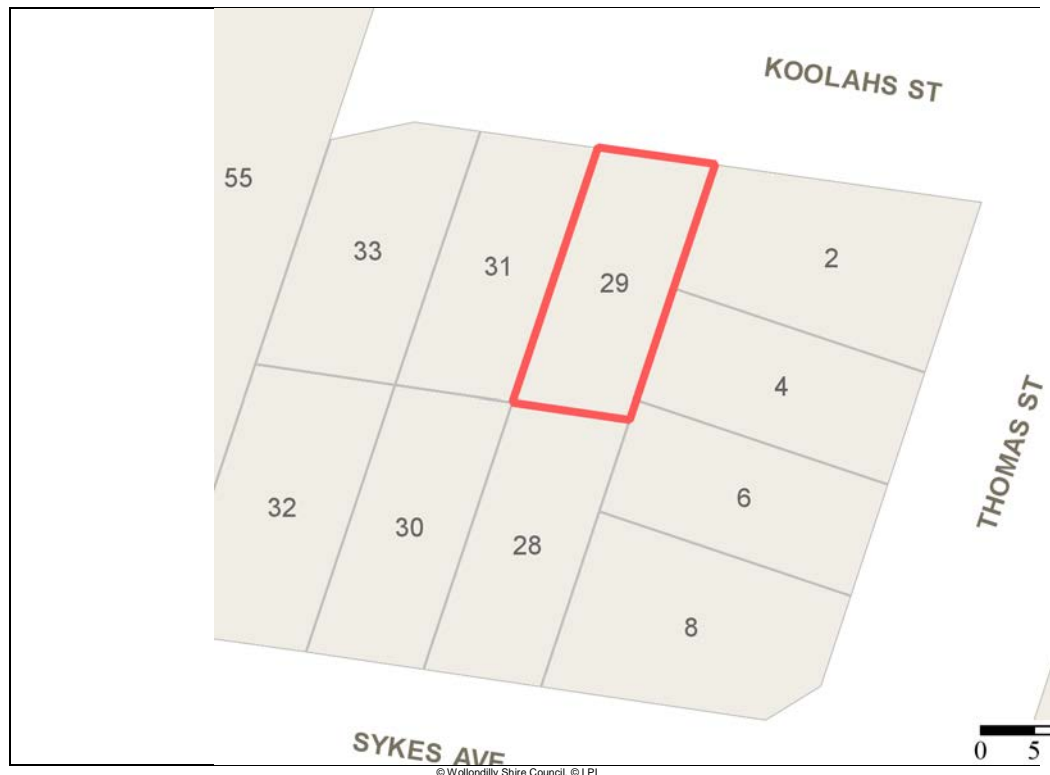
PE3 – Development Application No. 010.2017.00000405.001- Two (2) Storey Dwelling at 29 Koolahs Street, APPIN.

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LATE REPORT

PE3 **Development Application No. 010.2017.00000405.001 – Two (2) Storey Dwelling at 29 Koolahs Street, APPIN.**
275633 DD010.00000405.001



LOCATION MAP ↑
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DEVELOPMENT INFORMATION

Development Application No:	DD010.2017.00000405.001
Property Address:	29 Koolahs Street Appin
Applicant:	McDonald Jones Homes
Owner:	Walker Corporation PTY LTD
Proposal Details:	Two (2) Storey Dwelling
Zone:	R3 Medium Density Residential

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EXECUTIVE SUMMARY

- The purpose of this report is to provide an assessment of a proposed two (2) storey dwelling on the land legally identified as Lot 27 in DP 270989 being 29 Koolahs Street, Appin.
- The dwelling would be the first to be constructed on a recently registered subdivision of lots ranging from 278m² to 409m². The dwelling will be constructed for use as a donated house for the Children's Cancer Institute.
- The proposal does not comply with provisions of the Wollondilly Development Control Plan 2016 (DCP) regarding the setback of the two storey part of the proposed dwelling to the rear boundary.
- The application has been notified in accordance with Council's adopted notification requirements. No submissions have been received.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. There have not been any disclosures of political donations made in regard to this application.
- It is recommended that:
 - A variation to Council's DCP be supported but not in the form proposed by the Applicant, and
 - The current review of Council's DCP, include an amendment to the rear boundary setback provision.

REPORT

BACKGROUND

On 29 June 2017, Council received Development Application No. 10.2017.00000405.001 for a two storey dwelling at Lot 27 DP 270989, 29 Koolahs Street Appin.

The application includes a proposed variation to Council's DCP (Volume 4 Clause 3.1 Control 22). The DCP requires the minimum rear setback shall be 8.0m for a two (2) storey dwelling and 3.0m for a single storey dwelling or a single storey part of a two (2) storey dwelling. The proposal includes a first floor portion of the building setback to the rear boundary varying from 5.751 to 7 metres.

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CONSULTATION

Concurrence was provided by Subsidence Advisory NSW on 30 May 2017 in accordance with Section 15 of the Mine Subsidence Act 1961.

1.1 DESCRIPTION OF SITE AND SURROUNDING AREA

The subject site is known as No. 29 Koolahs Street Appin (Lot 27 in DP 270989). The site is located on the southern side of Koolahs Street and has dimensions of 11.17m on the northern and southern boundaries and 25.39m on the eastern and western boundaries. The site has an area of 279m².

The site is void of any significant vegetation. The site has a slight slope from the south east to the north west and drains to Koolahs Street. Access to the site is via a proposed driveway to Koolahs Street.

The subject site is located in the township of Appin which consists of predominantly low density residential, commercial, and rural residential development.

The site forms part of a recently registered vacant greenfield subdivision created for residential purposes characterised by smaller lot sizes ranging from 278m² to 409m².

Adjoining the site of the subdivision to the north and east is low density residential development consisting of single and two (2) storey dwellings with their associated structures and uses. To the south and west the subdivision area is adjoined by vacant rural land.

1.2 DESCRIPTION OF DEVELOPMENT

Consent is sought for a two (2) storey dwelling. The proposed dwelling has an overall length of 17.220m and width of 8.6m. The total floor area of the proposal is 228.34m².

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1.3 SECTION 79C ASSESSMENT

1.3.1 PROVISIONS OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Question	Answer
Are the street address, postcode and LGA correct on the BASIX certificate?	YES
Are the dwelling type and the number of bedrooms correct?	YES
Is the site area on the certificate correct?	YES
Is the roof are correct?	YES
Are the conditioned and unconditioned floor areas on the certificate correct?	YES
Are the landscaping/lawn areas correct on the certificate?	YES

Comment: The proposal is supported by a BASIX Certificate for the proposed development (BASIX Certificate No. 836436S, issued 29 June 2017).

State Environmental Planning Policy No. 55 – Remediation of Land

Question	YES		NO	
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	X	Proceed to Question 3		Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?		Proceed to Question 3		Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: Child care facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone		Proceed to Question 5	x	Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been		Proceed to Question 5	X	Proposal satisfactory under SEPP 55

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Question	YES	NO
used for a listed purpose?		and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	Proposal satisfactory under SEPP 55 and DCP.

Comment: A review of the application and Council's records indicates no evidence of previous land uses that are indicative of ground contamination. A site visit did not reveal any visual evidence of contamination or potential sources of contamination. No further assessment and / or reporting is required.

Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River

Relevant Provisions	Comment
3. Aims of the Plan	The proposal is considered to be consistent with the aims of the plan as the development is able to be carried out with minimal impact on the quality of the river.
The strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, and	Subject to appropriate conditions on the development consent, water quality impacts are likely to be acceptable in terms of the Action Plan strategy.
Whether there are any feasible alternatives to the development or other proposal concerned, and	The site is considered to be suitable for the proposed use within the context of the REP.
The relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored.	The potential impacts associated with the development include; dust generation, sediment and erosion run off and waste management. Conditions can form part of any consent to reduce the potential impacts associated with the proposed development.
6. Planning Policies and Recommended Strategies	
(3) Water quality	Minimal impact on water quality is anticipated subject to standard conditions of any development consent.
(4) Water quantity	Minimal impact on water quality is anticipated subject to standard conditions of any development consent.
(5) Cultural Heritage	There are no items of heritage significance noted on the subject site. A pre-cautionary

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Relevant Provisions	Comment
	condition has been included in the draft consent requiring all work to cease if European and / or Aboriginal artifacts are uncovered during the construction phase.
(6) Flora and Fauna	Minimal impact to flora and fauna is anticipated.
(7) Riverine scenic quality	The development will not impact on the riverine scenic quality of the river system. The site is not located within an area of mapped scenic significance under this plan.
(8) Agriculture/ aquaculture and fishing	Minimal impact to agriculture/aquaculture and fishing is anticipated.
(10) Urban development	Minimal impact is anticipated from the proposed development in the context of the REP.
(12) Metropolitan strategy	Those heads of consideration required to be considered by the consent authority under this sub clauses have been considered. The proposal is considered capable of delivering a satisfactory outcome with minimal environmental impacts.

Wollondilly Local Environmental Plan, 2011

Clause 1.2 Aims of Plan

Objective	Comment
(a) to provide for the management of natural resources and the protection of the natural landscape character	Subject to conditions of any consent, it is anticipated that the effects of the development upon natural resources and natural landscape character is satisfactory.
(b) to protect, conserve and enhance the built, landscape and Aboriginal cultural heritage	The subject land does not contain a heritage item. The proposed development will not impact adversely upon surrounding heritage items or the heritage value of the area.
(c) to protect water quality in land that is situated within water supply catchments,	Subject to conditions of any consent, it is anticipated that the effects of the development upon water quality is satisfactory.
(d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future	The proposal will not impede future growth, the provision of integrated transport and infrastructure system or adequate facilities and services for future growth.

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growth,	
(e) to recognise, manage and protect rural resource lands for sustainable agriculture and extractive industry practices,	The site is not considered to be rural resource lands.
(f) to maintain the separation between towns and villages to retain their unique character and rural and natural settings.	The proposal will continue the existing pattern of residential development within the Appin Township.

Characterisation:

"**Dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile"

"**Dwelling House** means a building containing only one dwelling"

Zone of land: R3 Medium Density Residential

Permissibility: Permitted with consent

Zone objectives:

Objective	Comment
R3 Medium Density Residential	
To provide for the housing needs of the community within a medium density residential environment.	The proposal represents suitable residential development that satisfies this objective.
To provide a variety of housing types within a medium density residential environment.	The proposed development satisfies this objective.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	Not applicable.
To encourage the provision of affordable housing	The proposed development will add a housing typology to the market which is not readily available in Appin.

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LEP Clauses:

Part 4 Principal development standards	
4.3 Height of buildings	The proposal complies
Part 7 Additional local provisions	
7.1 Essential services	Water — town water is available Electricity — the land is serviced by the existing overhead electricity supply. Sewerage — reticulated sewerage disposal is available
7.2 Biodiversity protection	Not applicable. The site is not in the mapped biodiversity layer under WLEP 2011.
7.3 Water protection	Not applicable. No works are proposed within an area identified as water protection.
7.4 Flood planning	Not applicable. The subject site is not identified as flood prone.
7.5 Earthworks	Minimal site preparation works required to prepare the building platform.

1.3.2 PROVISIONS OF RELEVANT DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

The NSW Government has been actively undertaking a “Review of Complying Development in Greenfield Areas”. The Draft Greenfield Housing Code allows a 6 metre rear setback for two story dwellings on 11 metre wide lots as complying development.

1.3.3 PROVISIONS OF RELEVANT DEVELOPMENT CONTROL PLANS

Volume 1 - General

Relevant Provisions	Comment
1.2 Aims of Plan	The proposal is consistent with the aims of the plan.
Part 3 - Variations to the Plan	Variations are proposed as identified in this Report.
Part 4 - Community Engagement	The proposal was notified in accordance with the requirements of the control.
Part 5 - Colonial Heritage (General)	Not applicable. The subject land does not contain a heritage item. It is anticipated that the development will not impact adversely upon the heritage value of the area.
Part 6 - Heritage (Specific Locations)	Not applicable.
Part 7 - Aboriginal Heritage	A pre-cautionary condition has been included in the draft consent requiring all work to cease if Aboriginal artifacts are uncovered during the construction phase.

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Relevant Provisions	Comment
Part 8 - Flooding	Not applicable. The site is not identified as being flood affected.
Part 9 - Environmental Protection	Clause 7.2 and 7.3 under WLEP 2011 do not apply.
Part 10 - Tree Removal	Not applicable, no vegetation removal is proposed
Part 11- Landscaping	The submitted landscape plans are considered satisfactory.
Part 12 - Signage	Not applicable.

Volume 4 – Residential Development

3.1 Single Dwelling Houses (Town Centre Residential Lots) (Less than 450m²)

Control		Objectives (refer to Clause 1.2)	
Building Design			
1	The total portion of the site covered by buildings shall not exceed 60% of the site area.	1.2, 1.3, 3.1, 6.1 & 6.2.	Satisfactory
2	Filling of land shall not increase the natural ground level by more than 1.0m.	1.2, 1.3, 5.1 & 6.2	Satisfactory
3	Cut shall be limited to 1.0 metres below natural ground level.	1.2, 1.3, 4.1, 6.2 & 9.1	Satisfactory
4	The overall bulk, scale, height and proportion of the dwelling shall be consistent with the existing streetscape character of the area.	1.2, 1.3	Satisfactory
5	The roof form of dwellings shall be modulated or articulated to provide visual interest and shall not use bright reflective materials.	1.2, 1.3	Satisfactory
6	The front façade must feature a personal access door.	1.2, 1.3	Satisfactory
7	The front façade of any dwelling must address the street. In this regard the front facade shall include a combination of at least two (2) of the following: <ul style="list-style-type: none"> ▪ an entry feature or portico; ▪ bay windows; ▪ the use of a balcony, deck, 	1.2, 1.3 & 4.2	Satisfactory

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Control		Objectives (refer to Clause 1.2)	
	pergola, terrace or verandah along the frontage; <ul style="list-style-type: none"> ▪ Roof overhangs; ▪ Awnings over windows which blend with the design of the dwelling; ▪ A combination of other architectural features suitable to Council which enhance the front façade of the dwelling. 		
8	On corner allotments, the building façade on the secondary street frontage shall address the street in accordance with control (7) above.	1.2, 1.3 & 4.2	Not applicable.
9	Where the primary front façade is addressed by way of a building feature such as a balcony, deck, pergola, terrace or verandah, roof overhang, awning and the like, the feature shall “wrap around” the dwelling and continue along the secondary front façade for a minimum length of 3m.	1.2, 1.3, 1.4 & 4.2	Not applicable.
10	Any fencing along the primary frontage (or secondary street frontage on a corner lot) must be of a height that would not visually obstruct the building features provided in accordance with control (7) to (9) above when viewed from the street.	1.2, 1.3, 1.4 & 4.2	Satisfactory
11	Any front façade (and secondary front façade on corner lots) must have no stretch of blank wall greater than 5.0m in length.	1.2, 1.3, 1.4, 4.2	Satisfactory
12	Any front façade (and secondary front façade on corner lots) must have no stretch of straight wall greater than 10.0 metres in length.	1.2, 1.3, 1.4	Satisfactory
13	A side or rear façade must have no stretch of blank wall greater than 12.0 metres.	1.2, 1.3,	Satisfactory
14	No more than 50% of the front façade shall be garage doors.	1.2, 1.3,	Satisfactory. The façade

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Control		Objectives (refer to Clause 1.2)	
			includes both the ground floor and first storey.
15	The number of garage doors visible to the street shall be limited to 2. In this control a double garage door shall be counted as 2 doors.	1.2, 1.3,	Satisfactory
16	The front façade shall be provided with at least one habitable room with a window looking out onto the public road.	1.2, 1.3, 4.2	Satisfactory
17	Dwellings must appear no greater than two (2) storeys in height.	1.1, 1.2, 1.3,	Satisfactory
Setbacks			
18	Where there is a dwelling on each adjoining lot, the setback for the dwelling from any primary road shall be the average setback of the existing adjoining dwellings plus or minus 10%. Such a setback shall be no less than 3m for lots less than 300m ² . In all other cases the front setback shall be no less than 4.5m.	1.1, 1.2, 1.3,	Not applicable
19	Where there is a dwelling on one adjoining lot the front setback for the dwelling shall be plus or minus 10% of the setback of the adjoining dwelling. Such a setback shall be no less than 3m for lots less than 300m ² . In all other cases the front setback shall be no less than 4.5m.	1.1, 1.2, 1.3,	Not applicable
20	Where there is no dwelling on an adjoining lot the front setback shall be 3m for a lot with an area less than 300m ² and shall be 4.5m for all other Town Centre Residential lots.	1.2, 1.3,	Satisfactory
21	The minimum side setback shall be 0.9m. Except in cases where a zero lot line has been nominated at the subdivision stage and satisfactory easements have been provided over the adjoining allotment.	1.2, 1.3, 5.2	Satisfactory

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Control		Objectives (refer to Clause 1.2)	
22	The minimum rear setback shall be 8.0m for a two (2) storey dwelling and 3.0m for a single storey dwelling or a single storey part of a two (2) storey dwelling.	1.2, 1.3, 5.1, 5.2	Non-compliant. See comments below.
23	For corner or irregular allotments with multiple road frontages the setback from any secondary road shall be 2.0m.	1.2, 1.3, 1.4	Not applicable
24	The methods for determining primary and secondary roads and setbacks prescribed by State Environmental Planning Policy (Exempt and Complying Development Codes), 2008, are adopted by this volume.	14.1	Satisfactory
25	Any garage attached to a dwelling shall be setback a minimum of 1 metre behind the front building line of the dwelling or 5.5 metres from the front street boundary, whichever is greater.	1.2, 1.3, 2.1, 2.2, 2.3	Satisfactory. The front building line is considered an external wall of the first floor. It protrudes 1m in front of the garage. The garage is located not less than 5.5m from the front boundary.
26	Awnings and other building features that do not form a wall of a room may be located between the building setback to a primary and/or secondary road but shall not extend more than 1.5m in front of that building setback.	1.2, 1.3,	Satisfactory
27	Eaves and other building features that do not form a wall of a room may be located within the side and rear building setbacks but shall not extend more than 450mm into that building setback.	1.2, 1.3,	Satisfactory

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Control		Objectives (refer to Clause 1.2)	
Private Open Space			
28	A minimum principal area of private open space must be provided with the following characteristics: a. Gradient no steeper than 1:20 (Rise:Run) b. Width no less than 3 metres in any direction c. Must be directly accessible from, and adjacent to, a habitable room, other than a bedroom (i.e a living area) d. Have an area no less than 16 square-metres. e. Must not be located in the front building setback nor the setback from a secondary frontage. f. Not be used for clothes drying, effluent disposal or garbage storage	3.1, 6.1	Satisfactory
Solar Access			
29	Sunlight is to be available to at least 50% of the dedicated private open space area of the dwelling for at least 3 hours between 9:00 am and 3:00 pm on June 21.	1.3, 3.4	Satisfactory
30	A new dwelling shall not result in less than 3 hours of sunlight to the habitable rooms of an adjoining dwelling and 50% of the private open space area of any adjoining property between 9:00 am and 3:00 pm on June 21.	1.3, 3.5	Satisfactory
Parking, Access and Vehicular Safety			
31	A minimum of one (1) car parking space which is directly accessible for vehicles must be provided on the site behind the building line in the form of a carport, garage or hard stand space or any combination of these. Stacked car parking spaces may be considered forward of the building line in addition to the one (1) car	2.1, 2.3, 2.4 14.1	Satisfactory

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Control		Objectives (refer to Clause 1.2)	
	parking space required above.		
32	An open hard stand car parking space must measure a minimum of 2.6m wide by 5.4m long.	2.1, 2.2, 14.1	Satisfactory
33	Garages shall have sufficient area to accommodate a parking space of 2.6m x 5.4m per allocated parking space.	2.1, 2.2, 2.4	Satisfactory
34	Garage doors shall have a minimum width of 2.4 metres.	2.1, 2.2	Satisfactory
Privacy			
35	Wherever possible, dwelling shall be designed to avoid overlooking the main living areas, private open spaces areas and windows of habitable rooms of adjoining dwellings.	5.1, 5.2	Satisfactory
36	The outlook from second storey windows, balconies, stairs, landings, terraces or decks is to be screened where a direct view is available into the private open space areas of an existing adjoining dwelling to prevent overlooking.	5.1,	Satisfactory
37	A window that has a sill height of 1.7m or more above the floor level within the room shall be taken to have no potential for overlooking.	5.1, 5.2	Satisfactory
38	In cases where windows of habitable rooms on a dwelling have a direct outlook onto windows of habitable rooms of adjacent dwellings, the windows of the proposed dwelling shall be offset by a sufficient distance to limit direct views between windows.	5.2	Satisfactory
Waste Management			
39	Dwellings shall be provided with bin storage areas in a location clear of private open space and out of view from any public space including any public road.	1.2, 1.3, 3.1, 8.1	Satisfactory

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1.3.3.1 DESCRIPTION OF VARIATION TO DCP SOUGHT

The DCP (Volume 4 Clause 3.1 Control 22) requires “The minimum rear setback shall be 8.0m for a two (2) storey dwelling and 3.0m for a single storey dwelling or a single storey part of a two (2) storey dwelling”. The proposal includes a first floor portion of the building with a setback to the rear boundary varying from 5.751 to 7 metres.

1.3.3.2 APPLICANTS REQUEST FOR VARIATION TO DCP

The applicant requested a variation to the control for the following reasons; *“the reduced first floor setback relates to the rear elevation of Bedrooms 3 and 4 and is not considered to result in any loss of privacy to the rear neighbouring property as no windows have been provided along the rear elevation. The side window to Bedroom 4 is noted to be located beyond the 8m setback requirement and is not anticipated to result in any impact beyond that of a compliant proposal. The window to Bedroom 3 is also orientated to (the) side boundary, within the 8m setback, however it is not anticipated to be a highly trafficable area and is appropriately setback from the side boundary to ensure privacy intrusion is minimised.*

The visual bulk of the dwelling as viewed from the rear will not be excessive due to the articulation provided by the ground floor and the reduced 7.15 m width of the first floor. The first floor rear elevation is to be constructed of lightweight cladding to further reduce the visual bulk and to add further interest to the elevation. As the proposed dwelling is able to comply with Council’s requirements in respect landscape area, building envelope, visual privacy and solar access the proposed rear setback is not considered to have any detrimental impact on the neighbouring properties or the streetscape.

The dwelling is a modest sized two storey dwelling with minimal room sizes. Any further reduction to the internal floor plan at first floor level would result in a significant loss of amenity to the proposed dwelling without any apparent benefit of the overall siting and design of the building. The proposed dwelling setbacks provide adequate spatial separation between dwellings and ensure a high quality amenity remains available for the surrounding residential allotments. The overall landscape character of the area will continue to be enhanced by the overall development despite reduced first floor rear setback

As the proposed dwelling has been designed and sited in a manner that will not result in any impact beyond that of a compliant proposal, it is requested that the variation be supported in this instance.”

The Applicant also points out that the NSW State Government has been actively undertaking a “Review of Complying Development in Greenfield Areas” and the Draft Greenfield Housing Code allows a 6 metre rear setback for two story dwellings on 11 metre wide lots as complying development.

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1.3.3.3 DCP VARIATION PRINCIPLES

Council must be satisfied that the variation meets at least one of the following principles under Wollondilly Development Control Plan 2016, Volume 1, Clause 3.1(2) before issuing consent for the development:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard;
- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
- The underlying object or purpose of the control would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary or unreasonable;
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary.

1.3.3.4 ASSESSMENT OF VARIATION TO DCP

DCP Variation		
Control No:	Control	Comment
22	The minimum rear setback shall be 8.0m for a two (2) storey dwelling and 3.0m for a single storey dwelling or a single storey part of a two (2) storey dwelling.	The proposal includes a first floor portion of the building setback between 5.751 and 7 metres to the rear boundary.
Objective No:	Objective	Comment
1.2	To establish an aesthetically pleasing landscape character for residential areas.	The proposed second storey setback does not increase the building footprint. Hence landscaping opportunities will not be diminished.
1.3	To create attractive streetscapes and ensure that development does not dominate the landscape by excess bulk, height or inappropriate scale.	The variation relates to the rear setback of the building. In this context the proposal is considered to have limited potential for adverse impacts to the streetscape.
5.1	To ensure that development does not result in overlooking of windows and private open space areas of	The adjoining land is currently vacant. The likely developments of neighbouring properties are detached two

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DCP Variation		
	adjoining dwellings.	storey dwellings. The potential for overlooking the private open space of the property at the rear has been negated by the absence of windows in the proposed rear elevation.
5.2	To ensure sufficient separation between dwellings to provide high amenity living.	The proposed rear setback has the potential to impact upon high amenity living in terms of visual and noise impacts. The 8 metre setback control is meant to create a sense of 'openness' despite the small block size. In this regard it should be noted that the proposed side boundary setbacks for the first floor are generous (i.e. 2.365 and 1.483 metres).

1.3.4 DRAFT AND/OR PLANNING AGREEMENTS ENTERED OR OFFERED TO ENTER INTO

No such relevant agreements.

1.4 IMPACT OF THE DEVELOPMENT

Head of Consideration	Comment
Natural Environment	Given the proposed early delivery of the home for a charity auction, the Applicant seeks extended construction hours to complete the project. A pre-cautionary condition has been included in the draft consent requiring noise abatement measures should Council received ongoing and substantiated complaints from the community Subject to standard conditions of consent the development would not have any unreasonable adverse impacts if the application is approved.
Built Environment	It is considered the likely adverse impacts of the proposal in its current form, including impacts from the bulk, scale and location of the proposal, represents an unacceptable impact to the built

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Head of Consideration	Comment
	environment and likely neighbouring future development.
Social Impacts	Subject to standard conditions of Consent it is considered that there would be acceptable social impacts if the application was approved.
Economic Impacts	It is considered that there would be neutral or beneficial economic impact if the application was approved.

1.5 SUITABILITY OF THE SITE

The site, which is fully serviced and largely constraint free, is suitable for the proposed development in its current form.

1.6 SUBMISSIONS / PUBLIC INTEREST

The application was notified for a period of 15 days commencing 30 June 2017. No submissions were received.

1.7 CONCLUSION

The possible re-design of the proposed dwelling to increase the rear boundary setback was discussed with the Applicant. Unfortunately the internal layout and room sizes do not readily lend themselves to a significant increase in the rear setback.

Despite these representations, it is suggested that a minor increase in the setback could be achieved to comply with the Draft Greenfield Housing Code which allows a 6 metre rear setback as complying development. A condition requiring a minimum rear boundary setback of 6 metres is included in the draft consent (see Condition 1(3)).

With regard to the Draft Code, it would be prudent for Council to consider reviewing its DCP to ensure consistency with the rear setback provisions for small lots.

In terms of any precedent that a decision to support this proposal may set, it should be noted that the proposal has ameliorating features including the absence of windows in the rear elevation and increased setbacks to the side boundaries. If the DCP was to be amended as suggested above, the proposal would be wholly consistent with Council's planning instrument.

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FINANCIAL IMPLICATIONS

The fees for the application were sponsored in accordance with the resolution of the Council meeting on 19 June 2017 on the basis the new dwelling was to be used by a charitable organisation.

ATTACHMENTS INCLUDED IN A SEPARATE DOCUMENT

1. Site Plan, Floor Plan of First Floor and Elevations of the proposed development

RECOMMENDATION

1. That Development Application No. 010.2017.00000405.001 for the construction of a Two (2) Storey Dwelling at Lot 27 in DP 270989, 29 Koolahs Street, APPIN be approved subject to Schedule of Conditions shown below, and
2. That Council separately consider reviewing the DCP provisions in relation to the rear setback provisions for small lots.

Schedule of Conditions

1. COMPLIANCE

These conditions are imposed to ensure that the development is carried out in accordance with the conditions of consent and the approved plans to Council's satisfaction.

- (1) Development Consent is granted for two (2) storey Dwelling at Lot: 27 DP: 270989, No. 29 Koolahs Street APPIN
- (2) The applicant is informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 010.2017.00000405.001 received on 29/06/2017 except where varied by the following conditions of consent.
- (3) Amended plans showing a minimum 6 metre rear boundary setback to the first floor elevation shall be provided for approval with any Construction Certificate application.
- (4) Unless permitted by another condition of this consent, there shall be no tree clearing unless the vegetation is:
 - (a) Within the footprint of an approved building, access driveway or other structure; or
 - (b) Within three (3) metres of the footprint of an approved building; or

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- (c) preventing the achievement of the minimum asset protection zone requirements under the relevant planning for bushfire protection guidelines.

In this condition **Tree Clearing** has meaning as described in Clause 5.9(3) of Wollondilly Local Environmental Plan 2011.

- (5) Where any work associated with this consent has the potential to disturb neighbours through the generation of noise, dust, odour, vibration or through deliveries to the site the person with control over the works shall advise the occupants of all adjoining and potentially affected properties of the timing and duration of such works. The land owner has the ultimate responsibility for ensuring that anybody undertaking works under this development consent on their behalf is aware of this requirement and completes the task required by this condition.

2. CONSTRUCTION GENERAL

These conditions have been imposed to ensure that all construction work is undertaken to an approved standard and related approvals.

- (1) Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.
- (2) All construction and building work shall be restricted to between 7:00am and 6:00pm Mondays to Fridays (inclusive), 8.00am and 1.00pm Saturdays and prohibited on Sundays and Public Holidays unless written approval to vary the hours of work is granted by Council.
- (3) Excavated area/s adjacent to the building shall be retained and drained to prevent the subsidence of the excavation and/or entry of surface water to the building. Where the retaining wall exceeds 600mm in height, plans and specifications of the retaining wall shall be submitted to Council or a nominated Accredited Certifier and approved before the issue of the Construction Certificate. Where the height exceeds 1m in height, a certificate prepared by a suitably qualified Structural Engineer shall be submitted with the plans and specifications.
- (4) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. These facilities are to be provided prior to the commencement of any works and:

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- (a) Must be a standard flushing toilet; and
- (b) Must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

In this condition:

Accredited sewage management facility means a sewage management facility to which Division 4 of Part 2 of the *Local Government (General) Regulation 2005* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 41 of the Regulation.

Approved by the Council means the subject of an approval in force under Division 4 of Part 2 of the *Local Government (General) Regulation 2005*.

Sewage Management Facility has the same meaning as it has in the *Local Government (General) Regulation 2005*.

3. DRAINAGE/STORMWATER

These conditions have been imposed to ensure drainage/stormwater is appropriately managed.

- (1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.
- (2) The stormwater shall be discharged to the water tank and where applicable shall be in accordance with Australian Standard AS/NZS 3500.3.2 – Stormwater Drainage.
- (3) All drainage works shall be carried out in accordance with the Plumbing and Drainage Act 2011 and Australian Standard AS/NZS 3500 except where otherwise provided in the Local Government Act 1993, or the Local Government (General) Regulation, 2005.

4. PUBLIC ROADS

These conditions have been imposed to ensure all public road works required by the development are provided to an adequate standard.

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- (1) Any footpath or road that is required to be opened to provide any services to this development shall not be opened or disturbed until a Road Opening Approval has been granted by Council. Any damage to the footpath, kerb and guttering or roadway shall be repaired at the full cost of the developer.
- (2) Provision of Vehicular Access to the site through the construction of ramped gutter crossings in accordance with Council's Design & Construction Specifications.

Note: Any adjustment to services shall be at the expense of the applicant and is additional to the contributions required by Council. Prior to the construction of the crossing, approval shall be obtained from Council's Traffic and Design Section.

5. EROSION AND SEDIMENT CONTROL

These conditions have been imposed to minimise the impact of the Development on the environment and on adjoining properties.

- (1) Runoff and erosion controls are to be installed prior to the commencement of any site works and incorporate:
 - a) Diversion of uncontaminated up-site runoff around cleared and/or disturbed areas.
 - b) Containment of the downslope perimeter of the cleared and/or disturbed area with a silt fence and/or other devices to prevent sediment and other debris escaping from the land.
 - c) Maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated after completion of construction.
- (2) Removal and/or disturbance of vegetation is to be confined to the approved building area, the site of permanent accessways and land extending a maximum of 3 metres beyond the outermost projection of the approved building.
- (3) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (4) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.

6. INSPECTIONS

These conditions have been imposed to ensure that construction works are undertaken to an approved standard.

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- (1) Building works shall be inspected by the Principal Certifying Authority at critical stages of construction to ensure they comply with the Building Code of Australia and associated approvals. Where Wollondilly Shire Council is nominated as the Principal Certifying Authority these inspections shall include:
- Footings.
 - Pier holes before pouring of concrete.
 - Steel reinforcing before pouring of concrete.
 - Wet area damp proofing and flashing before lining.
 - Stormwater drainage before backfilling.
 - Bearers and joist inspection before flooring is fixed.
 - Frame work before internal cladding or lining is fixed.
 - Completion of the building work before occupation or use.

7. OCCUPATION & USE

These conditions have been imposed to ensure the development and associated activities/operation are acceptable in terms of the amenity of the neighbourhood and the public interest whilst maintaining its functional operation:

- (1) The dwelling shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifying Authority.

8. PRESCRIBED CONDITIONS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979.

These conditions are imposed as they are mandatory under the Act.

(1) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE REQUIREMENTS UNDER THE HOME BUILDING ACT 1989

- (a) For the purposes of [section 80A](#) (11) of [the Act](#), the following conditions are prescribed in relation to a development consent for development that involves any building work:
- (i) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
 - (ii) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

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- (b) For the purposes of [section 80A](#) (11) of [the Act](#), it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia*.
- (c) This [clause](#) does not apply:
 - (i) to the extent to which an exemption is in force under [clause](#) 187 or 188, subject to the terms of any condition or requirement referred to in [clause](#) 187 (6) or 188 (4), or
 - (ii) to the erection of a temporary building, other than a temporary structure to which subclause (b) applies.
- (d) In this [clause](#), a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the [application](#) is made for the relevant:
 - (i) development consent, in the case of a temporary structure that is an entertainment venue, or
 - (ii) construction certificate, in every other case.

Note: There are no [relevant provisions](#) in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

(2) ERECTION OF SIGNS

- (a) For the purposes of section 80A (11) of the Act, the requirements of subclauses (b) and (c) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (b) 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:
 - (i) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (ii) 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
 - (iii) stating that unauthorised entry to the work site is prohibited.
- (c) 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.

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- (d) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (e) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.
- (f) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal Certifying Authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A of the *Environmental Planning and Assessment Regulation 2000* which currently imposes a maximum penalty of \$1,100).

(3) NOTIFICATION OF HOME BUILDING ACT 1989 REQUIRMENTS

- (a) For the purposes of Section 80A (11) of the Act, the requirements of this condition are prescribed as conditions of a Development Consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- (b) 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:
 - (aa) the name and licence number of the principal contractor; and
 - (ab) 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:
 - (aa) the name of the owner-builder; and
 - (ab) if the owner-builder is required to hold an owner-builder permit under the Act, the number of the owner-builder permit.

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- (c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under sub-condition (b) 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.
- (d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

ADVICE

- (1) The following service providers should be contacted before commencement of construction to establish their requirements:
- Dial before you dig (various services) 1100
 - Telstra (telephone) 1 800 810 443
 - Endeavour Energy (electricity) 131 081
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092
- (2) The land is subject to the provisions of Clause 5.9 of Wollondilly Local Environmental Plan, 2011 and Part 10 of Volume 1 of Wollondilly Development Control Plan 2016 with regard to the preservation of trees and vegetation. Under these plans consent may be required for tree clearing beyond the limits set by this consent. If you intend to remove any vegetation you should make yourself familiar with the provisions of both plans. The plans may be viewed on Council's website at www.wollondilly.nsw.gov.au or at Council's offices at 62-64 Menangle St, Picton.
- (3) **This Consent does not permit the commencement of construction unless a Construction Certificate has been issued. For details about obtaining a Construction Certificate contact Council's Building Services Section for building works or Council's Infrastructure Planning Section for subdivision works.**
- (4) Should any Aboriginal relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service (NPWS) should be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.
- (5) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the Heritage Act 1977.

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PE2 - TITLE