

# CENTRAL COAST COUNCIL

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                    |              |
|--------------------|--------------|
| Application Number | DA/1130/2022 |
|--------------------|--------------|

|                   |   |
|-------------------|---|
| Delegation Level  | Delegated   |
| Property Lot & DP | Lot 2, SP 76628   |
| Property Address  | 2/2 Burrawang Street, Ettalong Beach NSW 2257                                 |
| Site Area         | 378 m <sup>2</sup>  |
| Zoning            | R1 General Residential under the <i>Gosford Local Environmental Plan 2014</i> |

|                         |  |
|-------------------------|--|
| Proposal                | Installation of pre-fabricated pergola roof over existing concrete area. |
| Application Type        | Development Application – Local  |
| Application Lodged      | 6 June 2022  |
| Applicant               | Ms A Howes   |
| Estimated Cost of Works | \$10,000   |

|   |                             |
|---|-----------------------------|
| Advertised and Notified                   | 17 June 2022 to 1 July 2022 |
| Submissions                               | Nil                         |
| Disclosure of Political Donations & Gifts | No                          |
| Site Inspection                           | 8 July 2022                 |

|                |                                 |
|----------------|---------------------------------|
| Recommendation | Approval, subject to conditions |
|----------------|---------------------------------|

### Assessment

This application has been assessed using the heads of consideration specified under Section 4.15 of the *Environmental Planning & Assessment Act 1979* (EP&A Act), Central Coast Council (Council) policies and adopted Management Plans.



**Wyong Administration Building:** 2 Hely St / PO Box 20 Wyong NSW 2259

P 1300 463 954 | W [centralcoast.nsw.gov.au](http://centralcoast.nsw.gov.au) | ABN 73 149 644 003

## Background

Construction of the residential flat building comprising Unit 1 and Unit 2 was approved under DA/11582/2001 on 21 May 2001. A subsequent amendment to the approved building design was approved under Section 96(1) of the EP&A Act (now Section 4.55) on 10 August 2001 (DA/11582/2001/A).

DA/11582/2001 further included the removal of an existing dwelling and trees to facilitate construction.

A strata subdivision of the subject site was approved on 7 May 2003 under DA/19758/2003.

Elements of the Unit 2 building design under DA/11582/2001 and DA/11582/2001/A related to the current proposal include:

- Unit 2 is two storeys, sharing a common wall between the garages and patios of each unit.
- Unit 2 is located at the rear of 2 Burrawang St.
- The Unit 2 outdoor courtyard is located on a suspended concrete slab on the second storey of the building.
- Western walls of the patio measure 1.8 m height to act as a visual screen to neighbouring properties.

The existing awning over the patio of Unit 1 was approved by Council under DA/56003/2019 on 11 March 2019. Of note, DA/56003/2019 included the provision to extend the height of the common wall between the patios of Unit 1 and Unit 2 to 3 m. DA/56003/2019 was found to be compliant with the provisions of the *Gosford Local Environmental Plan 2014* (GLEP 2014) and the *Gosford Development Control Plan 2013* (GDCP 2013).

## Site & Surrounds

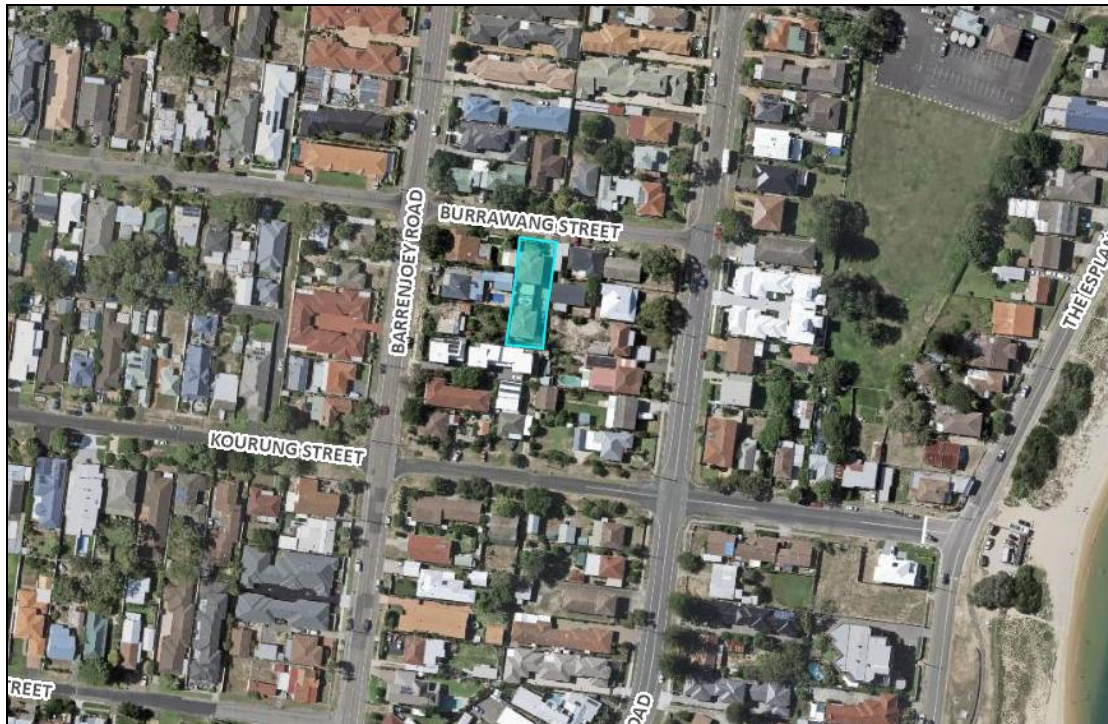
The proposal is located at Unit 2, Strata Plan (SP) 76628, 2 Burrawang Street Ettalong Beach NSW 2257 (the subject site).

### Land Use

Predominant land use within 200 m of the subject site comprises residential development, and community sports facilities. The Brisbane Water outlet to Broken Bay is located approximately 250 m east of the subject site, with both the Umina and Ettalong commercial centres located within 1 km of the subject site.

The subject site fronts Burrawang St, a two-way, sealed local road.

See Error! Reference source not found. for an aerial of the subject site and surrounding urban environment.



**Figure 1: Subject site (blue border) and surrounds (Geocortex, 2022).**

### ***Topography***

The subject site is located upon relatively flat grounds, with ground height located between 3.5 m and 4 m Australian Height Datum (AHD). No mapped drainage lines occur within 40 m of the subject site.

### ***Flooding***

The north-western portion of the subject site (outside the footprint of the proposal) is located within the extents of the Probably Maximum Flood (PMF) level, with no parts of the subject site mapped within the Flood Planning Area under GLEP.

### ***Landslip***

The subject site is not located within a landslip zone requiring a geotechnical assessment under the *Gosford Development Control Plan 2013* (GDCP).

### ***Ecology***

The subject site is clear of remnant native vegetation.

### ***Bushfire***

The subject site is not located within the extent of Bush Fire Prone Land (BFPL) mapping under Section 10.3 of the EP&A Act.

### ***Heritage***

The subject does not contain any items of Environmental Heritage as mapped under GLEP, while an assessment against *The Due Diligence Code of Practice for the Protection of Aboriginal Objects*

in NSW (Due Diligence Code of Practice) is not required as the proposed development does not include ground disturbance works or tree removal.

### **Soils**

The subject site is located within the extents of Class 4 Acid Sulfate Soils (ASS), however an ASS Management Plan under clause 7.1 of GLEP is not required as the proposal does not include any ground disturbance works.

### **Access**

The subject site fronts Burrawang St, a local road under the management of Council. No works, including the storage of materials and / or waste, is to occur within the extents of the Burrawang St road reserve without a permit issued under Section 138 of the *Roads Act 1993*.

### **Subsidence**

The subject site is not located within a mine subsidence region.

### **Coastal Management**

The subject site is located within the extents of the Coastal Environment Area and Coastal Use Area under Part 2.2 of the *State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards SEPP). It is noted that only the south-eastern portion of the subject site is mapped within the extents of the Coastal Use Area (see Error! Reference source not found.).





**Figure 2: Coastal Environment Area (pink) and Coastal Use Area (Orange) in relation to the subject site (Geocortex, 2022).**

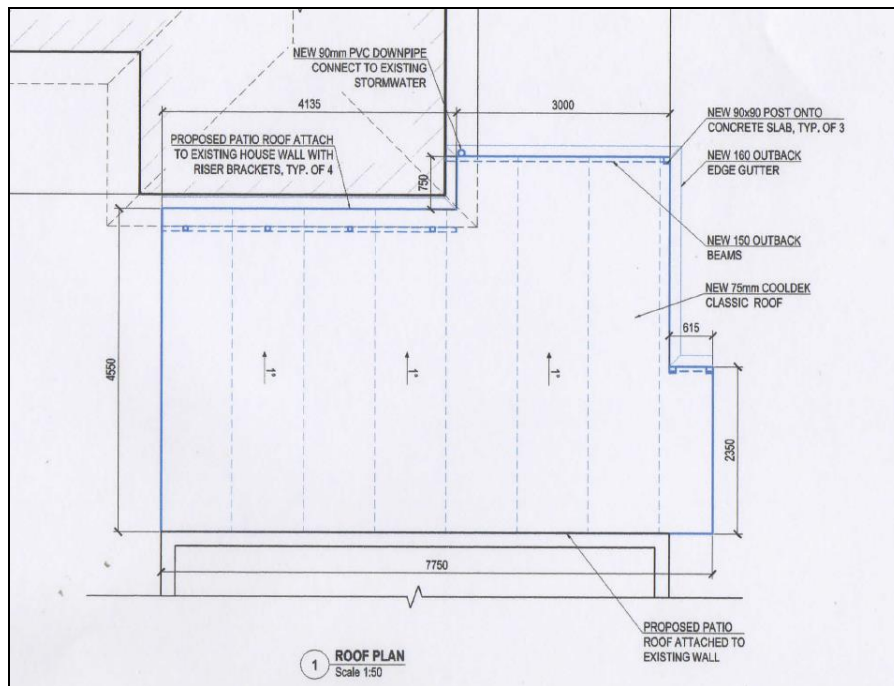
## The Proposal

The proposal includes the installation of a prefabricated pergola rooftop upon the existing second storey concrete patio. Key features of the proposed patio include:

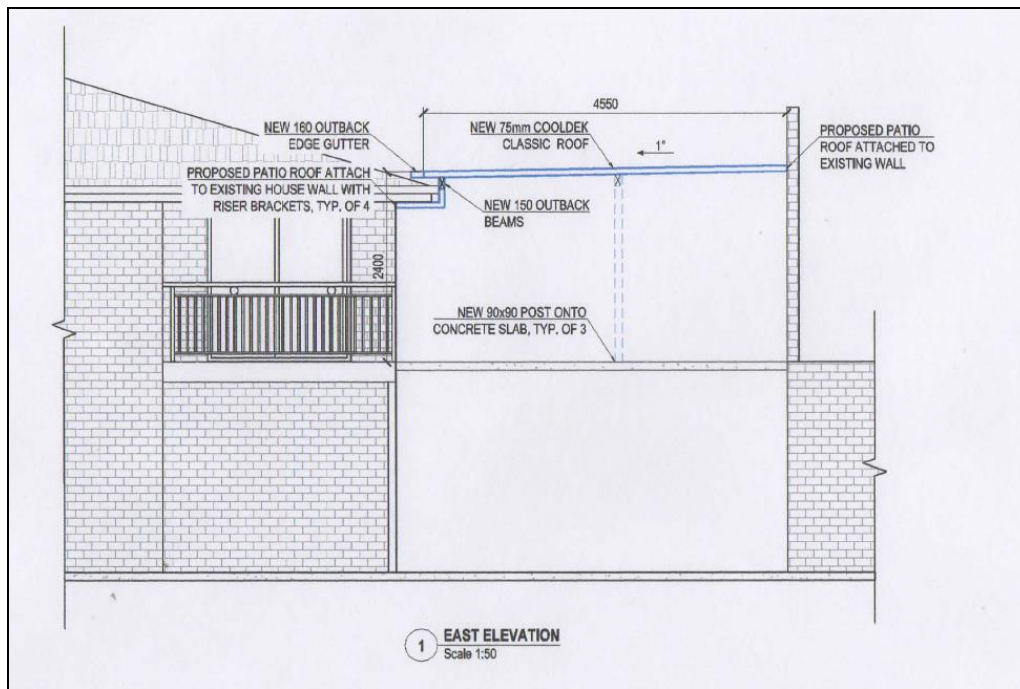
- Covers an area of approximately 36m<sup>2</sup> with rooftop dimensions provided in Error! Reference source not found. below.
- Will be fitted to the existing house wall at an approximate height of 2.4 m height above the first-floor surface.
- Installation of the proposed patio will include 90x90 mm support posts installed into the suspended concrete slab (see Error! Reference source not found., Error! Reference source not found.).



- The proposal does not require any ground disturbance works, while the proposed patio will be constructed offsite. As such, waste generation will be limited packaging waste and general waste generated by installation works.



**Figure 3: Proposed patio dimensions (Luxury Outdoor Living, 2022).**



**Figure 4: Features and height of proposed patio (Luxury Outdoor Living, 2022).**

## Site History

Approval history for the subject site is discussed earlier in this report. Review of aerial imagery from shows a single dwelling upon the property, which was removed as part of DA/11582/2001.

## Site Inspection

An inspection of the subject site was undertaken on 8 July 2022. Evidence of the extended height of the common brick wall between the dwellings onsite (**Figure 5**) and the privacy screen to the west (**Figure 6**) were observed during the site inspection.



**Figure 5: Extension of brick wall height under DA/56003/2019**



**Figure 6: Existing brick privacy screen to the west of the proposed patio footprint**

## Applicable Planning Controls

The following planning policies and control documents are relevant to the development and were considered as part of the assessment.

- *Environmental Planning & Assessment Act 1979* – Section 4.15.
- *Water Management Act 2000*.
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- *State Environmental Planning Policy (Resilience and Hazards) 2021*.





- *Gosford Local Environmental Plan 2014.*
- *Gosford Development Control Plan 2013.*
- *Central Coast Local Environmental Plan 2022 (to commence August 2022).*

## **Permissibility**

The subject site is zoned R1 – GENERAL RESIDENTIAL under GLEP 2014. The proposed development is ancillary to residential development which is permissible in the zone with the consent of Council.

## ***Water Management Act 2000***

The proposed development does not include any physical works upon waterfront land as defined under the *Water Management Act 2000* (WM Act). The proposed patio will drain into existing site drainage systems.

## ***State Environmental Planning Policy (Exempt and Complying Development Codes) 2008***

The proposal does not meet Development Standards for Exempt Development under clause 2.12 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP 2008). The proposal does not comply with Complying Development standards under clause 3B.14 of the Codes SEPP 2008.

## ***State Environmental Planning Policy (Resilience and Hazards) 2021***

### *Coastal Management*

The subject site is located within both the *Coastal Environment Area* and *Coastal Use Area* under the Resilience and Hazards SEPP. The proposed patio occurs within the *Coastal Environment Area*, while waste storage may occur within the Unit 1 parking bay, located within the *Coastal Use Area*.

The proposal will not cause an adverse impact upon either the *Coastal Environment Area* or *Coastal Use Area* pursuant to clause 2.10 and clause 2.11 of the Hazards and Resilience SEPP.

### *Contamination and Remediation*

Clause 4.6 of the Resilience and Hazards SEPP requires that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. The proposed development is to be constructed on a previously built structure and therefore further assessment against clause 4.6 is not required.

## ***Gosford Local Environmental Plan 2014***

Provisions of GLEP applicable to the proposal are discussed in Error! Reference source not found..

**Table 1: Assessment of the proposed development against GLEP.**

| PROVISION                | PROPOSAL COMPLIANCE   |
|--------------------------|---|
| <b>Land Zoning</b>       |   |
| R1 – General Residential | Permitted with consent and complies with the objectives of the R1 Zone. |



| PROVISION  | PROPOSAL COMPLIANCE   |
|--|---|
| <b>Clause 4.3 Height of Buildings</b>  |   |
| Maximum 8.5 m  | The proposal occurs below the existing building height and is below 8.5 m height. |
| <b>Clause 4.4 Floor Space Ratio</b>  |   |
| Pursuant to clause 4.4(2A)(c) – 0.5:1  | The proposal does not include any change to FSR.                                  |
| <b>Clause 7.1 Acid Sulfate Soils</b>   |   |
| Class 4 mapped ASS   | No ASS Management Plan required with no ground disturbance works proposed.        |
| <b>Clause 7.3 Floodplain Risk Management</b>   |   |
| Subject site constraints PMF mapping   | The proposal does not trigger assessment under this clause.                       |
| <b>Schedule 5 Environment Heritage</b>   |   |
| No Heritage Items, Heritage Conservation Areas or Archaeological Sites listed at the subject site. | No further assessment required.   |

### ***Gosford Development Control Plan 2013***

#### ***Chapter 2.1 - Landscape Character***

The subject site is located within the extents of *Class 7 – Sandplain Mixed Density* within the Ettalong Beach Character Statement under the GDCP. The proposed development is consistent with the existing and desired character of the local area and will be positioned lower than the existing building height.

#### ***Chapter 2.2 - Geographic Unit***

The subject site is located within the *Peninsula* Geographic Unit (GU) under Chapter 2.2 of the GDCP. No adverse impacts on landscape character will occur from the proposed development.

#### ***Chapter 3.3 – Multi-Dwelling Housing and Residential Flat Buildings***

The submitted Statement of Environmental Effects (SEE) references Chapter 3.1 (Dwelling Houses, Secondary Dwellings and Ancillary Development) during the assessment of the proposal against the GDCP 2013. However, given the property address (2/2 Burrawang Street) and the standing approval for a 'residential flat building' under DA/11582/2001, Council is of the opinion that assessment against Chapter 3.3 (Multi-Dwelling Housing and Residential Flat Buildings) would be more appropriate for the proposal. The merits of the proposal against Development Controls in Chapter 3.3 of GDCP 2013 is provided in **Error! Reference source not found.**

**Table 2: Assessment of the proposed development against Chapter 3.3 of GDCP 2013.**

| DEVELOPMENT CONTROL            | RELEVANT PROVISION | PROPOSAL COMPLIANCE                            |
|--------------------------------|--------------------|--|
| <b>Maximum Building Height</b> | 8.5 m              | Compliant – does not increase building height. |



| DEVELOPMENT CONTROL        | RELEVANT PROVISION                                     | PROPOSAL COMPLIANCE  |
|----------------------------|--|--|
| <b>Minimum Room Height</b> | Habitable Room – 2.7 m.<br>Non-habitable Room – 2.2 m. | Proposed to be 2.4 m. The proposed patio will not be fully enclosed and is therefore considered to be a 'non-habitable room' and the proposed height is compliant with GDCP.                           |
| <b>Setbacks</b>            | N/A  | Built upon existing structure.   |
| <b>Car Parking</b>         | N/A  | No change.   |
| <b>Articulation</b>        | Design objectives                                      | Compliant – the proposed patio roof is lower than the existing buildings and is also lower than the height of the patio roof approved under DA/56003/2019, providing a break to continuous ridgelines. |
| <b>Sunlight</b>            | Design objectives                                      | The proposed patio may cause some additional shading in adjacent rooms.  |
| <b>Site Planning</b>       | Privacy objectives                                     | Compliant - The proposed development retains the privacy screen wall between the two Units on the subject site and the screen wall installed for privacy of lots to the west.                          |

#### Chapter 6.7 Water Cycle Management

Stormwater run-off from roof (which would have fallen within the sealed patio) will be directed into existing drainage system.

#### Chapter 7.2 – Waste Management

The proposal submission included a Waste Management Plan which will be applied during installation of the proposed pergola roof.

#### **Central Coast Local Environment Plan 2022**

The *Central Coast Local Environmental Plan 2022* (CCLEP 2022) has been finalised and notified on the NSW Legislation website on 24 June 2022. It will come into effect 1 August 2022 and the consolidated *Central Coast Development Control Plan 2022* (CCDCP 2022) will also come into force on the same date and will replace the planning instruments relating to the former Local Government Areas of Gosford and Wyong.

The CCLEP 2022 is a matter for consideration under Section 4.15 of the EP&A Act. The CCLEP 2022 is considered imminent and certain and can be afforded significant weight.

The CCLEP 2022 includes savings provisions that provide for an application lodged before the making of the Plan, that the application must be determined as if the Plan had not been made.



Under the provisions of the CCLEP 2022, the site retains its R1 zoning and building height controls. The proposal would be a permitted use. The provisions of the draft plan and its objectives for the R1 zone have been considered in the assessment of this application.

While the Central Coast Development Control Plan (CCDCP 2022) is not a statutory matter for consideration, its key controls, as relevant to this site and development are summarised below, with comment on how the current proposal measures up to these controls:

- No impact upon existing structure compliance with building control requirements under Chapter 2.3 (Residential Flat Buildings and Shop Top Housing) regarding building height, FSR, setbacks, privacy, access and carparking.
- Clause 2.3.6.10 – the proposal complies with ceiling heights for non-habitable rooms (2.4 m).
- Clause 2.3.6.5 Sunlight Access – no analysis of shading on the existing dwelling was undertaken as part of the DA submission. Shading of internal rooms adjacent to the proposed pergola roof will likely occur. It is noted that viewing of a sample of aerial imagery over time (Nearmap, n.d.) shows that portions of the existing balcony and building are already shaded from 1/2 Burrawang Street through different periods of the day (see **Figure 7** and **Figure 8**).
- Clause 2.3.10.2 Stormwater Management – stormwater will be diverted into the existing site stormwater system.

The proposed development is permissible under the provisions of CCLEP 2022.



**Figure 7: Shading over existing balcony**  
(Nearmap – 17 June 2022)



**Figure 8: Shading over existing balcony**  
(Nearmap – 4 July 2021)

## **Planning Agreements**

The proposed development is not subject to a planning agreement / draft planning agreement.

## **Development Contribution Plan**

The proposal is not subject to Section 7.12 development contributions.

## **Referrals**

Not required for this proposal.

## **Political Donations**

During assessment of the application there were no political donations were declared by the applicant, applicant's consultant, owner, objectors and/or residents.

## **Public Submissions**

The development has been notified in accordance with the provisions of GDCP 2013. There were no submissions received in relation to this proposal.

## **Conclusion**

This application has been assessed under the heads of consideration of Section 4.15 of the EP&A Act, including relevant instruments and policies. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development. Subject to the imposition of appropriate conditions, the proposed development is not expected to have an adverse environmental, social or economic impact. It is considered that the proposed development will complement the locality and meet the desired future character of the area.

Accordingly, the proposal is recommended for **approval** pursuant to Section 4.16 of the EP&A Act.

## **Plans for Stamping**

Site Plans (CM Doc No. D15116018).

## **Supporting Documents for Binding with consent**

Waste Management Plan (CM Doc No. D15116020).

Site Plans (CM Doc No. D15116018)

## **Recommendation**

- A Council as consent authority grant consent to Development Application No DA/1130/2022 for the installation of a pergola roof over an existing concrete patio at Unit 2, SP 76628, 2/2 Burrawang Street Ettalong Beach NSW 2257, subject to the conditions attached.





- B In accordance with Section 4.53(1) of the *Environmental Planning & Assessment Act 1979*, this consent shall be valid for a period of five (5) years.

|                                    |                                 |
|------------------------------------|---------------------------------|
| <b>Recommendation:</b>             | Approval, subject to conditions |
| <b>Assessing Officer:</b>          | Brad Deane                      |
| <b>Recommendation Reviewed by:</b> | Erin Murphy                     |

