

# **Modification Application to DA 10.2014.743.3**

Submitted under Section 4.55(1)(a) of the EP&A Act, 1979

Approved staged residential development at No.2 Kulgun Court, Ocean  
Shores

Prepared on behalf of

**Mr. Callum Sked**

by



March 2021



## Table of Contents

1.0	Introduction & Summary .....	3
2.0	Subject Site and Surrounds .....	3
3.0	Proposed Modification .....	4
4.0	Statutory Assessment .....	7
4.1	Byron Local Environmental Plans 1988 & 2014 .....	7
4.2	Environmental Planning and Assessment Act 1979 .....	7
4.3	Environmental Planning and Assessment Regulations 2000 .....	8
4.4	Byron Development Control Plan (BDCP) .....	8
5.0	Conclusion .....	11

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Version	Purpose	Issue Date	To whom
Draft v.1	Client Review	4 <sup>th</sup> March 2021	C Sked
Final	Lodgement	8 <sup>th</sup> March 2021	A Smith



## 1.0 Introduction & Summary

NPA have been engaged by Mr. Callum Sked (the proponent) to assist in seeking to facilitate a modification to a consent relating to the subject land.

The proponent has owned the land for some time and has delivered upon development approvals to a significant extent.

The parent consent in this instance is described as DA 10.2014.743.3 (as amended). A copy of this consent (as amended) is provided as a **separate annexure**.

By way of background, the parent consent was approved by Byron Shire Council on the 29<sup>th</sup> October 2015.

The properties relating to this consent are listed below:

2 Kulgun Crt, Ocean Shores 2483 NSW (LOT: 1 DP: 1243658)  
2 Kulgun Crt, Ocean Shores 2483 NSW (LOT: 12 DP: 1128095)  
2 Kulgun Crt, Ocean Shores 2483 NSW (LOT: 9 DP: 1046566)  
2 Kulgun Crt, Ocean Shores 2483 NSW (LOT: 954 DP: 241073)  
41 Matong Drv, Ocean Shores 2483 NSW (LOT: 3 DP: 1243658)  
41 Matong Drv, Ocean Shores 2483 NSW (LOT: 892 DP: 241810)  
41 Matong Drv, Ocean Shores 2483 NSW (PT: 3 DP: 1243658)  
43 Matong Drv, Ocean Shores 2483 NSW (LOT: 2 DP: 1243658)  
43 Matong Drv, Ocean Shores 2483 NSW (LOT: 893 DP: 241810)  
43 Matong Drv, Ocean Shores 2483 NSW (PT: 2 DP: 1243658)  
Pacific Hwy, Ocean Shores 2483 NSW (LOT: 944 DP: 241810)

*Source: extract from BSC DA tracker*

In summary, the proposed amendment seeks to modify two elements. The first being the staging of the proposal and the second being the introduction of relatively minor internal design changes to the subject dwellings.

A copy of the revised Staging and Design plans are proved as **separate annexures** to this report.

Also attached are **separate annexures** relating to Energy Efficiency Certification and an updated Draft Strata Plan.

## 2.0 Subject Site and Surrounds

The site is zoned part Deferred Matter under the Byron LEP 1988 and part R2 Residential and RU2 Rural Landscape pursuant to the *Byron Local Environmental Plan 2014 (BLEP2014)*.

The site is linear in form and fronts the Old Pacific highway (Brunswick Valley Way), Kulgun Court and Matong Drive.

The site is shown in figure 1 below and reference is made to the site itself in blue and a red line designating the Parks Drive access path (generally).



Figure 1. Locality Plan Source: Six Maps

Subject Site

### 3.0 Proposed Modification

Outlined below is the key In order to extend the ability to use Parks Drive for construction purposes, the proponent seeks to make necessary modifications to the consent as set out below:

**MODIFICATION No.1** – Modification of the Proposal Description as it relates to staging:-

Delete the following existing description of staging:



**Stage 1** – Torrens Title Lot Consolidation of 3 Lots to 1 Lot and Boundary Adjustment (between two existing Lots).

**Stage 2** – Works located on Proposed Lot 1. Construction of eight (8) dwellings, driveway, car parking and access to Kulgún Court, and Strata Subdivision;

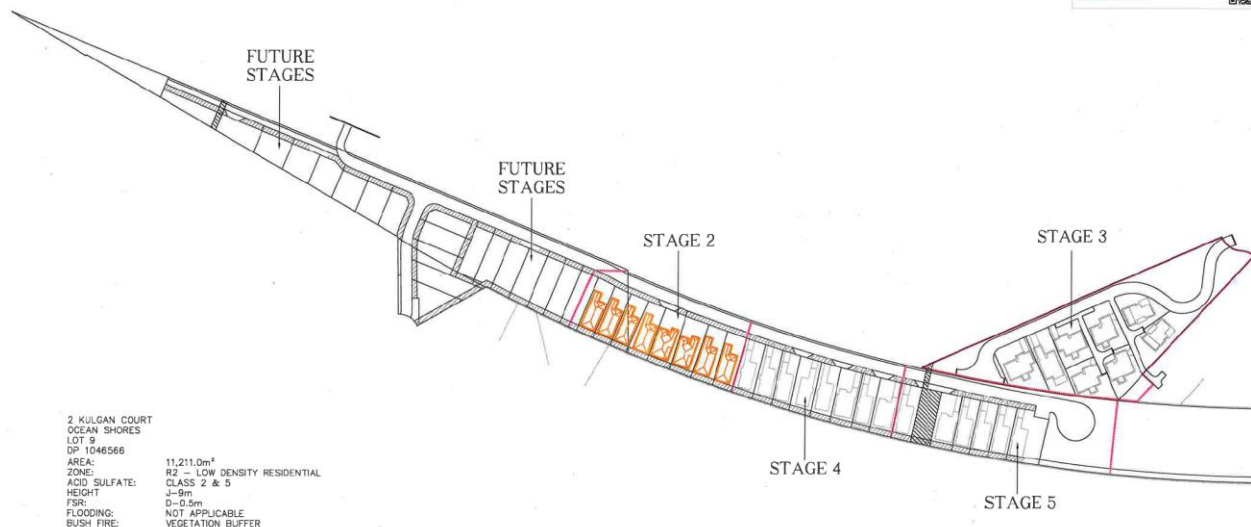
**Stage 3** – Torrens Title subdivision of Lot 944 DP 241810 to create 2 lots; and Torrens Title Lot Consolidation of two lots into 1. Works located on Proposed Lot 2. Construction of eight (8) dwellings, driveway, car parking, and access to Matong Drive with a locked gate for Emergency Services (gate to be locked to prevent access through the site to Kulgún Court/Brunswick Valley Way), Strata Subdivision, Right-of Carriageway for dual occupancy on proposed Lot 3.

**Stage 4** – Works located on Proposed Lot 1. Construction of eight (8) dwellings, driveway, carparking, access to Brunswick Valley Way, and Strata Subdivision.

**Stage 5** – Works located on Proposed Lot 1. Construction of six (6) dwellings, driveway, carparking and Strata Subdivision.

**Stage 6** – Construction of an additional dwelling on Proposed Lot 3 to create a Dual Occupancy (detached).

**Stage 7** – Boundary adjustment between proposed Lot 2 and Lot 3.



BYRON COUNCIL  
DEVELOPMENT CONSENT  
THIS IS THE PLAN ATTACHED TO  
DEVELOPMENT CONSENT No. 10.2014.743.3  
DATED: 19 Jun 2017  
R. Sked  
DEVELOPMENT OFFICER

Fig 2. Current approved staging diagram (refer also substage diagrams in attached **separate annexures**).

And replace it with the following staging description: -

**Stage 1** - Torrens Title Lot Consolidation of 3 Lots to 1 Lot and Boundary Adjustment (between two existing Lots). Complete.



**Stage 2** - Works located on Proposed Lot 1. Construction of eight (8) dwellings, driveway, car parking and access to Kulgún Court, and Strata Subdivision; Complete

**Stage 3** – Eight Dwellings and extension of internal road works as shown. Associated strata subdivision and driveway, car parking, and access works to the lot fronting Matong Drive (stage 4) inc. a locked gate for Emergency Services (gate to be locked to prevent access through the site to Kulgún Court/Brunswick Valley Way), Services and Easements as required;

**Stage 4** - Works located on land fronting Matong Drive, dwelling construction and access, services, easements and strata registration as required;

**Stage 5** – Site works and construction of six (6) dwellings, services, driveway, carparking, easements and Strata Subdivision.

**Stage 6 (future stage)** – to be confirmed, otherwise as per existing approvals

**Stage 7 (future stage)** – to be confirmed, otherwise as per existing approvals

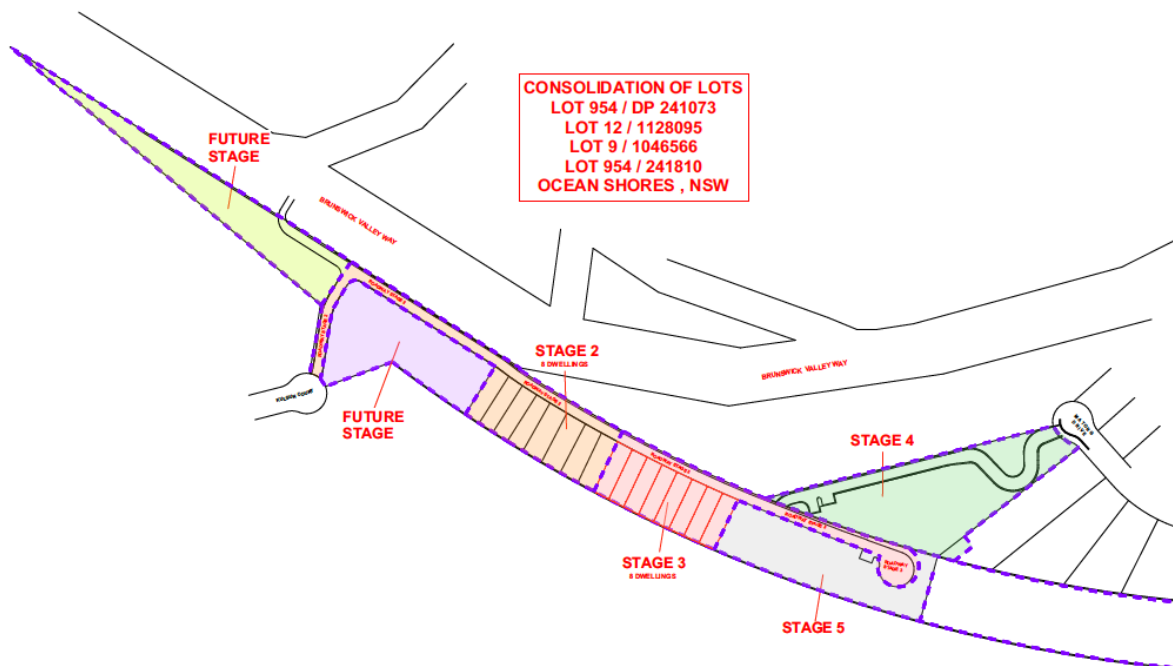


Fig 3. Proposed staging diagram (refer also to full set in the attached **separate annexures**).

Additional modifications are also considered necessary and these are outlined below (mods 2 to 5).

**MODIFICATION No.2** – Modification of condition no.1 as it relates to plan referencing and as it relates to the amended plans lodged for the eight dwellings in Stage 3.



Modification of condition no.1 as it relates to the need to reference the new staging plan and description and also to the approved dwelling plans as they relate to the proposed modified designs for stage 3.

Relevant Modification of condition no.1 to reflect new basic certification / documentation.

**MODIFICATION No.3** – Modification of condition 12 to accurately reflect the new staging description.

**MODIFICATION No.4** – Modification of condition 23 to accurately reflect the new staging description.

**MODIFICATION No.5** – Modification of condition 32 to accurately reflect the new certification attached as it relates to the amended stage 3 design plans.

**MODIFICATION No.6** – Modification of notes and conditions relating to the staged payment of contributions and headworks.

## 4.0 Statutory Assessment

### 4.1 *Byron Local Environmental Plans 1988 & 2014*

The proposed modification is considered minor in both content and impact and therefore remains consistent with the requirements of the *Byron Local Environmental Plan 2014* and previous statutes applicable at the time of the original approval.

The development will continue to be carried out as previously approved, with the modification being of a nature that will only improve the amenity of surrounding residents and improve the efficiency and orderly construction of the works required.

No inconsistency with the local LEP is evident.

### 4.2 *Environmental Planning and Assessment Act 1979*

The appropriate mechanism to amend the major project approval is via s4.55(1A) of the Act.

Section 4.55(1A) of the Act, states:-

**(1A) Modifications involving minimal environmental impact**

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and



- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with:
  - (i) the regulations, if the regulations so require, or
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

This application has been made in accordance with the above provisions. To be clear, this proposal is considered to be a modification that is consistent with the terms of Section 4.55(1A).

The absence of significant impacts or indeed any impacts, is demonstrative of this.

#### **4.3 Environmental Planning and Assessment Regulations 2000**

The proposal remains consistent with the requirements of the *Environmental Planning and Assessment Regulations 2000* as they apply to the development. The development will be carried out as previously approved.

An amended Basix Certificate has been appended to this report as per the regulations.

#### **4.4 Byron Development Control Plan (BDCP)**

The proposed modification seeks to introduce a more streamlined modern and climatically responsive design orientation for the eight dwellings within stage 3 (as proposed).

The proposed modifications to the approved built form can best be summarised as follows:-

- a. Retention of footprints and setbacks as approved;
- b. Replacement of traditional roof forms and façade treatments with a modern contemporary form; and
- c. Integration of additional site topography data and therefore the amended plans show a more accurate representation of existing levels and proposed sub structure treatments.

The proposed amendments are graphically (and typically) shown in the following diagrams:-



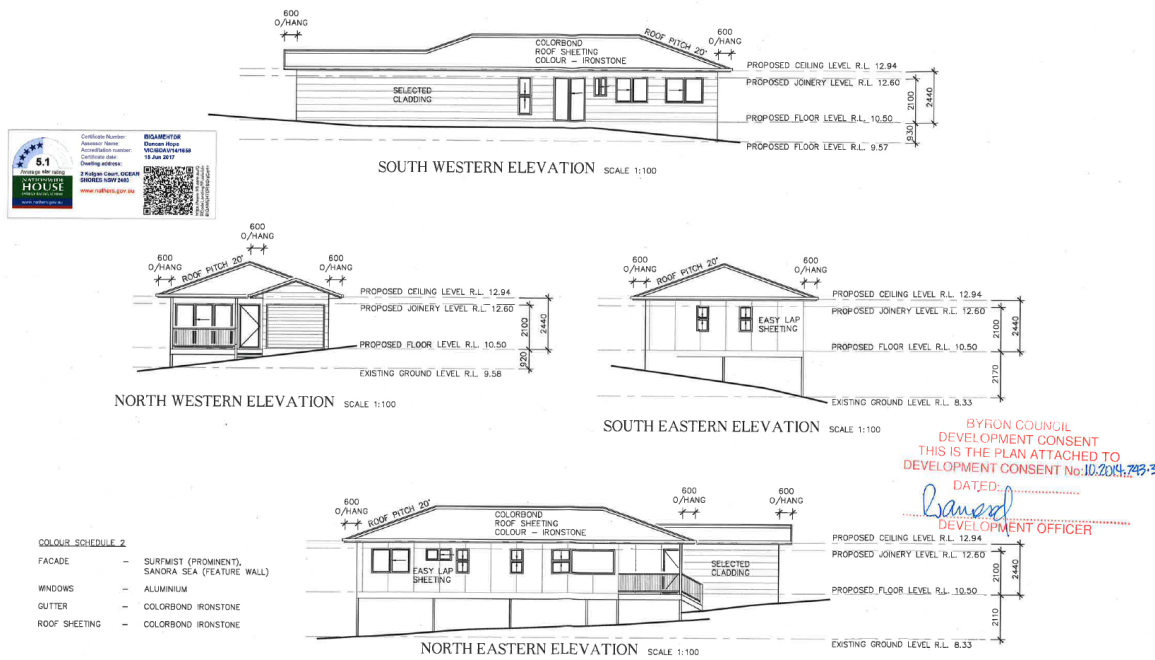


Fig 4. Existing approved elevational and external treatments (typically) (refer also to full set in the attached **separate annexures**).

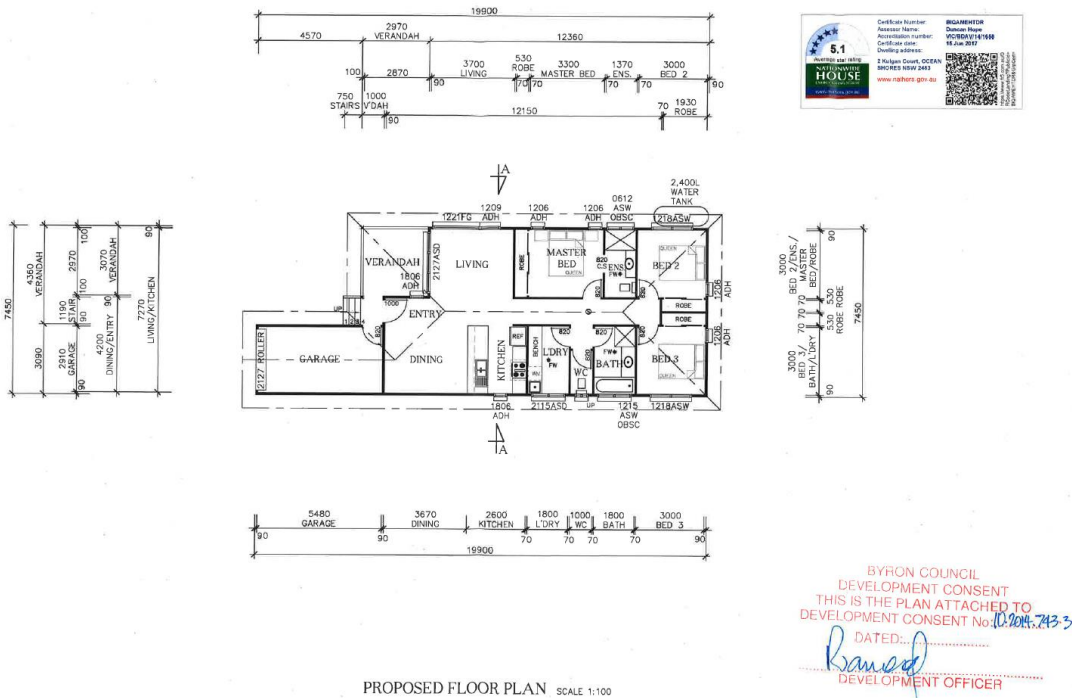
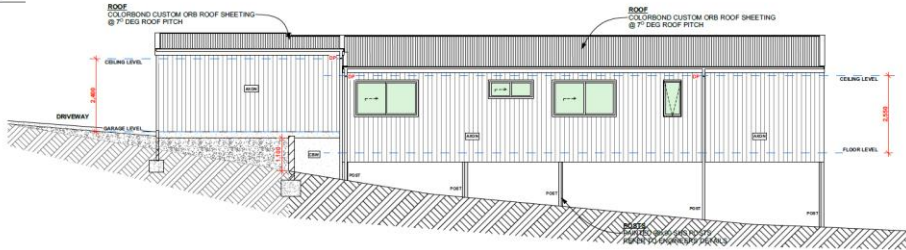


Fig 5. Existing approved floor plan and site layout treatments (typically) (refer also to full set in the attached **separate annexures**).

H13 ELEVATION 1



H13 ELEVATION 2



H13 - ELEVATION 3



Fig 6. Proposed elevational and external treatments (typically) (refer also to full set in the attached **separate annexures**).

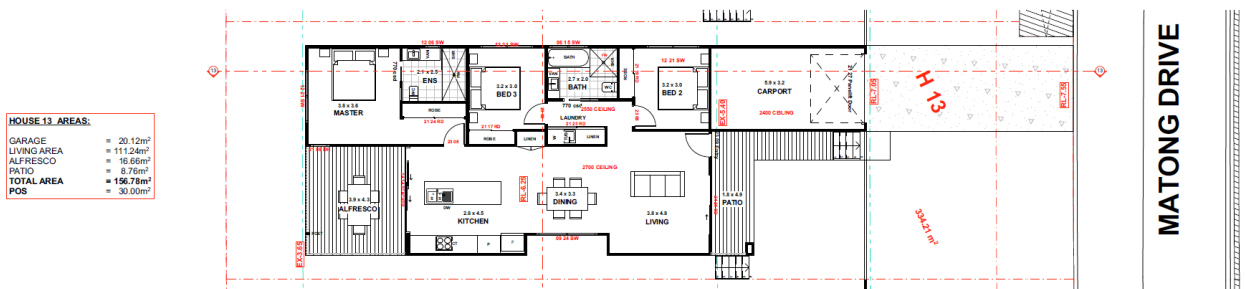
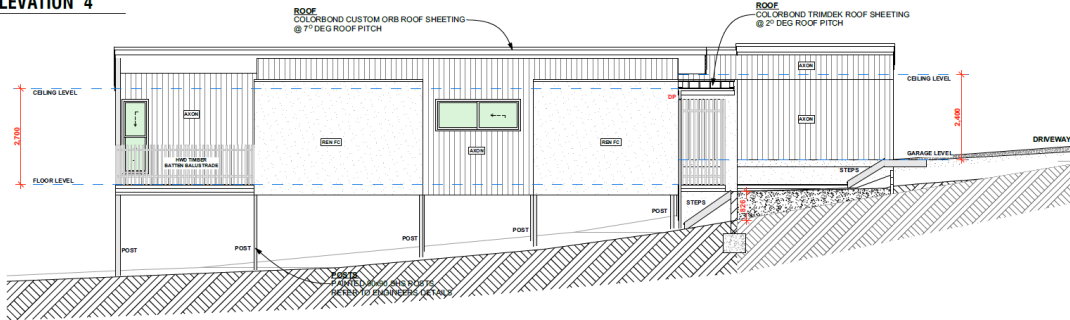


Fig 7. Proposed modernised floor plan treatment (typically) (refer also to full set in the attached **separate annexures**).

## H13 ELEVATION 4



## H13 SECTION

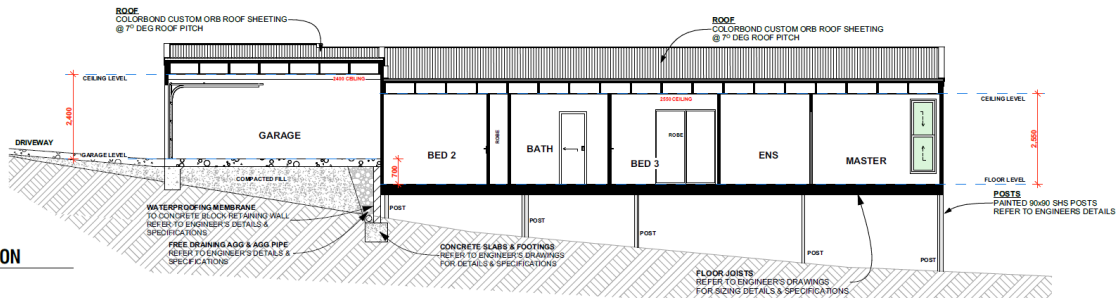


Fig 8. Proposed modernised section and sub floor detail (typically) (refer also to full set in the attached **separate annexures**).

The proposed modifications do not include any changes to GFA, FSR, Setbacks, number of bedrooms, private open space areas and site coverage.

As such, the proposal remains consistent with the existing approval parameters and that of the DCP.

## 5.0 Conclusion

The proposed modification will have no impact in respect of the functionality or effectiveness of the proposed development, and nor will it lead to any associated environmental or public risk. Rather, the proposal seeks to simply ensure that the proposal keeps pace with contemporary design requirements and continues to satisfy the statutory requirements outlined in the consent.

Having regard to the background and alternative impacts, the proposed modification is considered to warrant the support of Council. Accordingly, the formal approval of Byron Shire Council is respectfully requested.

Should Council have any questions regarding the modification please do not hesitate to contact the undersigned.



Regards,

Adam Smith  
**Director**



## Appendices





## APPENDIX A EXISTING CONSENT



## APPENDIX B

## DESIGN PLANS



## APPENDIX C Draft Strata



## APPENDIX D Basix