

Shane Powell
Lynne and Bob Cairns

From: Ashley Lindsay <Ashley.Lindsay@clarence.nsw.gov.au>
Sent: Monday, March 15, 2021 4:02 PM
To: Lynne Cairns <blcairns@bigpond.com>
Cc: Jim Simmons <Jim.Simmons@clarence.nsw.gov.au>; Debrah Novak <Debrah.Novak@clarence.nsw.gov.au>; 'spowelly POWELL' <spowelly@bigpond.com>; Lesley McBay <Lesley.McBay@clarence.nsw.gov.au>; Des Schroder <Des.Schroder@clarence.nsw.gov.au>; Adam Cameron <Adam.Cameron@clarence.nsw.gov.au>
Subject: RE: Request for a Meeting with General Manager, Mayor, Cr Novak, Mr Powell and Mr and Mrs Cairns

Dear Lynne, Bob & Shane,

As we discussed at our meeting before Xmas Council staff had written to the owner of 19 Gumnut Road Yamba requesting that they submit a S4.55 modification of the DA approved to address the variations to the approval (dated 25 November 2019) provided for DA2019/0439.

Council has received this modification application which is currently being determined by staff and I understand you have been notified.

You have asked for a meeting which I don't believe is appropriate whilst this modification application is being reviewed by staff. It is our intention that this modification be reported to Council for determination.

I have requested a copy of the survey from the Planning staff but at this time I have not received it.

My recommendation to you is that you should submit your comments in regarding the modification DA.

Regards

Ash

Ashley Lindsay
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From: Lynne Cairns [<mailto:blcairns@bigpond.com>]
Sent: Friday, 12 March 2021 2:54 PM
To: Ashley Lindsay; Council Email
Cc: Jim Simmons; Debrah Novak; 'spowelly POWELL'
Subject: Request for a Meeting with General Manager, Mayor, Cr Novak, Mr Powell and Mr and Mrs Cairns

Dear Mr Lindsay

As we were provided insufficient time on 18 December 2020 to discuss matters with you in relation to DA 2019/0439 – studio, deck and carport, we now wish to request another meeting.

A letter, with attachments, and many unanswered questions, was emailed to you from Cr Novak (assisting us in this matter) on 28 January 2021. As it has now been over 30 business days we also wish to discuss the questions in the letter. As we were provided the Consent Plans and Structural Plans, for the first time at the meeting of 18 December 2020 (after the studio and deck were constructed) we naturally had further questions when we realized how different these Plans are to the initial Notification Plan and now the construction of DA 2019/0439 is so very different to that in the Consent and Structural Plans.

We have emailed Council and yourself many times after the DA was approved on 25 November 2018 with questions and concerns about the proposed DA. Many questions remain unanswered. Since 4 December 2018 we have been asking if a survey of the property had been done, to no avail, and if the floor of the proposed studio is below 2.9m AHD then (as it is a Flood Liable Area according to Councils Flood Map) the walls of the studio should be brick or blockwork in accordance with Council DCP Part 4 Flood Plain Management Controls Schedule D1 page 53, not constructed with cladded walls. **We have also asked in writing a number of times why a Stop Work Order has not been issued when we informed Council and yourself, in writing, of the non-complying additions continuing to be just added on without any action from Council.**

Please inform is there was ever a survey (done by a registered surveyor), as required in the Conditions of Consent and Councils DCP D7.3 page 52, on 19 Gumnut Road Yamba and please provide a copy. And if one has not been done please inform why one hasn't been done as required.

Please provide an opportunity to meet with yourself and others as listed in the subject of this email.

Regards
Shane Powell
Lynne and Bob Cairns

17 March 2021

Dear Mayor Simmons,
 Councillors
 Clarence Valley General Manager, Mr Ashley Lindsay

RE: DA2019/0439, MOD2021/0016 and DA2021/0153
19 GUMNUT ROAD YAMBA

We have just been reviewing the Plans for the above DAs and modifications.

We respectfully request the following in relation to **DA 2019/0439 (initially approved on 25 November 2019 for a studio, deck and carport) at 19 Gumnut Road Yamba, now MOD2021/0016 (to be reported to Council) and new DA2021/0153 (to be determined by Council delegation):**

- **The whole current process be discontinued;**
- **A survey carried out by a registered surveyor (see point 1 below), with accurate dimensions and levels to AHD including locating the revetment wall;**
- **That all the Plans be accurately redrawn of all structures/installations to the survey plan;**
- **All required structural engineers plans and certifications;**
- **The process to recommence and to be reported to Council for all structures and installations on the property.**

The reasons we respectfully request this is outlined as follows:

It appears Council has failed to ensure the processing, assessing and assessment of DA2019/0439 (in accordance with Councils DCP) and failed to ensure compliance of the constructed build (in accordance with the Conditions of Consent, the Consent and Structural Plans and Councils DCP). Also, the Plans for MOD2021/0016 and the new DA2021/0153 are misleading, inadequate, inconsistent and inaccurate – and they do not fully represent the non-complying construction of DA2019/0439 (and now MOD2021/0016) on the property, nor the Plan for DA2021/0153 (and these Plans are nothing like the Notification Plan provided to adjoining neighbours to try to make a well informed submission in 2018) – please see below:

A Survey (by a registered surveyor) was not carried out prior to commencement of construction or at any time (as can be the case after the footings are inspected):

1. It appears **Council has failed to obtain or request a survey plan** (done by a registered surveyor), from the applicant when DA 2019/0439 was lodged with Council in August 2018, in accordance with Council's Residential Zones Development Control Plan (DCP) Part D Floodplain Management Controls and also as required in Conditions of Consent Point 9 and 15 page 5. A survey plan is required as DA 2019/0439 – **19 Gumnut Road Yamba is totally on Flood Liable Land (according to Councils Flood Map)**. The survey plan is to provide **locations of all boundaries and existing and proposed buildings relevant to the surveyed boundaries and levels, particularly the AHD of the concrete slab of the studio (done by a registered surveyor with Australian Height Datum not just some assumed Datum or on ground measurements by the builder)**. Council have been requested, in writing, a number of times since 23 October 2019 (before and after approval of DA2019/0439), asking whether a survey has been done by a registered surveyor at any time. A copy of such a survey has not been provided to date.
2. **Council failed to ensure the concrete floor of the studio is not below 2.9m AHD in accordance with Conditions of Consent point 15** (also see point 1 above). **If below 2.9m AHD the walls of the studio should be constructed as brick or blockwork, reinforced concrete or mass concrete according to Councils DCP Part D Flood Plain Management Controls Schedule D1 page 53.** The studio has been constructed with a floating timber floor on top of the slab. The studio has been constructed with grey cladding on the walls and is also in total contrast to the existing blonde brick building, not in keeping with the character of the neighbouring properties, and is clearly visible from the canal and many properties in the canal and from Bayside Park. The Compliance Report mentioned at point 11 below states that 'Councils DCP are merely guidelines' in relation to separate/detached buildings to be compatible with the existing dwelling and the neighbourhood.

The non-complying roof of the studio:

3. DA2019/0439 and MOD2021/0016 do not show the full extents of the roof of the studio – it is only seen as a broken line on all Plans including the Rumpus Plan, Elevations Section and does not provide the word ‘roof’ in the dimensions. None of the Plans show the roof coloured in, it is only seen as a broken line and is very difficult to sight. The size of the oversized modified cantilever roof is over 67sqm and the studio footprint is 30sqm. The size of the roof was not taken into consideration in the DA Assessment on 13 November 2019, only stating the studio is a relatively small 30sqm footprint.
4. The Structural Engineers Certificate dated 28 February 2020 was for the design of the studio (prior to commencement of construction on 23 March 2020, according to the Notice of Commencement of Works). As the studio (particularly the roof) was not built to the Consent and Structural Plans this Certification would be rendered invalid. In addition, the Structural Plans show the roof as a hip roof and the Consent Plans show it as a flat roof. It is built as a flat roof but has been constructed much larger than the Consent Plans and is cantilevered out over the pool fence to the edge of the pool. This completely changes the wind loading on the structure and would bring into doubt the structural stability and integrity of the roof for an N3 wind loading.

The larger non-complying extended deck:

5. The larger extended deck appears to be approximately 1m further to the canal, out over the revetment wall. The revetment wall needs to be located as it appears the retaining wall could be further out than the revetment wall (see point 11 below). The MOD2021/0016 Plans fail to provide sufficient location details and dimensions and there are inconsistencies in MOD2021/0016 Plans (see point 12 below).
6. The non-complying deck has been constructed totally surrounding the pool, the studio, extends further to the south of the studio and also appears to extend about 1m out over the revetment wall. It appears the footings for the larger deck have not been certified by an appropriate engineer (see points 8, 9 and 10 below).
7. The conditions of Consent for DA2019/0439 at point 7 state ‘No portion of the deck is to be enclosed without prior written approval being obtained from Council.’ Council informed in writing that prior written approval was not provided to enclose the deck as it was not requested from the owner or the builder.

The non-complying retaining wall (now footings for the non-complying deck) constructed prior to DA2019/0439 approval:

8. It appears Council has failed to see and address the fact that the retaining wall (now the footings for the large non-complying extended deck possibly out over the revetment wall) was already completely constructed prior to DA approval on 25 November 2019. Council has overlooked the fact that photos of the finished, constructed wall were provided in Mr and Mrs Cairns submission dated 20 September 2019 and 15 November 2019 (asking whether Council approval was required to raise/construct the revetment/retaining wall and fill behind it and a photo dated 29 October 2019 showing an excavator filling behind the wall). Councils Building Surveyor undertook and onsite inspection on 13 November 2019 and appears to have failed to sight the constructed retaining wall prior to DA approval. It also appears Council has failed to ensure the wall has been certified by an appropriate engineer. (see attachment photos showing non-complying works – photos 1, 16, 22a) and 22 b)).
9. It appears the fill behind the retaining wall has not been carried out in accordance with the Structural Plan requiring compaction and possibly has no subsoil ag pipe drainage installed in front of and behind the wall, as seen in the Structural Plan.

10. And as it appears the footings for the larger extended deck have not been certified by an appropriate engineer then the structural integrity and stability of the whole deck, footings and revetment is questionable and at risk.

Revetment wall not located during compliance investigation:

11. Council failed to locate the revetment wall when carrying out a compliance investigation on 9 December 2020. The Compliance Report provided on 16 December 2020 states ‘The revetment wall at the site has been buried by natural sand drift and was not visible at the time of inspection.’ The revetment has not been covered by natural sand drift. Photos dated 2 November 2020, of a commercial dredge, pumping sand in front of the retaining, were provided to Mr Lindsay, Mr Schroder and Ms Black, during a meeting, on 18 December 2020, with Mr Powell and Mr and Mrs Cairns. One could easily locate the revetment wall with a small shovel. The wall is clearly visible on the neighbouring properties on either side of 19 Gumnut Road Yamba.

The Compliance Report stated six times that a s4.55 modification will need to be submitted to Council (the larger extended deck towards to the canal; the deck surrounding the studio to the east and south; the 1.8m high planter box on the western boundary in the 900mm setback and within the 7.5m setback from the northern boundary; the water tank in the 900mm setback; the much larger roof of the studio and the glass panelling on the canal end of the deck. MOD2021/0016 has many more constructed non-complying modifications - four extra sections of deck already constructed (extended out and over the retaining wall to the canal (and appears out over the revetment wall), large sections to the north, south and east of the pool and a larger section south of the studio and further south partly down the side passage of the existing home); two extra sections of the roof – the large extended cantilever section to the east out to the edge of the pool and the eave on the studio to the west; the glass panelling (doesn’t mention the wood bar top) on the canal edge of the deck; the 1.8m high planter box within the northern and western setbacks; the large extended wooden ramp from near the pool to near the first piers on the jetty; and the modifications of folding windows, sliding doors and a multi-stackable slide window and two more proposed planter boxes. MOD2021/0016 no longer includes the water tank as this now comes under new DA2021/0153 with the non-complying pontoon and jetty, extendable awning and privacy screen. Also, the Report stated five times that Councils DCP are merely Guidelines. It appears these modifications are not substantially the same development as the development for which the consent was originally granted and very different to the Notification Plan and Consent Plans.

12. It appears Council has also failed to see the inconsistencies in the MOD2021/0016 plan diagrams to the wording in the Plans, the Elevations Plan A202 states ‘deck cantilever over revetment wall.’ Then in contradiction the Sections Plan states ‘cantilever deck as far as inside edge of revetment wall.’ The revetment wall in the diagram is also seen further out from the end of the deck in both the East and West Elevations. This is also not in accordance with Councils DCP CVC DCP Part C. Schedule C2 page 47 Point 5 states ‘.. no structure be erected on the canal side of the revetment wall except jetties. Structures are not to be supported by or to adversely affect the stability of revetment walls.’ The deck has not been built in accordance with the Consent Plans.
13. The Landscape Plan for MOD2021/0016 states ‘the tidal area forward of the revetment wall has not been included in the landscaped area, even though it is left in a ‘natural state.’ It has not been left in a natural state as outlined at Point 11 above.

The planter box:

14. MOD2021/0016 Plan (Site and Backyard Plans) shows the deck is within the 900mm setback from the western boundary with a planter box sitting on top of it. The constructed 1.8m high non-complying planter box has been constructed within the 900mm setback from the western boundary sits beside the non-complying deck which appears to be 900mm from the western boundary (see photos attached – photos 9,10,11 and 14 a)). The constructed planter box is not in accordance with the Conditions of Consent Point 18 (stating ‘The minimum side setback

for the proposed rear deck shall be 900mm'). And not in accordance with Point 14 of the Conditions of Consent '14. All structures located within the 7.5 metre rear building alignment shall not exceed 1.2 metres in height from existing ground level.'

15. The Compliance Report dated 16 December 2019 as mentioned at point 11 above **failed to comment or confirm that the planter box is within the 900mm setback from the western boundary and also within the 7.5m setback from the northern boundary.** The Report also states that '*Councils DCP are merely guidelines*' in relation to the planter box.

Glass panelling on canal front edge of deck:

16. There is **no height on the non-complying glass panelling on the northern edge of the deck, and the wooden bar on top of the panelling is not shown** as currently exists (in the Plans or in wording). The glass panelling was installed in November 2020 and Council was emailed on 27 November 2020 informing the installation glass panelling.

Ramp installed from near pool to near first piers on the jetty

17. The long non-complying ramp was installed on 2 December 2020 – **see photos attached – photo 14 a) and 14 b).**

DA2021/0153 – Proposed retractable awning, floating pontoon, retractable privacy screen and water tank.

18. **Three of the four structures/installations in DA 2021/0153 Plan (estimated cost of \$5,000) have been already constructed/installed - they are not proposed as stated in the Plan:**

- **The new floating pontoon/docks and new gangplank (was installed on 30 September 2018 after demolishing the previous jetty – see photos attached – photo 15 and 16).** Council has been notified of this a number of times in writing;
- Council was informed in writing on 31 January 2021 (and Council email) that **the retractable awning was installed on 28 January 2021;**
- Council was informed, via email **on 26 November 2020 that the water tank was installed in the 900mm setback from the western boundary.**

It appears Council has failed to take any action in accordance with its Enforcement Policy in relation to these three structure/installations. All four structures/installations are non-complying and not in accordance with Councils DCP and LEP (in the case of the pontoon/docks and new gangplank).

New Pontoon and Jetty (has already been constructed and installed)

19. The DA2021/0153 Plan states that the proposed floating pontoon/docks are '*to be installed by factory trained DOCPRO Technician.*' The new pontoon and jetty were constructed and installed on 30 September 2018 – **see photos attached – photo15 page 9.**
20. **The previous pontoon and about half of the jetty was demolished in late September 2018 and the new much pontoon (with floating boat docks) and jetty appears to be much larger and further out.** This was also discussed at the meeting mentioned at point 11 above and **we informed that the previous pontoon and jetty may have been licenced but it appears this new one is not.** After the meeting an email was received from Council stating the jetty licence is current, and the licence period is 1 July 2018 – 30 June 2023 (and the new DA202/0153 Plan shows '*existing floating pontoon Lic 0308*'). The pontoon and jetty shown on the Plan is the new structure and appears not to be Licenced.

It appears Council have overlooked that the required application (and fee) has not been lodged for demolishing the previous pontoon or installing the replacement pontoon and jetty. Council also requires a site plan, elevation plans and structural engineering plans for a new jetty and pontoon to be lodged with the application. Applications are seen as DA's on Councils DA Track It. The DA Track It site does not show a DA for demolishing or the new pontoon and jetty for 19 Gumnut Road Yamba back to 2015 (see photos attached – page 10 and 11 – screen dumps of Councils DA Track It site). The current owners bought the property in August 2017. The new pontoon and jetty dimensions need to be measured. Council may also have the previous pontoon and jetty plans from the previous owners.

21. **The new pontoon (with boat docks) is much larger and further out than the previous pontoon and jetty.** The **total floating area of the pontoon and boat docks** as seen in DA2021/0153 Plan is **about 55 sqm.** The **total length of the pontoon/jetty** on the Plan DA2021/0153 is stating **'15.9m; however that is only from the northern boundary** (which has not been surveyed). We understand that Council requires **the measurement to be taken from the revetment wall which is about 2m south of the northern boundary, making the total length of the jetty and pontoon nearly 18m.** This is not in accordance with Councils LEP and Water Recreation Structures Fact Sheet stating *'jetties (including any pontoons) must have a maximum length of 13m.'* This is possibly the largest and longest structure into the canal and possibly impedes access to the pontoon and jetty at 21 Gumnut Road, particularly for large boats.

Retractable awning (has been installed)

22. The **retractable awning is not proposed as the Plan states.** Council was informed it was installed on 28 January 2021. It is not a minor structure as DA2021/0153 Plan states and it is not in accordance with **Point 14 of the Conditions of Consent '14. All structures located within the 7.5 metre rear building alignment shall not exceed 1.2 metres in height from existing ground level** and Councils DCP. It impedes views over the canal from neighbouring properties and **if other residents in the canals commence to install large extendable awnings impeding neighbours views then this could result in neighbourhood disputes.**

Water tank (has been installed)

23. The report from the compliance investigation dated 16 December 2020 states that the **water tank will require a s4.55 modification and this was discussed with Mr Powell and Mr and Mrs Cairns in a meeting with Mr Lindsay, Mr Schroder and Ms Black on 18 December 2020 (the meeting was recorded as permitted and a transcript from the recording of the meeting has been provided).** However, **the water tank has not been included in MOD2021/0016 as seen in the Compliance Report and as informed to those at the meeting.** The **report fails to note that the water tank is within the 900mm setback from the western boundary.**
24. The **overflow drain from the water tank is still running down from the top of the tank, along the ground at the western boundary fence and out over the beach and has done so for nearly 6 months, since October 2020 (see photos attached – photo 9).** The **downpipe from the studio was not installed when the frame of the studio was inspected on 19 August 2019.** It was installed at least two months later and ran along the top of the non-complying 1.8m high planter box and splashed out into the water **(see photos attached – photo 9).**

Proposed retractable privacy screen

25. **The proposed retractable privacy screen has not been installed as yet. The screen is 4.7m long x 2.34m high. It appears to have a permanent beam (at 2.34m high) fixed to post 4.7m from the north side of studio towards the northern end (canal end) of the deck. It sits on top of the deck which is already constructed higher than the required 1.2m from ground level (the height of the screen will be about a total of 3.5m from ground level).**
26. It is not a minor structure as DA2021/0153 Plan states and it is not in accordance with **Point 14 of the Conditions of Consent '14. All structures located within the 7.5 metre rear building alignment shall not exceed 1.2 metres in height from existing ground level** and Councils DCP. **If other residents in the canals commence to install large retractable privacy screens impeding neighbours views, breezes and solar access then this could result in neighbourhood disputes.**

Basix Certificate

27. It appears that a BASIX Certificate may have been required, as Council may have overlooked the project valuation for DA 2019/0439 (originally the estimated cost was \$47,500) however it appears this does not represent the true value of the project work completed. Also noted is that MOD2021/0016 - Alterations and additional deck surrounding pool, additional ramps have an estimated cost of \$3,000 which is in total greater than \$50,000 and this does not include the glass panelling with wooden bar on top, nor does it include the slim-line water tank which was investigated for compliance and reported as requiring a s4.55 modification (see point 23 above). In addition, the new separate DA2021/0153 for the same property has an estimated cost of \$5,000.

In addition to the above **the Consent Plans and Perspectives for DA2019/0439 and now the constructed development (MOD2021/0016) are very different to the Notification Plan provided to the adjoining neighbours. Hence making it very difficult for the neighbours and other ratepayers to lodge a well-informed submission.** This is also apart from the fact that the Consent Plans were **quite misleading and lacking sufficient detail and dimensions,** particularly of **the size of the roof of the studio which was not coloured in** on any of the plans (**it is only outlined as a broken line**) and the Rumpus Plan, Elevations, Section with the broken line around the studio **does not mention the word 'roof' on the dimensions** (this is on both the DA2019/0439 Consent Plans and now the MOD2021/0016 Plans) and the now constructed extended and extents of the decking to the north, south and west and around the pool.

The Consent Plans and Perspectives (dated 15 November 2019) and Structural Plans (dated 10 December 2019) were provided to Mr Powell, for the first time, on 18 December 2020. Mr Powell requested in writing and phone calls, a number of times, to Council and was promised that a Building Surveyor would attend his property prior to approval of DA2019/0439. This did not occur. After recently receiving MOD2021/0016 and DA2021/0153 we now realise to the full extent the non-complying issues with this development.

It appears, throughout this whole process Council has failed to take action, in accordance with Councils Enforcement Policy, when notified in writing of the non-complying construction and installations in relation to DA 2019/0439.

We believe this property is **overdeveloped** and if this development is just approved as seen in the Plans then this will set an **ongoing precedent for future non-complying development to be accepted, approved and certified in the existing and new developments in Councils canals and could result in neighbourhood disputes and bring Council into disrepute and damage public confidence.**

In relation to our requests on page one of this letter, please inform how Council now intends to resolve these matters and we respectfully request to be provided the opportunity to attend Council's meetings to make further comment.

Please inform the outcome to the matters above.

Please do not hesitate to call if you wish to discuss this matter further.

Regards

Shane Powell
17 Gumnut Road Yamba
Mobile: 0403 711 741

Lynne and Bob Cairns
4 Acacia Circuit Yamba
Mobile: 0417 422 397

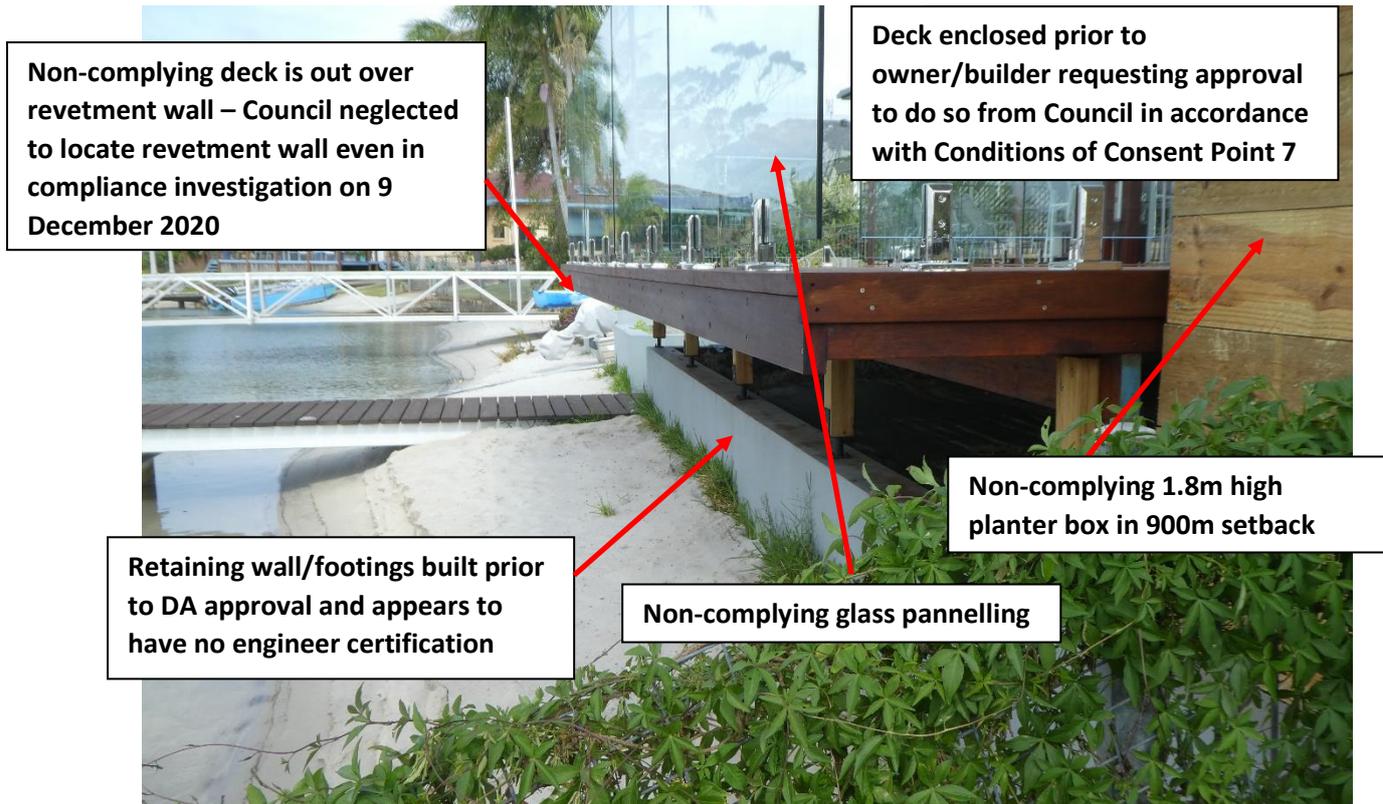
Photos of the non-complying constructed DA 2019/0439

Please note:

It appears at no time did the builder or owner lodge a separate application for an amended Construction Certificate prior to or during the non-complying work being constructed/installed/completed, nor lodge a Modification of Development Consent prior to or during the construction of non-complying works.

It also appears Council neglected to request an amended Construction Certificate and/or Modification of Development even when being notified in writing of the ongoing non-complying construction and additions and also neglected to act in accordance with Councils Enforcement Policy.

1. Photo taken 24 November 2020 of deck at 19 Gumnut Road Yamba sitting on non-complying foundations (the retaining wall) and non-complying deck is out over the revetment wall – Council neglected to locate revetment wall in accordance with Councils DCP Schedule C2 page 47, points 4 and 5.



2. Photo of deck at 19 Gumnut Road Yamba sitting on footings (the retaining wall) taken 24 November 2020 – non complying downpipe, deck, footings, and overflow pipe



In comparison:

3. Photo taken 30 November 2020 of 3 Melaleuca Drive Yamba – extension adding room on the right and back verandah – same style as rest of home



4. Photo taken 30 November 2020 of 25 Melaleuca Drive Yamba – extension adding a room on the right – same style as rest of home



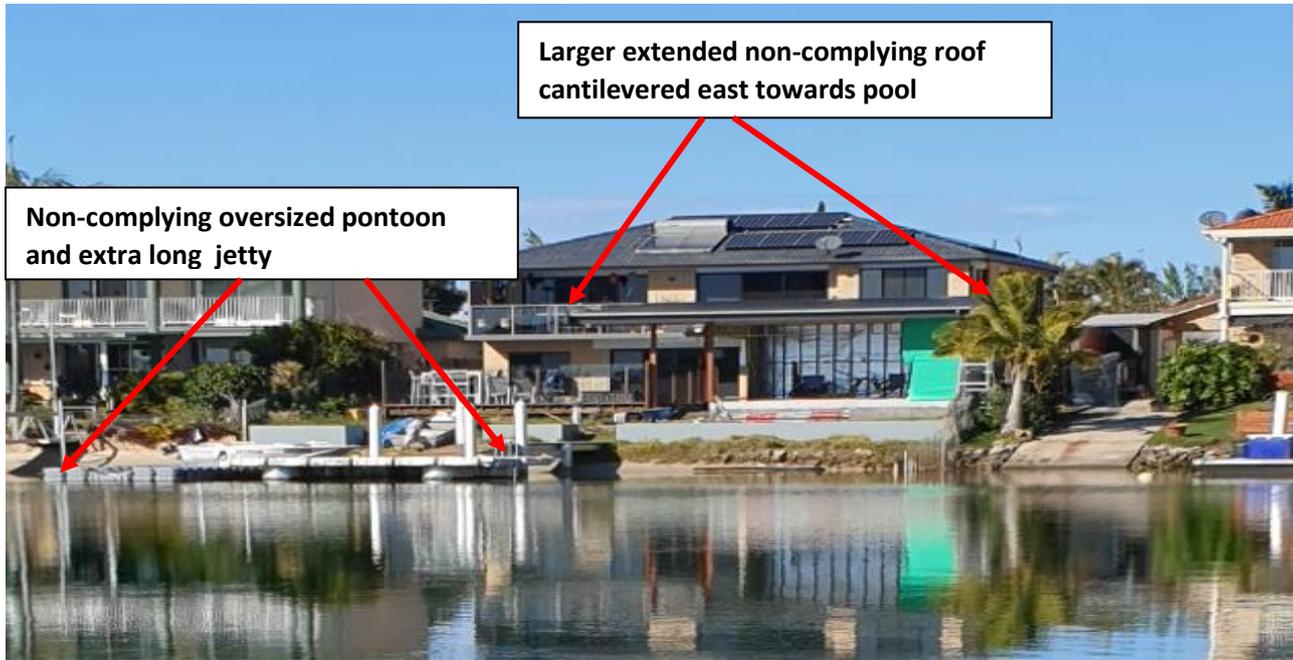
5. Photo taken 6 August 2020 19 Gumnut Road – installing extended roof on studio – non complying retaining wall/foundations visible for deck constructed prior to DA approval



6. Photo taken 16 August 2020 19 Gumnut Road – extended non-complying roof complete on studio - no downpipe visible



7. Photo taken 18 August 2020 19 Gumnut Road – larger extended non-complying roof completed on studio

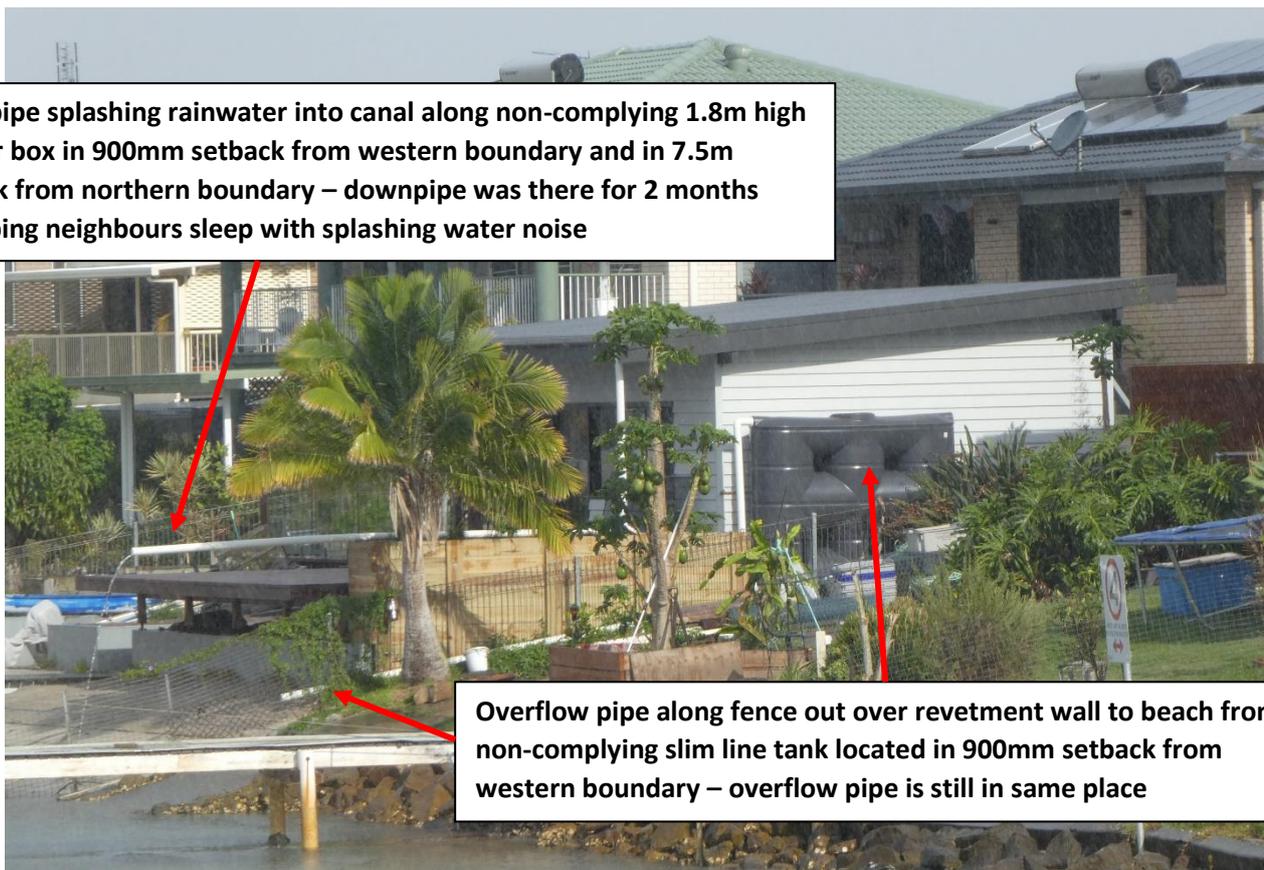


8. Photo taken 4 September 2020 19 Gumnut Road – roof complete and walls clad, no downpipe



9. Photo taken 5 November 2020 19 Gumnut Road – non-complying roof complete, walls clad, downpipe connected to gutter resting along top of non-complying planter box and out over revetment wall into canal for about two months, and non-complying water tank installed (in 900mm setback) with overflow pipe running along ground out over revetment wall to beachfront. 1.8m high non-complying planter box in 900mm setback

Downpipe splashing rainwater into canal along non-complying 1.8m high planter box in 900mm setback from western boundary and in 7.5m setback from northern boundary – downpipe was there for 2 months disturbing neighbours sleep with splashing water noise



Overflow pipe along fence out over revetment wall to beach from non-complying slim line tank located in 900mm setback from western boundary – overflow pipe is still in same place

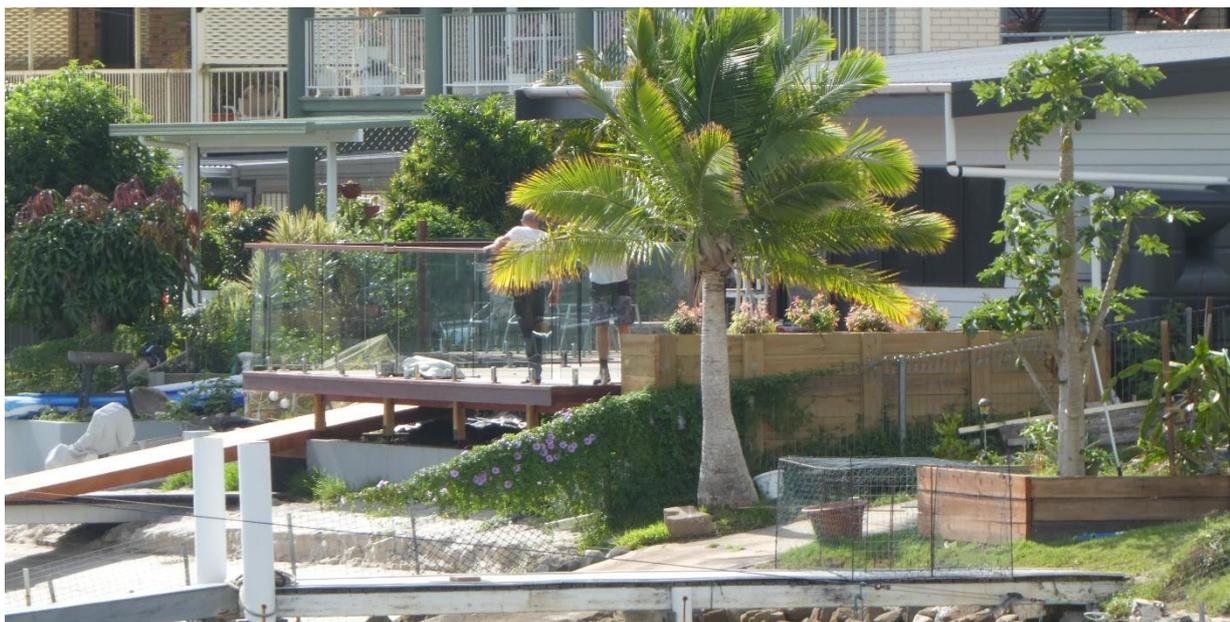
10. Photo taken 1 December 2020 19 Gumnut Road – downpipe and tank overflow still in place, non-complying glass panelling installed to deck. Non-complying roof larger than in Consent Plans and cantilevered to east, and Structural Plans show roof as a hip roof not flat



Larger extended non-complying roof cantilevered east towards pool

Downpipe along non-complying planter box and tank overflow on beach north of revetment wall

11. Photo taken 10 December 2020 19 Gumnut Road – downpipe now redirected to top of water tank overflow still in place out over beachfront, non-complying wood bench now installed on top of non-complying glass panelling and non-complying ramp extending from up near the pool to nearly first piers on the non-complying jetty



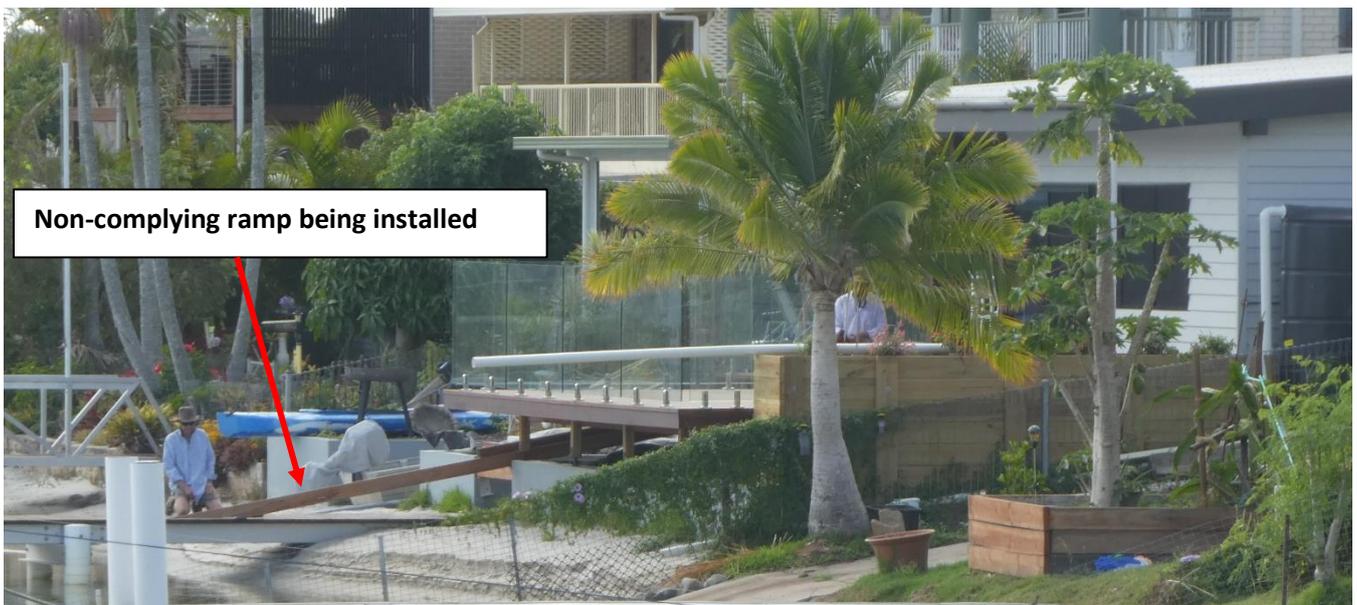
12. Photo taken at 7.34am 2 November 2020 – commercial dredge setting up to pump



13. Photo taken at 8.57am 2 November 2020 – sand pumped from dredge covering the grass and the revetment wall



14 a). Photo taken 2 December 2020 19 Gumnut Road – downpipe still along top of non-complying planter box. Non-complying ramp being installed from up near pool to nearly first piers on non-complying jetty.



14 b) Taken 3 December 2020 - the new non-complying ramp from jetty towards the pool



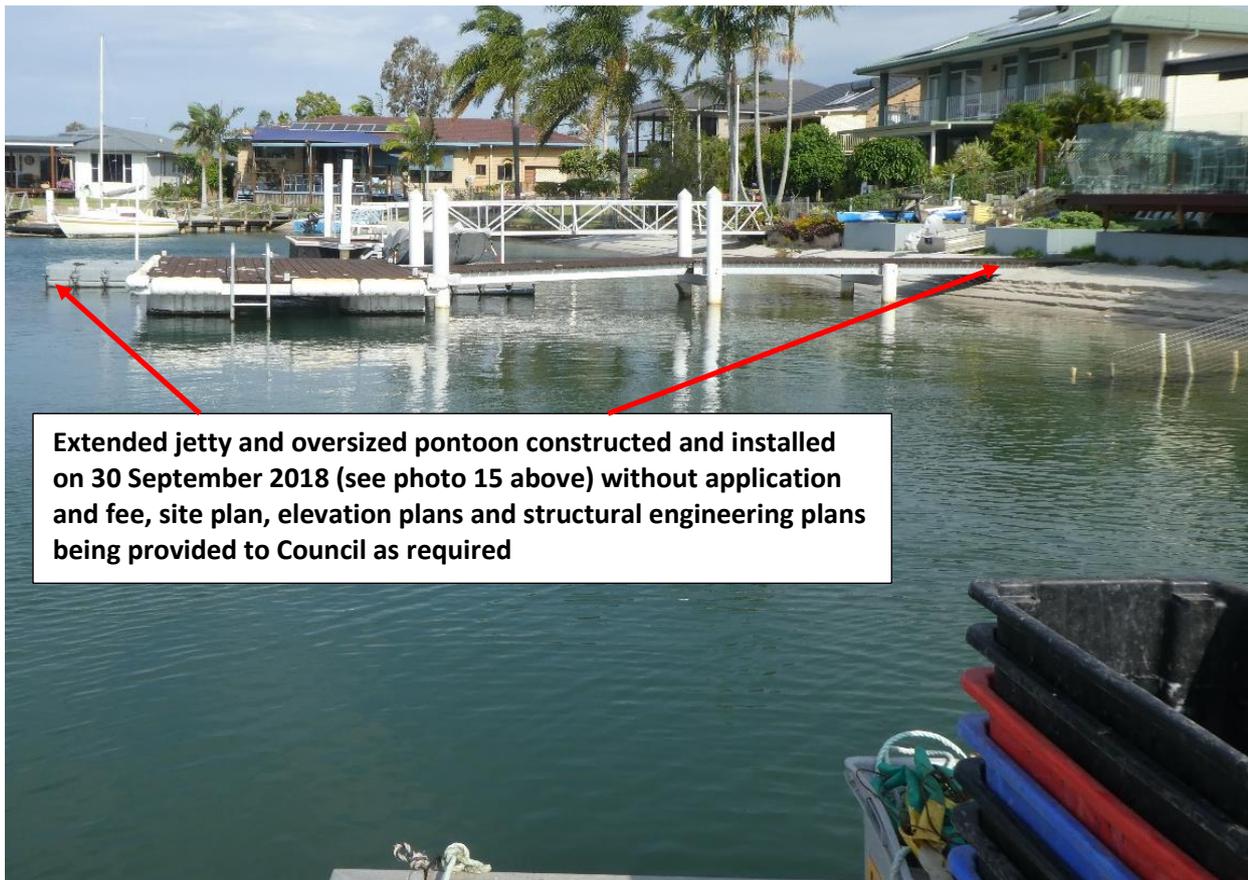
15. Photo taken 30 September 2018 of 19 Gumnut Road – outer extents of jetty demolished and removed back to first tall piers from the beachfront and pontoon being constructed on beachfront of 19 Gumnut Road. No retaining wall/footings constructed.



16. Photo taken 23 September 2019 showing retaining wall/footings already built prior to DA approval on 25 November 2019



17. Photo taken 24 November 2020 at 19 Gumnut Road showing new extended jetty and oversized pontoon with boat storage attached to the eastern side of the pontoon (impeding access to pontoon at 21 Gumnut Road) – much larger and further out than previous jetty (photo taken from the outer edge of pontoon at 17 Gumnut Road).



Extended jetty and oversized pontoon constructed and installed on 30 September 2018 (see photo 15 above) without application and fee, site plan, elevation plans and structural engineering plans being provided to Council as required

18. Screen dump of DAs for demolishing and installing new pontoons and jetties on Councils DA Track It

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Details	DA2019/0502	Development Applications	17-09-2019	48 Acacia Circuit YAMBA NSW 2464 Demolish pontoon & pontoon
Details	DA2019/0501	Development Applications	17-09-2019	32 Acacia Circuit YAMBA NSW 2464 Demolish pontoon and pontoon and jet ski dock
Details	DA2019/0499	Development Applications	17-09-2019	28 Acacia Circuit YAMBA NSW 2464 Demolish pontoon, pontoon, hydrolift & jet ski dock
Details	DA2019/0500	Development Applications	17-09-2019	30 Acacia Circuit YAMBA NSW 2464 Demolish pontoon and pontoon and hydrolift

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Details	DA2019/0439	Development Applications	14-08-2019	19 Gumnut Road YAMBA NSW 2464 Studio, deck, carport & awning
Details	DA2018/0397	Development Applications	18-07-2018	9 Gumnut Road YAMBA NSW 2464 Carpport
Details	DA2017/0712	Development Applications	03-11-2017	47 Gumnut Road YAMBA NSW 2464 Awning
Details	DA2016/0562	Development Applications	07-10-2016	29 Gumnut Road YAMBA NSW 2464 Swimming pool & patio cover
Details	DA2015/0304	Development Applications	10-06-2015	1 Gumnut Road YAMBA NSW 2464 Part screened enclosure

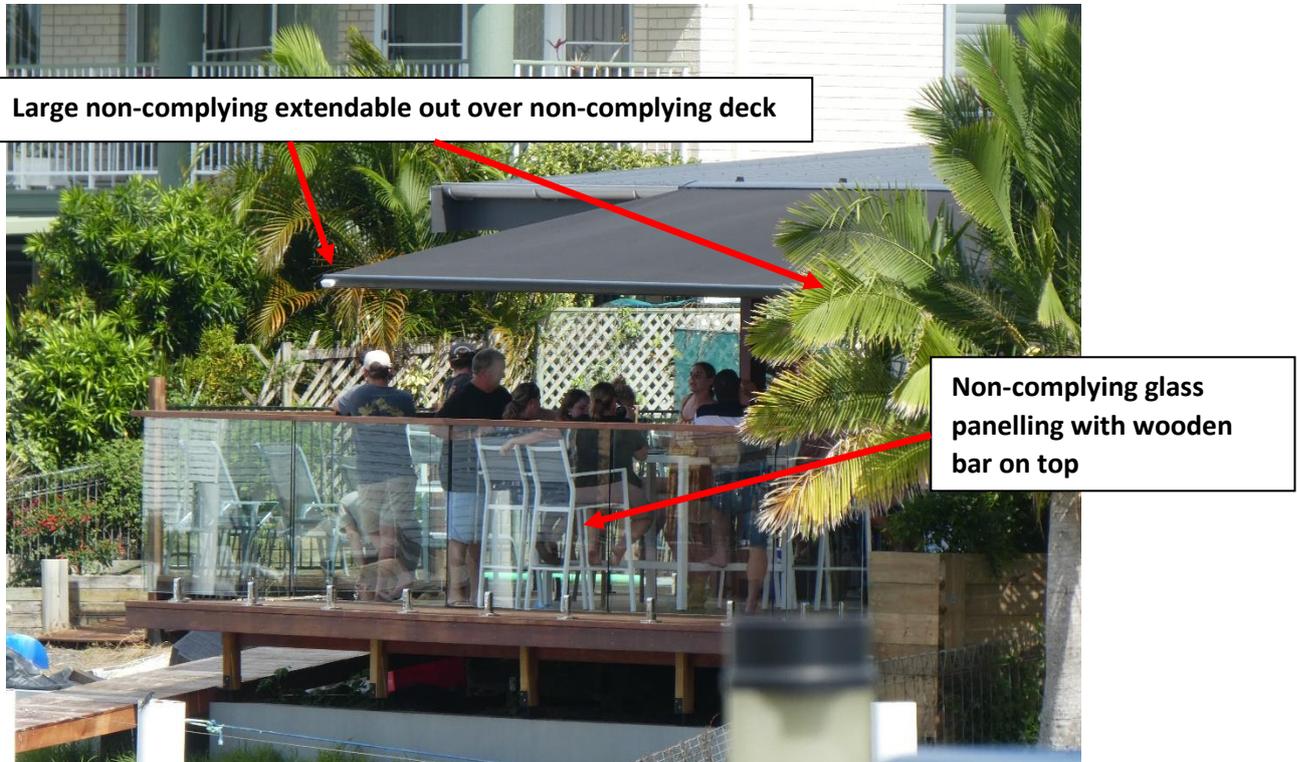
Showing 1 to 7 of 7 entries Previous 1 Next

20. Photo taken 28 January 2021 – installing large non-complying extendable awning

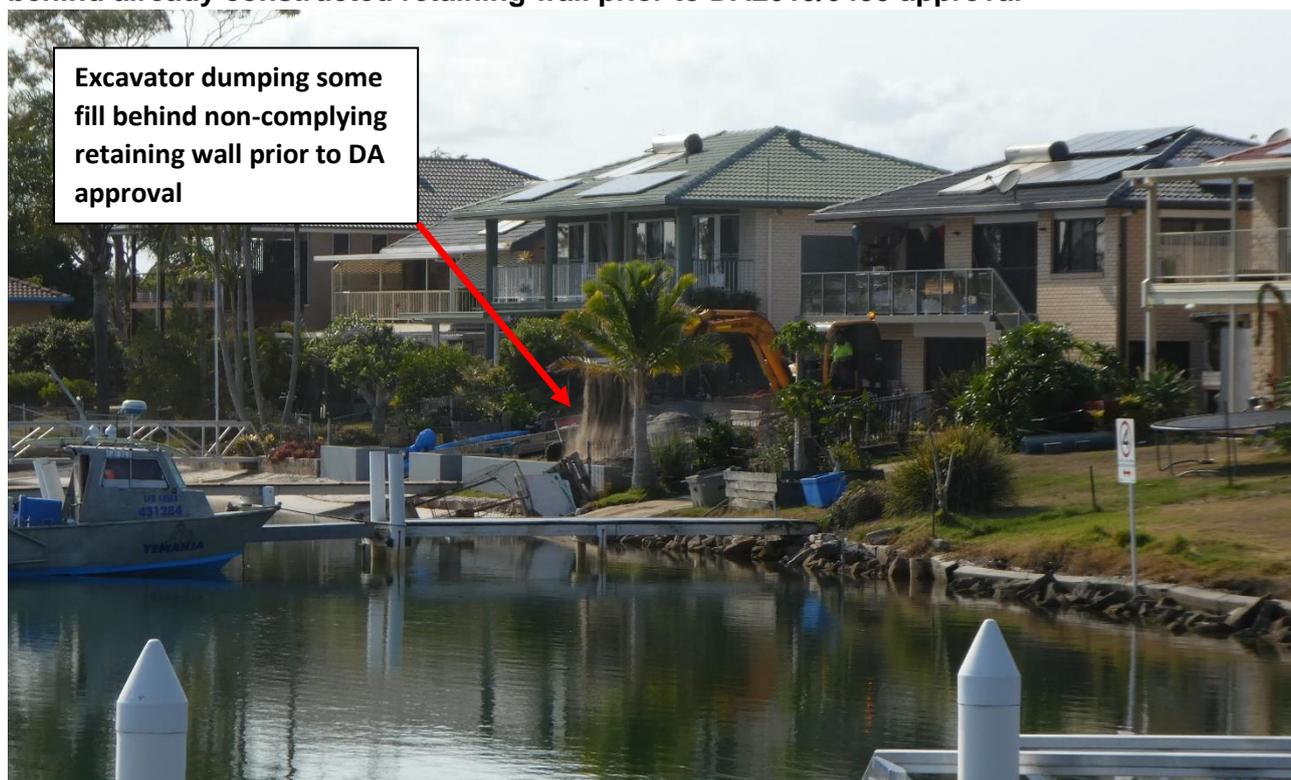


21. Photo taken 20 February 2021 of large non-complying extendable awning attached to non-complying studio roof, over a non-complying deck (resting on non-complying footings) with non-complying glass panelling on deck with wooden bar on top with a non-complying 1.8m high planter box on western boundary fence inside the 900mm setback. Studio and deck being used prior to Occupational Certificate – Council has been notified of this use.

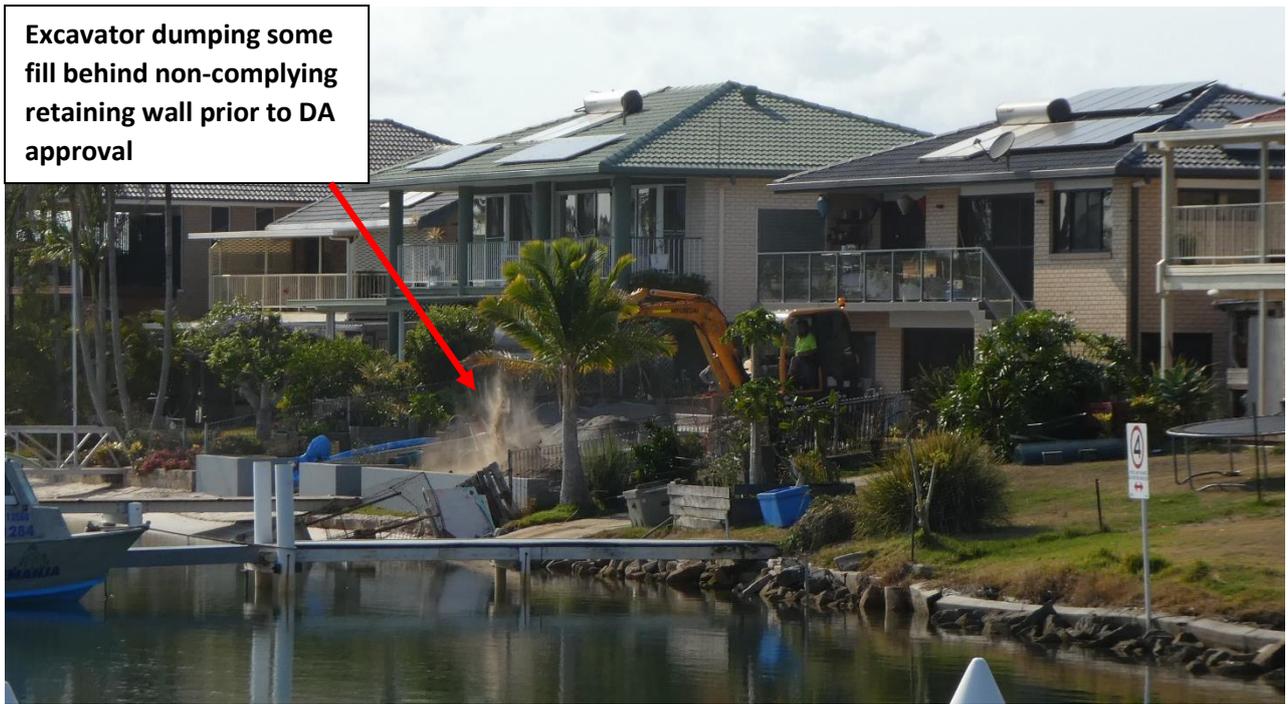
Structural Certification would be rendered invalid as certification was for the design of the studio and the studio was not built in accordance with the Consent and Structural Plans and also the Structural Plans show it as having hip roof yet the Consent Plans and built form is a flat roof.



22 a). Photo taken 29 October 2019 – backyard of 19 Gumnut Road Yamba – excavator filling behind already constructed retaining wall prior to DA2019/0439 approval



22 b). Photo taken 29 October 2019 – backyard of 19 Gumnut Road Yamba – excavator filling behind already constructed retaining wall prior to DA2019/0439 approval



Excavator dumping some fill behind non-complying retaining wall prior to DA approval

23. Photo taken 19 January 2018 – previous pontoon and jetty at 19 Gumnut Road Yamba – very different structure to new pontoon and jetty installed 30 September 2018.



Old pontoon and jetty – not as far out as new pontoon and boat docks

From: Lynne Cairns
Sent: Thu, 25 Mar 2021 13:46:58 +1100
To: Council Email
Cc: 'spowelly POWELL'
Subject: First Email: Submission MOD2021/0016 and DA2021/0153
Attachments: Attachment 1 Front page_Summary.pdf, Attachment 2 Detailed information.pdf, Attachment 3 Photos.pdf, Attachment 4 Issues and breaches DA2019_0439 Conditions of Consent.pdf, Attachment 5 Details and signatures of those making Submission.pdf, Attachment 6 DA2019-0439 Notification Plan 19 Gumnut Road Yamba.pdf, Attachment 7 DA 2019-0439 Application DA assessment.pdf, Attachment 8 ECM_1996721_v1_DAP memo 19 Gumnut Rd Yamba DA2019 0439.pdf, Attachment 9 DA2019 0439 - Notice of Determination of Application - 19 Gumnut Road YAMBA NSW 2464 (1).pdf

Mr Ashley Lindsay
General Manager
Clarence Valley Council

RE: SUBMISSION – MOD2021/0016 AND DA2021/0153 – First Email

Two more emails to follow.

Please inform that this email has been received and all attachments can be opened.

Please the attachments as listed below:

-  Attachment 1 Front page_Summary.pdf
-  Attachment 2 Detailed information.pdf
-  Attachment 3 Photos.pdf
-  Attachment 4 Issues and breaches DA2019_0439 Conditions of Consent.pdf
-  Attachment 5 Details and signatures of those making Submission.pdf
-  Attachment 6 DA2019-0439 Notification Plan 19 Gumnut Road Yamba.pdf
-  Attachment 7 DA 2019-0439 Application DA assessment.pdf
-  Attachment 8 ECM_1996721_v1_DAP memo 19 Gumnut Rd Yamba DA2019 0439.pdf
-  Attachment 9 DA2019 0439 - Notice of Determination of Application - 19 Gumnut Road YAMBA NSW 2464 (1).pdf

Shane Powell
Lynne and Bob Cairns

SUBMISSION

RE: DA2019/0439 (NOW MOD2021/0016) AND DA2021/0153

AT 19 GUMNUT ROAD YAMBA

**MOD2021/0016: alterations to studio, additional deck and ramps
DA2021/0153: Retractable awning, floating pontoon, retractable privacy screen
and water tank**

Attachments	
Attachment 1	Summary
Attachment 2	Detailed Information
Attachment 3	Photos
Attachment 4	Issues and breaches DA2019/0439 Conditions of Consent
Attachment 5	Signatures in support
Attachment 6	Notification Plan DA2019/0439 dated 13 August 2019
Attachment 7	DA Assessment Report 13 November 2019
Attachment 8	Memo to Councils DAP Panel 20 November 2019
Attachment 9	Notice of Determination and Conditions of Consent DA2019/0439
Attachment 10	Consent Plans DA2019/0439 dated 15 November 2019
Attachment 11	Structural Plans dated 10 December 2019
Attachment 12	Flood Certification 28 February 2020
Attachment 13	Councils Construction Certificate 2 March 2020
Attachment 14	Notice of Commencement of Building 23 March 2020
Attachment 15	Building Inspection Report – Frame 19 August 2020
Attachment 16	MOD2021/0016 Plans 24 February 2021
Attachment 17	DA2021/0153 Plans – Proposed Additions 23 February 2021

Please note: It is requested that this submission, with all attachments, be provided for both the MOD2021/0016 and DA2021/0153 (and be included in Council Minutes)

25 March 2021

Mr Ashley Lindsay
 General Manager
 Clarence Valley Council
 Locked Bag 23
 GRAFTON NSW 2460

Dear Mr Lindsay

**RE: SUMMARY OF SUBMISSION RE DA2019/0439 (NOW MOD2021/0016) AND
 DA2021/0153 – 19 GUMNUT ROAD YAMBA**

We have concerns how Council processed, assessed and now allowed DA2019/0439 (now MOD2021/0016) to be constructed with many non-complying structures and installations.

It is very difficult to summarise, as this development has many non-complying issues and concerns that Council has overlooked. Many of these are not in accordance with the Conditions of Consent, Consent and Structural Plans and Councils DCP and LEP, etc.

This is not just about what complies or what doesn't, it is also about how Council failed to ensure the processing, assessing and assessment of DA2019/0439 and failed to ensure compliance of the constructed build. There are some 14 issues and breaches of the requirements in the Conditions of Consent for DA2019/0439 – see Attachment 4 and Attachment 9.

We the undersigned on Attachment 5 are making a submission. Our concerns are as follows:

Summary of issues:

DA2019/0439 (approved 25 November 2019) – now MOD2021/0016 – alterations of studio, additional deck and additional ramps – to be reported to Council for Determination

1. **Survey not undertaken as required** – Council to provide a copy of a survey (done by a registered surveyor showing location and AHD levels of all structures (including studio) and boundaries. The location of **all structures and setbacks may not be accurate as no survey was done or requested prior to commencement of construction as required, or at any other time.** Council has been requested (some 10 times) to provide a survey since 25 October 2019. **On 15 March 2021 Mr Lindsay, General Manager, emailed stating he 'has requested a copy of the survey from Planning but at this time I have not received it.'** This has been totally ignored despite ten ongoing requests since 25 October 2019 to 4 February 2021. **On 25 March 2021 a surveyor was at 19 Gumnut Road Yamba surveying the property for the first time** (see more detail at point 1 Attachment 2 and Attachment 3 photos – photo 26 and 27);
2. **Concrete floor of studio needs to be above 2.9m AHD** otherwise studio walls should be brick/blockwork or reinforced concrete (point 2 Attachment 2);
3. **Consent and Modification Plans inadequate** – full extents of non-complying roof difficult to sight (see point 3 Attachment 2);
4. **Invalid structural engineers' certification of the as built studio.** Smaller hip roof yet built as a much larger flat roof – not as in any Plans -certification invalid (see point 4 Attachment 2);

5. **Revetment wall not located** - the non-complying cantilever deck appears to extend out over the revetment wall – the revetment wall needs to be located (see point 5 Attachment 2);
6. **Non-complying deck extended**, surrounding the pool, the studio and to the south of the studio (see point 6 Attachment 2);
7. No written approval requested prior to the deck being enclosed (see point 7 Attachment 2);
8. **Footings for non-complying deck constructed 2 months prior to DA2019/0439 approval**. Senior Building Surveyor failed to see photos and wording in Submissions of footings constructed, and during DA site assessment. No Council approval (see point 8 Attachment 2);
9. **Filled behind footings 1 month prior to DA approval** – photo and wording in Submission. Appears fill behind the footings not compacted and ag pipes not installed. No Council approval (see point 9 Attachment 2);
10. **Footings for the non-complying deck have not been inspected/certified** by appropriate engineer (see point 10 Attachment 2);
11. **Many more non-complying structures/installations than sited during compliance investigation** (see point 11 Attachment 2);
12. **Inconsistencies and inaccuracies in and between plans of MOD2021/0016**, particularly the cantilever deck (see point 12 Attachment 2);
13. **Front of revetment wall not left in natural state** (see point 13 and 11 Attachment 2);
14. **Non-complying 1.8m planter box** on western boundary and within 900mm setback and within 7.5m setback north boundary (see point 14 Attachment 2);
15. **Compliance investigation failed to mention planter box on boundary and in 900mm setback** western boundary (see point 15 Attachment 2);
16. **Non-complying glass panelling** – no height in Plans and no wooden bar top as constructed (see point 16 Attachment 2);
17. **Non-complying high ramp** – from pool to first piers on jetty (see point 17 Attachment 2).

DA2021/0153 – proposed retractable awning, floating pontoon, retractable privacy screen and water tank – to be determined by Council Delegation

18. **Council has accepted DA2021/0153 as Proposed Additions** when three of the four non-complying structures are already constructed/installed (as has been notified to Council) privacy screen is the only one not constructed (see point 18 Attachment 2);
19. **Non-complying pontoon and jetty not proposed**, already constructed and installed (see point 19 Attachment 2);
20. **Non-complying pontoon and jetty not licensed** and no DA on Councils DA Track It site for demolishing previous pontoon and installing new one (see point 20 Attachment 2);
21. **Non-complying pontoon (with boat docks) much larger than previous and further out** (18m total length and 55 sqm floating area (not jetty). No application, fee paid, or site and structural engineering plans (see point 21 Attachment 2);
22. **Non-complying retractable awning not proposed**, and not in accordance with Conditions of Consent (see point 22 Attachment 2);

23. **Non-complying water tank not proposed**, was inspected as modification, within 900mm setback western boundary (see point 23 Attachment 2);
24. **Non-complying water tank overflow discharges past revetment wall** (for past 6 months, not directed to street), not inspected and not in accordance with Conditions of Consent (see point 24 Attachment 2);
25. **Non-complying retractable privacy screen not installed**, will sit on top of non-complying deck, extends to about 700mm behind revetment wall at a height of 3.84m from ground at canal deck end (see point 25 Attachment 2);
26. **Privacy screen is not a minor structure, not in accordance with Conditions of Consent**, and hinder flow of breezes, views, solar but not noise (see point 26 Attachment 2);

Further mismanagement of this whole process in relation to these Development Applications and Modifications

27. **Council Senior Building Surveyor neglected to visit adjoining neighbours' property as he had promised** prior to approval of DA2019/0439 on 25 November 2019 (see point 27 Attachment 2).
28. **Council emailed on 5 February 2021 that it was inappropriate for Council staff to comment any further**. Council had not informed of the process, even after a further email enquiry to Council to provide (see point 28 attachment 2).
29. **Mr Lindsay appears to have been misleading (see point 29 Attachment 2, particularly last paragraph)** and Council has neglected to ensure responses to questions and concerns in letters and emails dating back over 17 months (not in accordance with Councils Customer Service and Complaints Management Policy). Council refused to organise a meeting with the Mayor (see point 29 Attachment 2).
30. **Council failed to take action** when informed, in writing, of non-complying construction/installations in accordance with Councils Enforcement Policy (see point 30 Attachment 2).
31. **The Consent Plans and Perspectives** for DA2019/0439 and now the constructed development (MOD2021/0016) **are very different to the Notification Plan** provided to the adjoining neighbours. Hence making it very difficult for the adjoining neighbours and other ratepayers to lodge a well-informed submission (see point 31 Attachment 2);
32. **The Consent and Structural Plans were only provided by Council after completion of the non-complying studio and deck** (see point 32 Attachment 2).
33. **No amended Construction Certificate and/or Modification of Development Consent** provided prior or during construction/installation of non-complying structures/installations (see point 33 Attachment 2);
34. **Recalculation of costs with all non-compliance structures and installation** needs to be done – BASIX certificate may be required (see point 34 Attachment 2).
35. **Impacts on neighbours**. If all or any part of this development is just approved then this sets a precedent on all Yamba canals (see point 35 Attachment 2).

Please note: all emails, letters and photos, etc, as supporting evidence can be provided if required.

25 March 2021

Mr Ashley Lindsay
 General Manager
 Clarence Valley Council
 Locked Bag 23
 GRAFTON 2464

Dear Mr Lindsay

DETAILED INFORMATION
RE: SUBMISSION FOR DA2019/0439, (NOW MOD2021/0016) and DA2021/0153
19 GUMNUT ROAD YAMBA

It appears Council has failed to ensure the processing, assessing and determination of DA2019/0439, in accordance with Councils DCP, and failed to ensure compliance of the constructed build (in accordance with the Conditions of Consent (**Attachment 10**), the Consent and Structural Plans (**Attachments 10 and 11**) and Councils DCP) and this is not just about what complies and what doesn't comply.

It appears if Council had processed, assessed and determined and ensured compliance from the commencement when DA2019/0439 was initially lodged with Council then this whole situation may have been avoided.

We respectfully request the following in relation to MOD2021/0016 (**see Attachment 16**) (initially DA2019/0439 (approved on 25 November 2019 for a studio, deck and carport)) at 19 Gumnut Road Yamba, and new DA2021/0153 (**Attachment 17**):

- a) A survey carried out by a registered surveyor (see point 1 below), with accurate dimensions and levels (particularly studio concrete slab) to AHD including locating the revetment wall;
- b) That if the studio concrete slab is below 2.9m AHD then the studio is to be demolished;
- c) If a DA for a new studio is submitted that Council assess and approve it in accordance with Councils Development Control Plan;
- d) That all non-complying structures/installations be properly assessed and compliant with Council DCP, Conditions of Consent and Consent and Structural Plans, particularly the large extended deck out over the footings and the revetment wall is yet to be located;
- e) That the extendable awning be removed as it does not comply with Consent Conditions;
- f) That the DA for the proposed retractable privacy screen be refused by Council as it does not comply with Consent Conditions;
- g) The water-tank in the 900mm setback be removed or moved to the south wall of the studio;
- h) The water tank overflow pipe to the beach be redirected to the nearest street gutter in accordance with Conditions of Consent Point 10;
- i) That the pontoon/boat docks and jetty comply with Councils LEP;
- j) That the planter box be removed as it is in the 900mm setback from the western boundary and within the 7.5m setback from the northern boundary;
- k) Ensure all required structural engineers plans and certifications are provided, particularly for the studio, the footings for the deck and the already completed pontoon/boat docks and jetty;
- l) Recalculation of all structures and additions in relation to the requirement of a BASIX Certificate.

The reasons we respectfully request the above is outlined as follows:

A Survey (by a registered surveyor) was not carried out prior to commencement of construction or at any time (as can be the case after the footings are inspected):

1. It appears Council has failed to obtain or request a survey plan (done by a registered surveyor), from the applicant when DA 2019/0439 was lodged with Council in August 2018, in accordance with Council's Residential Zones Development Control Plan (DCP) Part D Floodplain Management Controls and also as required in Conditions of Consent (**Attachment 9 Point 9 and 15 page 5**). A survey plan is required as DA 2019/0439 – 19 Gumnut Road Yamba is totally on Flood Liable Land (according to Councils Flood Map). The survey plan is to provide locations of all boundaries and existing and proposed buildings relevant to the surveyed boundaries and levels, particularly the AHD of the concrete slab of the studio (done by a registered surveyor with Australian Height Datum not just some assumed Datum or on ground measurements by the builder). Council have been requested, in writing, a number of times since 25 October 2019 (before approval of DA2019/0439 on 25 November 2019), and after approval a number of times since 4 December 2019. Reminders have been sent 10 times to 4 February 2021, asking whether a survey has been done by a registered surveyor at any time and please provide a copy.

An email was received from Council on 21 December 2020 stating that '*Advice from Council's Building Surveyor confirms that prior to issue of an Occupation Certificate a survey of the as-built development will be requested to demonstrate compliance with Development Consent Condition 09, the heights will also be requested to be confirmed.*'

After a further enquiry to Council on 12 March 2021 about a survey, Mr Lindsay emailed on 15 March 2021 stating 'I have requested a copy of the survey from the Planning staff but at this time I have not received it.' A copy of such a survey has not been provided to date. On 25 March 2021 a surveyor was seen surveying the property, for the first time, at 19 Gumnut Road Yamba (see Attachment 3 photos – photo 26 and 27).

Furthermore, Point 9 General Notes of the Consent Plans DA2019/0439 (**Attachment 10**) Cover Sheet and Drawing A801 dated 15/11/19 states '*all set out of buildings and structures to be carried out by a registered land survey and check prior to Construction.*' This has been totally ignored.

2. Council failed to ensure the concrete floor of the studio is not below 2.9m AHD in accordance with Conditions of Consent (Attachment 9) point 15 (also see point 1 above). If below 2.9m AHD the walls of the studio should be constructed as brick or blockwork, reinforced concrete or mass concrete according to Councils DCP Part D Flood Plain Management Controls Schedule D1 page 53. The studio has been constructed with a floating timber floor on top of the slab. The studio has been constructed with grey cladding on the walls and is also in total contrast to the existing blonde brick building, not in keeping with the character of the neighbouring properties and around the canal (**see comparison extensions Attachment 3 photo 3 and 4**), and is clearly visible from the canal and many properties in the canal and from Bayside Park. The Compliance Report mentioned at point 11 below states that '*Councils DCP are merely guidelines*' in relation to separate/detached buildings to be compatible with the existing dwelling and the character of the neighbourhood.

The non-complying roof of the studio:

3. DA2019/0439 and MOD2021/0016 do not show the full extents of the roof of the studio – it is only seen as a broken line on all Plans including the Rumpus Plan, Elevations Section and does not provide the word 'roof' in the dimensions. None of the Plans show the roof coloured in, it is only seen as a broken line and is very difficult to sight. The size of the oversized modified cantilever roof is over 67sqm and the studio footprint is 30sqm (see Attachment 3 photos – photo 7). The size of the roof was not taken into consideration in the DA Assessment on 13 November 2019 (**Attachment 7**), only stating the studio is a relatively small 30sqm footprint.
4. The Structural Engineers Certificate dated 19 February 2019 (last page Attachment 11) and 28 February 2020 (Attachment 12) and was for the design of the studio (prior to

commencement of construction on 23 March 2020, according to the Notice of Commencement of Works (**Attachment 14**). As the studio (particularly the roof) was not built to the Consent and Structural Plans (**Attachment 10 and 11**) this Certification would be rendered invalid. In addition, the Structural Plans show the roof as a hip roof and the Consent Plans show it as a flat roof. It is built as a flat roof but has been constructed much larger than the Consent Plans and is cantilevered out over the pool fence to the edge of the pool. This completely changes the wind loading on the structure and would bring into doubt the structural stability and integrity of the roof for an N3 wind loading. Council has been notified, a number of times in writing, that the studio and deck are being used prior to an Occupation Certificate and concerns are that the structure has not been certified and with this much larger roof could put people at risk (see Attachment 4 point 26 (i) to v(vii)).

It appears that the Designer (JWHIDA) has not been notified of the alterations to the approved and certified DA Consent Plans for DA 2019/0439 (**Attachment 10**), in accordance with point 8 General Notes, on the Consent Plans Cover Sheet and Drawing Number A801, dated 15 November 2019 states *'If actual construction of the design in this set of plans differs from these plans the owner and builder to notify designer.'* It also appears that the Structural Engineer (Structerre) was also not notified in accordance with G6 and G8 General Notes, Sheet 1 of the certified Structural Plans dated 10 December 2019 which states *'G6 This report is based on information supplied by the client, if an aspect of the site preparation or proposed construction changes from that originally advised, the engineer must be notified so that any necessary amendments can be made'* and *'G8 The engineer's approval shall be sought prior to making any substitutions.'* It appears this has been ignored.

Point 13 General Notes of the Consent Plans DA2019/0439 states Cover Sheet and Drawing A801 dated 15/11/19 states *'it is the builders responsibility to comply with all planning conditions.'* Point 15 states *'all alterations to the drawings to be referred to the certifying authority.'* It appears this has been ignored.

On 2 March 2020 (prior to the non-complying structures being built) Councils Building and Environmental Services Coordinator provided certification of DA2019/0439 stating *'I certify the work if completed in accordance with these plans and specifications will with comply with the requirements of S6.8 of the E P and A Act 1979.'* (**Attachment 13**)

On 22 January 2021 after receiving the Consent Plans and Perspectives and the Structural Plans for DA 2019/0439 on 18 December 2020, for the first time (at a meeting with Mr Lindsay, Mr Schroder (Director of Planning, Environment and Community) and Ms Black (Director of Corporate and Governance) with the adjoining neighbour and two of his friends), an email was sent to Mr Lindsay and Council email, stating *'it appears the Structural Certificate is based on the hip roof not a flat roof. The Consent Plans and Perspectives show a flat roof and this is what was constructed (see Attachment 11 Surface Drainage details sheet).*

The studio being built with a flat roof, combined with the fact that the roof has been constructed larger than seen in the Consent Plans and Perspectives, completely changes the wind loading on the structure and would bring into doubt the structural stability and integrity for an N3 wind loading.

Furthermore, *the Structural Engineers Flood Certificate for the proposed development dated 28 February 2020 (**Attachment 12**) was provided by Structerre Consulting Engineers prior to commencement of construction of the studio (Notice of Commencement of Work dated 23 March 2020 **Attachment 14**). The Certificate is only for the design of the studio; however the studio building has not been constructed in accordance with the Consent Plans as the roof is larger, is flat and it is cantilevered out towards the east from the timber posts.*

Hence this Certification would be rendered invalid.

1. ***Please inform if the Structural Plans dated 10 December 2019 are the only Structural Plans provided to Council for this DA?***
2. ***Please inform if a registered surveyor has visited the building site to survey the boundaries, set out of the structures and the height of the slab of the studio?***

A response was provided on 15 March 2021 from Mr Lindsay that he is waiting a survey from the Planning Section – see point 1 above. The Certificate of Compliance NSW - Structural Design dated 19 February 2020 was also only based on the design, prior to commencement of construction (last page Attachment 11).

The larger non-complying extended deck:

5. The larger extended cantilever deck appears to be out over the revetment wall. The revetment wall needs to be located (see point 11 below). The MOD2021/0016 Plans (Attachment 16) fail to provide sufficient location details and dimensions and there are inconsistencies and inaccuracies in MOD2021/0016 Plans (see point 12 and 14 below). The MOD2019/0016 Plans incorrectly show the deck is within the 900mm setback on the western boundary with the planter box on top.
6. The non-complying deck has been constructed totally surrounding the pool, the studio, extends further to the south of the studio and also appears to extend further out over the revetment wall (see Attachment 3 photos – photo 1) It appears the footings for the larger deck have not been certified by an appropriate engineer (see points 8, 9 and 10 below).
7. The Conditions of Consent for DA2019/0439 (Attachment 9) point 7 state ‘No portion of the deck is to be enclosed without prior written approval being obtained from Council.’ Council informed in writing that prior written approval was not provided to enclose the deck as it was not requested from the owner or the builder. The footings for the timber deck (half way between the studio and the canal end of the non-complying deck have not been sighted.

The non-complying retaining wall (now footings for the non-complying deck) constructed prior to DA2019/0439 (Attachment 17) approval:

8. It appears Council has failed to see and address the fact that the retaining wall (now the footings for the large non-complying extended deck was already completely constructed prior to DA approval on 25 November 2019. Council has overlooked the fact that photo (dated 23 September 2019) of the finished, constructed wall were provided in a Submission dated 20 September 2019 and 15 November 2019 (asking whether Council approval was required to raise/construct the revetment/retaining wall and fill behind it and a photo dated 29 October 2019 showing an excavator filling behind the wall). Councils Senior Building Surveyor undertook and onsite inspection on 13 November 2019 and appears to have failed to sight the constructed retaining wall with fill behind it prior to DA approval. The Building Surveyor also neglected to provide all information from submissions to the DAP panel. It also appears Council has failed to ensure the wall has been certified by an appropriate engineer. (see Attachment 3 photos showing non-complying works – photos 1, 16, 22a) and 22 b)).

The DA Assessment Report and the Memorandum to the DAP Panel (see Attachment 8) did not provide all information from submissions (dated 20 and 22 September 2019 and 15 November 2019. Including the fact that the retaining wall (now the foundations for the deck) had already been constructed, the serious negative impacts on privacy, impact on living/lifestyle and most certainly devalue adjoining home on western boundary, loud noise and music and talking heard from 19 Gumnut Road into the early hours of the morning, bright lights to late at night or left on all night illuminating like a football stadium, the outside studio will make our life an absolute hell by increasing the noise level out on the deck in relation to the location of the western neighbours bedroom, the studio will overshadow and cause loss of solar/sunlight access and disruption of wind flow (cooling breezes) to 17 Gumnut Road, the height of the planter box, and the property being in a flood prone area and if height of studio floor is below 2.9AHD the studio should be built using flood compatible material, the proposed studio will have future significant detrimental impacts on the area, be visually intrusive and be virtually an eyesore and not in keeping with the amenity, aesthetics, quiet ambience and character of this area, the setback of the proposed studio from the western boundary does not comply with Councils DCP C16.2 – a setback of 900mm is required, is approval required from Council to raise a revetment wall and will this impact on neighbouring properties, is approval required to fill behind the raised revetment wall which occurred on 29 October 2019 and concerns with over-development of the site.

9. It appears the fill behind the retaining wall has not been carried out in accordance with the Structural Plan requiring compaction and possibly has no subsoil pipe drainage installed in front of and behind the wall, as seen in the Structural Plan.
10. And as it appears the footings for the larger extended deck have not been certified by an appropriate engineer then the structural integrity and stability of the whole deck, footings and revetment is questionable and at risk. Council have been notified at least five times since 22 December 2020 that the owners of the property are using the studio and deck for social gatherings prior to Council issuing an Occupation Certificate (see Attachment 3 photos – photo 21).

Revetment wall not located during compliance investigation:

11. Council failed to locate the revetment wall when carrying out a compliance investigation on 9 December 2020. The Compliance Report provided on 16 December 2020 states ‘The revetment wall at the site has been buried by natural sand drift and was not visible at the time of inspection.’ The revetment has not been covered by natural sand drift. Photos dated 2 November 2020, of a commercial dredge (see Attachment 3 photos – photos 12 and 13), pumping sand in front of the retaining, were provided to Mr Lindsay, Mr Schroder (Director of Environment, Planning and Community) and Ms Black (Director of Corporate and Governance), during a meeting, on 18 December 2020, with the adjoining neighbour and two of his friends. One could easily locate the revetment wall with a small shovel. The wall is clearly visible on the neighbouring properties on either side of 19 Gumnut Road Yamba.

The Compliance Report stated six times that a s4.55 modification will need to be submitted to Council (the larger extended deck towards to the canal; the deck surrounding the studio to the east and south; the 1.8m high planter box on the western boundary in the 900mm setback and within the 7.5m setback from the northern boundary; the water tank in the 900mm setback; the much larger roof of the studio and the glass panelling on the canal end of the deck. MOD2021/0016 (Attachment 16) has many more constructed non-complying modifications - four extra sections of deck already constructed (extended out and over the retaining wall to the canal (and appears out over the revetment wall), large sections to the north, south and east of the pool and a larger section south of the studio and further south partly down the side passage of the existing home); two extra sections of the roof – the large extended cantilever section to the east out to the edge of the pool and the eave on the studio to the west; the glass panelling (doesn’t mention the wood bar top) on the canal edge of the deck; the 1.8m high planter box within the northern and western setbacks; the large extended wooden ramp from near the pool to near the first piers on the jetty; and the modifications of folding windows, sliding doors and a multi-stackable slide window and two more proposed planter boxes. MOD2021/0016 no longer includes the water tank as this now comes under new DA2021/0153 (Attachment 17) with the non-complying pontoon and jetty, extendable awning and privacy screen. Also, the Report stated five times that Councils DCP are merely Guidelines.

It appears these modifications are not substantially the same development as the development for which the consent was originally granted and very different to the Notification Plan (see Attachment 6) and Consent and Structural Plans (Attachment 10 and 11).

Councils Development Application Lodgement Checklist Modification of Development Consent states:

‘the development one wishes to modify must remain substantially the same as the development the original consent was granted for’ and this is not the case with DA 2019/0439.

12. It appears Council has also failed to see the inconsistencies and inaccuracies in and between MOD2021/0016 (Attachment 16) plan diagrams to the wording in the Plans, the Elevations Plan A202 states ‘deck cantilever over revetment wall.’ Then in contradiction the Sections Plan states ‘cantilever deck as far as inside edge of revetment wall.’ The revetment wall in the diagram is also seen further out from the end of the deck in both the East and West Elevations. This is also not in accordance with Councils DCP CVC DCP Part C. Schedule C2

page 47 Point 5 states ‘.. *no structure be erected on the canal side of the revetment wall except jetties. Structures are not to be supported by or to adversely affect the stability of revetment walls.*’ The deck has not been built in accordance with the Consent Plans. Also see pint 14 below.

13. The Landscape Plan for MOD2021/0016 states ‘the tidal area forward of the revetment wall has not been included in the landscaped area, even though it is left in a ‘natural state.’ It has not been left in a natural state as outlined at Point 11 above.

The planter box:

14. MOD2021/0016 Plan (**Attachment 16**) (Site and Backyard Plans) incorrectly shows the deck is within the 900mm setback from the western boundary with a planter box sitting on top of it. The free standing, constructed 1.8m high non-complying planter box has been constructed within the 900mm setback from the western boundary - it sits beside the non-complying deck which appears to be 900mm from the western boundary (although not surveyed) (see **Attachment 3 photos – photos 9,10,11 and 14 a**)). The constructed planter box is not in accordance with the Conditions of Consent (**Attachment 9**) Point 18 (stating ‘*The minimum side setback for the proposed rear deck shall be 900mm*’). And not in accordance with Point 14 of the Conditions of Consent ‘*14. All structures located within the 7.5 metre rear building alignment shall not exceed 1.2 metres in height from existing ground level.*’ Yet the planter box is seen in the MOD2019/0016 Plans on top of the deck and the deck is incorrectly drawn showing the deck within the 900mm setback, and although approval was previously provided there were no dimensions (for the height of the deck or the planter box height) for adjoining neighbours to make a well-informed submission. However, one submission provided 15 November 2019 (prior to DA2019/0439 approval) asked the height of the planter box, no avail. The DA Assessment Report (**Attachment 7**) failed to mention this. Also, a letter to Council dated 4 December 2019 asked whether the planter box would have the same 900mm setback as the deck on the western boundary, also to no avail.
15. The Compliance Report dated 16 December 2019 as mentioned at point 11 above failed to comment or confirm that the planter box is within the 900mm setback from the western boundary and also within the 7.5m setback from the northern boundary. The Report also states that ‘*Councils DCP are merely guidelines*’ in relation to the planter box.

Glass panelling on canal front edge of deck:

16. There is no height on the non-complying glass panelling on the northern edge of the deck, and the wooden bar on top of the panelling is not shown as currently exists (in the Plans or in wording). The glass panelling was installed in November 2020 and Council was emailed on 27 November 2020 informing the installation glass panelling (see **Attachment 3 photos – photo 1 and 14**). This glass panelling is invading the privacy of neighbours as it is on the outer northern limit of the deck edge and reflects light from the studio back into the neighbours property.

Ramp installed from near pool to near first piers on the jetty

17. The long non-complying ramp was installed on 2 December 2020. Extends from up near the pool at a height to nearly the first piers on the non-complying jetty – see **Attachment 3 photos – photo 14 a) and 14 b)**.

DA2021/0153 (**Attachment 17**) – Proposed retractable awning, floating pontoon, retractable privacy screen and water tank.

18. Council has accepted the DA2021/0153 as Proposed Additions. On 21 March 2021 a Formal Complaint was emailed to Mayor Simmons and Mr Lindsay (with photos) outlining that three of the four structures/installations in DA 2021/0153 Plan have already been constructed/installed - they are not proposed as stated in the Plan. Mr Lindsay emailed back 22 March 2021 and informed that DA2021/0153 would now be reported to Council and stating that those who attended the meeting on 18 December 2020 (Mr Lindsay, Mr Schroder, Ms Black and the adjoining neighbour and two of his friends) that ‘*it was advised that Council*

would be instructing the property owner to submit a DA for the additional works undertaken at the site and that the DA would be reported to Council for Determination.' Mr Lindsay, the Mayor and all Councillors were emailed back 22 March 2021 stating that 'at the beginning of the meeting (of 18 December 2020) Mr Lindsay was asked if the meeting could be recorded, his responded 'yes.' A transcript of the meeting was provided to Mr Lindsay and Mayor Simmons on 28 January 2021 and no where in that transcript and/or recording was there any mention of Council instructing the owner to submit a DA for the additional works. Mr Lindsay was offered a copy of the 24MB recording. The three structures/installations completed are as follows:

- The new floating pontoon/docks and new gangplank (was installed on 30 September 2018 after demolishing the previous jetty – Council has been notified of this a number of times in writing;
- Council was informed in writing on 31 January 2021 (and Council email) that the retractable awning was installed on 28 January 2021;
- Council was informed, via email on 26 November 2020 that the water tank was installed in the 900mm setback from the western boundary.

It appears Council has failed to take any action in accordance with its Enforcement Policy in relation to these three structure/installations. All four structures/installations are non-complying and not in accordance with Councils DCP and LEP (in the case of the pontoon/docks and new gangplank).

New Pontoon and Jetty (has already been constructed and installed)

19. The DA2021/0153 Plan states that the proposed floating pontoon/docks are 'to be installed by factory trained DOCPRO Technician.' The new pontoon and jetty were constructed and installed on 30 September 2018 – **see Attachment 3 photos– photo15 and 16 page 9.**
20. The previous pontoon and about half of the jetty was demolished in late September 2018 and the new much pontoon (with floating boat docks) and jetty appears to be much larger and further out. This was also discussed at the meeting mentioned at point 11 above and we informed that the previous pontoon and jetty may have been licenced but it appears this new one is not. After the meeting an email was received from Council stating the jetty licence is current, and the licence period is 1 July 2018 – 30 June 2023 (and the new DA202/0153 Plan shows 'existing floating pontoon Lic 0308). The pontoon and jetty shown on the Plan is the new structure and appears not to be Licenced.

It appears Council have overlooked that the required application (and fee) has not been lodged for demolishing the previous pontoon or installing the replacement pontoon and jetty. Council also requires a site plan, elevation plans and structural engineering plans for a new jetty and pontoon to be lodged with the application. Applications are seen as DA's on Councils DA Track It. The DA Track It site does not show a DA for demolishing or the new pontoon and jetty for 19 Gumnut Road Yamba back to 2015 (**see Attachment 3 photos – page 10 and 11 – screen dumps of Councils DA Track It site**). The current owners bought the property in August 2017. The new pontoon and jetty dimensions need to be measured. Council may also have the previous pontoon and jetty plans from the previous owners.

21. The new pontoon (with boat docks) is much larger and further out than the previous pontoon and jetty. The total floating area of the pontoon and boat docks as seen in DA2021/0153 Plan is about 55 sqm. The total length of the pontoon/jetty on the Plan DA2021/0153 is stating '15.9m;' however that is only from the northern boundary (which has not been surveyed). We understand that Council requires the measurement to be taken from the revetment wall which is about 2m south of the northern boundary, making the total length of the jetty and pontoon nearly 18m. This is not in accordance with Councils LEP and Water Recreation Structures Fact Sheet stating 'jetties (including any pontoons) must have a maximum length of 13m.' This is possibly the largest and longest structure into the canal and possibly impedes access to the pontoon and jetty at 21 Gumnut Road, particularly for large boats.

Retractable awning (has been installed)

22. The retractable awning is not proposed as the Plan states. Council was informed it was installed on 28 January 2021 (see Attachment 3 photos – photo 21). It is not a minor structure as DA2021/0153 Plan states and it is not in accordance with Point 14 of the Conditions of Consent (Attachment 9) ‘14. All structures located within the 7.5 metre rear building alignment shall not exceed 1.2 metres in height from existing ground level’ and Councils DCP. It impedes views over the canal from neighbouring properties and if other residents in the canals commence to install large extendable awnings impeding neighbours views then this could result in neighbourhood disputes. Council neglected to act in accordance with Councils Enforcement Policy.

Water tank (has been installed)

23. The report from the compliance investigation dated 16 December 2020 states that the water tank will require a s4.55 modification and this was discussed with the adjoining neighbour and two of his friends in a meeting with Mr Lindsay, Mr Schroder and Ms Black on 18 December 2020 (the meeting was recorded as permitted and a transcript from the recording of the meeting has been provided). However, the water tank has not been included in MOD2021/0016 as seen in the Compliance Report and as informed to those at the meeting. The report fails to note that the water tank is within the 900mm setback from the western boundary.
24. The overflow drain from the water tank is still running down from the top of the tank, along the ground at the western boundary fence and out over the beach and has done so for nearly 6 months, since October 2020 (see Attachment 3 photos – photo 9). The downpipe from the studio was not installed when the frame of the studio was inspected on 19 August 2019 (Attachment 15) (in accordance with Councils Development Control Plan Part 1 point 9 ‘On completion of the roof area of a building, guttering and downpipes are to be connected to the stormwater system. Inspection of the frame will not be carried out until this is satisfactorily completed’ and the Erosions and Sediment Control Plan point 9. It was installed at least two months later and ran along the top of the non-complying 1.8m high planter box and splashed out into the water (see Attachment 3 photos – photo 9). Furthermore, Point 9 Erosion and Sediment Control Plan and Notes of the Consent Plans DA2019/0439 (Attachment 10) Drawing A801 dated 15/11/19 states ‘Immediately following installation of the roof cladding, all guttering and downpipes are to be connected to the stormwater system. Inspection of the frame is not to be arranged until this is completed.’ This has been totally ignored.

Proposed retractable privacy screen

25. The proposed retractable privacy screen has not been installed as yet. The screen is 4.7m long x 2.34m high. It appears to have a permanent beam (at 2.34m high) fixed to post 4.7m from the north side of studio towards the northern end (canal end) of the deck. It sits on top of the deck (1.5m high at canal edge) which is already constructed higher than the required 1.2m from ground level near the revetment wall end (the height of the screen will be over 3.8m from ground level at the canal end).
26. It is not a minor structure as DA2021/0153 Plan states and it is not in accordance with Point 14 of the Conditions of Consent ‘14. All structures located within the 7.5 metre rear building alignment shall not exceed 1.2 metres in height from existing ground level’ and Councils DCP. If other residents in the canals commence to install large retractable privacy screens impeding neighbours views, breezes and solar access then this could result in neighbourhood disputes and potentially bring Council into disrepute and damage public confidence.

Further mismanagement of this whole process in relation to these Development Applications and Modifications

Council not responding in accordance with Customer Service Policy and Complaints Management Policy

27. **Council Senior Building Surveyor neglected to attend adjoining neighbours' property as he had promised prior to approval of DA2019/0439 on 25 November 2019. The Senior Building Survey also did not return calls or emails from the adjoining neighbour prior to approval of DA2019/0439.**
28. **Council emailed on 5 February 2021 that it was inappropriate for Council staff to comment any further. Council had not informed of the process in relation to modifications, even after a further email enquiry. Council only responded after a Councillor assisted and forwarded an email asking Council to provide the process in relation to the modifications.**
29. **Council appears to have been misleading and has neglected to provide responses to questions and concerns in letters and emails dating back over 17 months (since 25 October 2019). A Table of 39 entries was provided to Council on 15 February and then updated 1 March 2021 (with dates, email to/from, details and whether a response was received within 10 days and whether a response was ever received). Of the 39 entries – 32 have received no response from Council (even after reminders were emailed), 6 have received a partial response and 1 response yet to be received after the Table has reconciled by Council. This is certainly not in accordance with Councils Customer Service Policy.**

One of the emails not receiving a response was a complaint about a Council staff officer provided to Mr Lindsay on 15 December 2020, reminders were sent 10 January 2021, 7 February and 15 February 2021 (**not in accordance with Councils Complaints Management Policy**). An inadequate response was provided, for the first time, on 22 March 2021.

After the meeting on 18 December 2020 (with Mr Lindsay, Mr Schroder and Ms Black, the adjoining neighbour and 2 of his friends) were provided the Consent and Structural Plans for DA2019/0439 (**Attachment 10 and 11**) for the first time. After reviewing the Plans Council was emailed on 28 January 2021 listing the fourteen issues and breaches in relation to the Conditions of Consent along with some 20 questions – some of which had not been previously answered. To date there has been no response.

As there was insufficient time provided for the meeting on 18 December 2020 and the email, mentioned in the above paragraph, had not been answered, on 12 March 2021 Council were emailed requesting a meeting with Mr Lindsay and the Mayor. As outlined in the email the request for **the meeting was about many unanswered questions in letters and emails and why a survey had not been done and why a Stop Work Order had not been issued.** On 13 March 2021 Council were emailed requesting to arrange a meeting with just the Mayor Simmons in relation to policies and processes not being followed and also about the DA at 19 Gumnut Road Yamba. Mr Lindsay responded on 15 March 2021 that he didn't believe it was appropriate whilst this modification application is being reviewed by staff. The emailed response on 19 March 2021 was that the General Manager responded to the request for a meeting with the Mayor on the 15 March 2021. It appears this is most inappropriate to refuse meeting with the Mayor and General Manager, particularly in relation to the many unanswered questions and concerns in letters and emails.

It appears Mr Lindsay has been misleading re a survey being undertaken at 19 Gumnut Road Yamba (see Point 1 above third paragraph) and also as to when he advised that DA2021/0154 – the additions, was being reported to Council for Determination (explained in Point 18 above) – emails, the transcript and the recording of the meeting can be provided.

Council neglecting to respond in relation to Enforcement Policy

30. It appears, throughout this whole process Council has failed to take action, in accordance with Councils Enforcement Policy, when notified in writing of the non-complying construction and installations in relation to DA 2019/0439. Council was emailed on 28 and 31 January 2021 requesting Stop Work Order be issued in relation to the carport being constructed, due to the ongoing non-complying structures and installations occurring. A Stop Work Order was not issued.

Plans for DA2019/0439, MOD2021/0016 and DA2021/0153

31. **The Consent Plans and Perspectives for DA2019/0439 (Attachment 10) and now the constructed development (MOD2021/0016 Attachment 16) are very different to the Notification Plan (see Attachment 6) provided to the adjoining neighbours.** Hence **making it very difficult for the neighbours and other ratepayers to lodge a well-informed submission in 2019.** This is also apart from the fact that the Consent Plans were **quite misleading and lacking sufficient detail and dimensions,** particularly of **the size of the roof of the studio which was not coloured in** on any of the plans (**it is only outlined as a broken line**) and the Rumpus Plan, Elevations, Section with the broken line around the studio **does not mention the word 'roof' on the dimensions** (this is on both the DA2019/0439 Consent Plans and now the MOD2021/0016 Plans) and the now constructed extended and extents of the decking to the north, south and west and around the pool.

Plans provided from Council after non-complying DA2019/0439 studio and deck completed

32. The Consent Plans and Perspectives (dated 15 November 2019) and Structural Plans (dated 10 December 2019) for DA201/0439 were provided to the adjoining neighbour, for the first time, on 18 December 2020, after the non-complying studio and non-complying deck were completed. Council was emailed on 16 December 2020 to provide copies of all documents in relation to DA2019/0439 (studio, deck and carport) and DA2019/0498 (pool). **As the documents were not forthcoming** Council was emailed again on 4 January 2021 to provide documents. Twenty-one documents were provided on 15 January 2021 however **one has still not been provided (a survey) and two questions remain unanswered even after emailing again on 16 January and 4 February 2021.** Upon receiving the MOD2021/0016 (**Attachment 16**) and DA2021/0153 (**Attachment 17**) Plans on 12 March 2021 the full extent of the non-complying development was realised.

No amended Construction Certificate or Modification of Development Consent

33. It appears at no time did the builder or owner lodge a separate application for an amended Construction Certificate prior to or during the non-complying work being constructed/installed/completed, nor lodge a Modification of Development Consent **prior to or during the construction of non-complying works.**

It also appears Council neglected to request an amended Construction Certificate and/or Modification of Development Consent even when being notified in writing of the ongoing non-complying construction and additions.

Basix Certificate

34. It appears that a BASIX Certificate may have been required, as Council may have overlooked the project valuation for DA 2019/0439 (originally the estimated cost was \$47,500) however it appears this does not represent the true value of the project work completed. Also noted is that MOD2021/0016 - Alterations and additional deck surrounding pool, additional ramps have an estimated cost of \$3,000 which is in total greater than \$50,000 and this does not include the glass panelling with wooden bar on top, nor does it include the slim-line water tank which was investigated for compliance and reported as requiring a s4.55 modification (see point 23 above). In addition, the new separate DA2021/0153 for the same property has an estimated cost of \$5,000 – the retractable awning, floating pontoon and jetty, retractable privacy screen and water tank. Council needs to confirm this cost estimate. It also appears that the development work on the property is separated to avoid the requirement for a BASIX certificate.

35. Impacts on neighbours and the neighbourhood and setting a Precedent for properties on all Yamba canals

It appears the property is overdeveloped.

This development is impacting on nearby neighbours due to excessive noise with people standing right out on all extents of the deck and close to the western boundary, invading privacy and impacting on all rooms facing the canal of the neighbours home. This is not a minor privacy impact as stated in the DA Assessment Report dated 13 November 2019 (Attachment 7).

The large glass panelling on the edge of the deck also reflects light back into the neighbours property.

Lights on the back verandah funnel light at night along and behind the studio into the neighbours main bedroom upstairs.

The development as built we believe has devalued the adjoining neighbours property, particularly on the western side.

It appears, due to the build of this development the amenity and character of the canal in this area has been detrimentally impacted.

It also appears that Council is enforcing the planning regulations and policies in an inconsistent manner, particularly in the Yamba canals.

If this development is just approved as seen in the Plans then this will set an ongoing precedent for future non-complying development to be accepted, approved and certified in the existing and new developments in Councils canals and could result in neighbourhood disputes and bring Council into disrepute and damage public confidence.

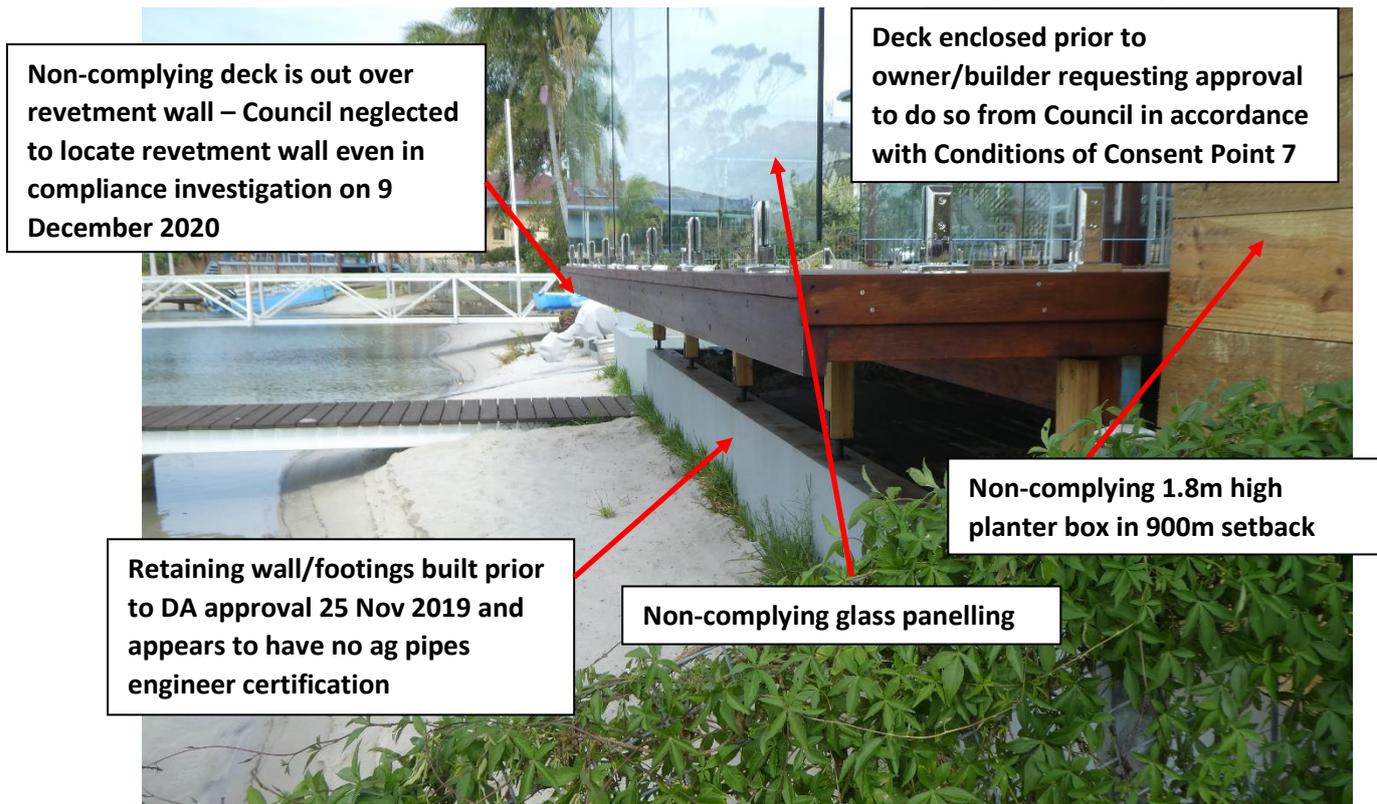
Please note: all emails, letters and photos as supporting evidence can be provided if required.

**Photos of constructed DA 2019/0439 (now MOD 2021/0016)
Studio and Deck**

and

**Photos of 'Proposed' DA2021/0153
Retractable awning (already installed)
Floating Pontoon (already constructed/installed)
Water tank (already installed)
Retractable Privacy Screen (not constructed)**

1. Photo taken 24 November 2020 of deck at 19 Gumnut Road Yamba sitting on non-complying footings (the retaining wall) and non-complying deck is out over the revetment wall – Council neglected to locate revetment wall in accordance with Councils DCP Schedule C2 page 47, points 4 and 5.



2. Photo of deck at 19 Gumnut Road Yamba sitting on footings (the retaining wall) taken 24 November 2020 – non complying downpipe, deck, footings, and overflow pipe



In comparison:

3. Photo taken 30 November 2020 of 3 Melaleuca Drive Yamba – extension adding room on the right and back verandah – same style as rest of home



4. Photo taken 30 November 2020 of 25 Melaleuca Drive Yamba – extension adding a room on the right – same style as rest of home



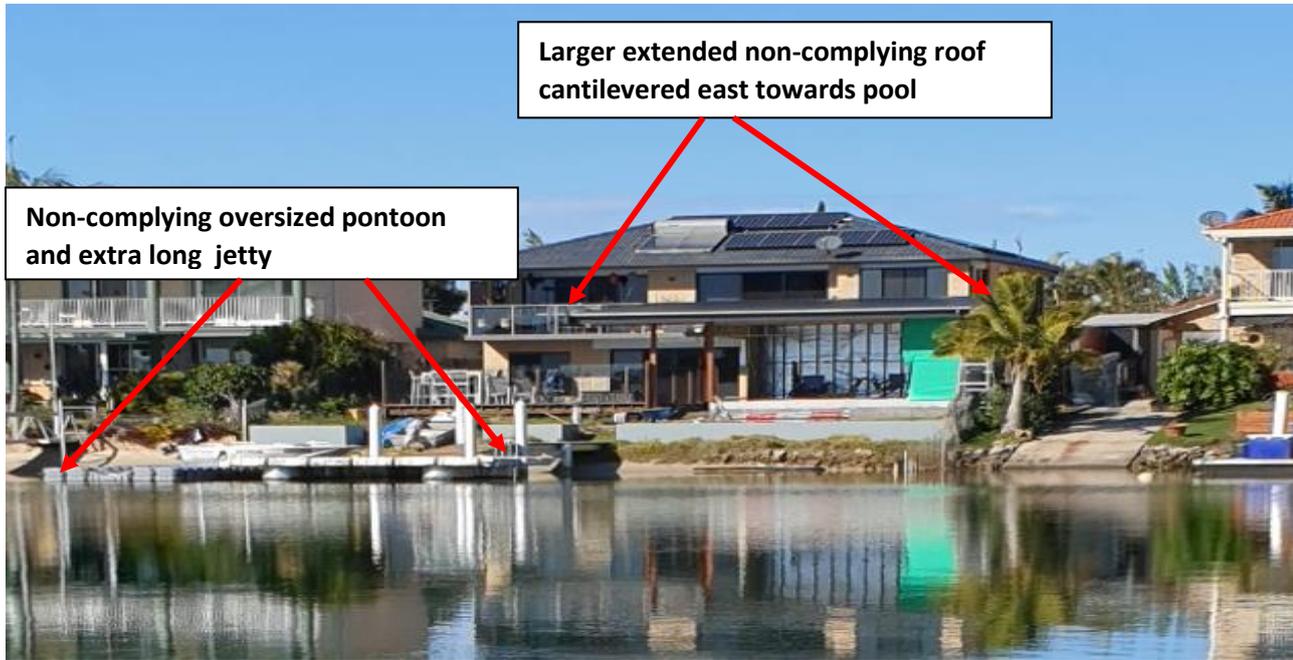
5. Photo taken 6 August 2020 19 Gumnut Road – installing extended roof on studio – non complying retaining wall/footings visible for deck constructed prior to DA approval



6. Photo taken 16 August 2020 19 Gumnut Road – extended non-complying roof complete on studio - no downpipe visible



7. Photo taken 18 August 2020 19 Gumnut Road – larger extended non-complying roof completed on studio and large non-complying pontoon and jetty



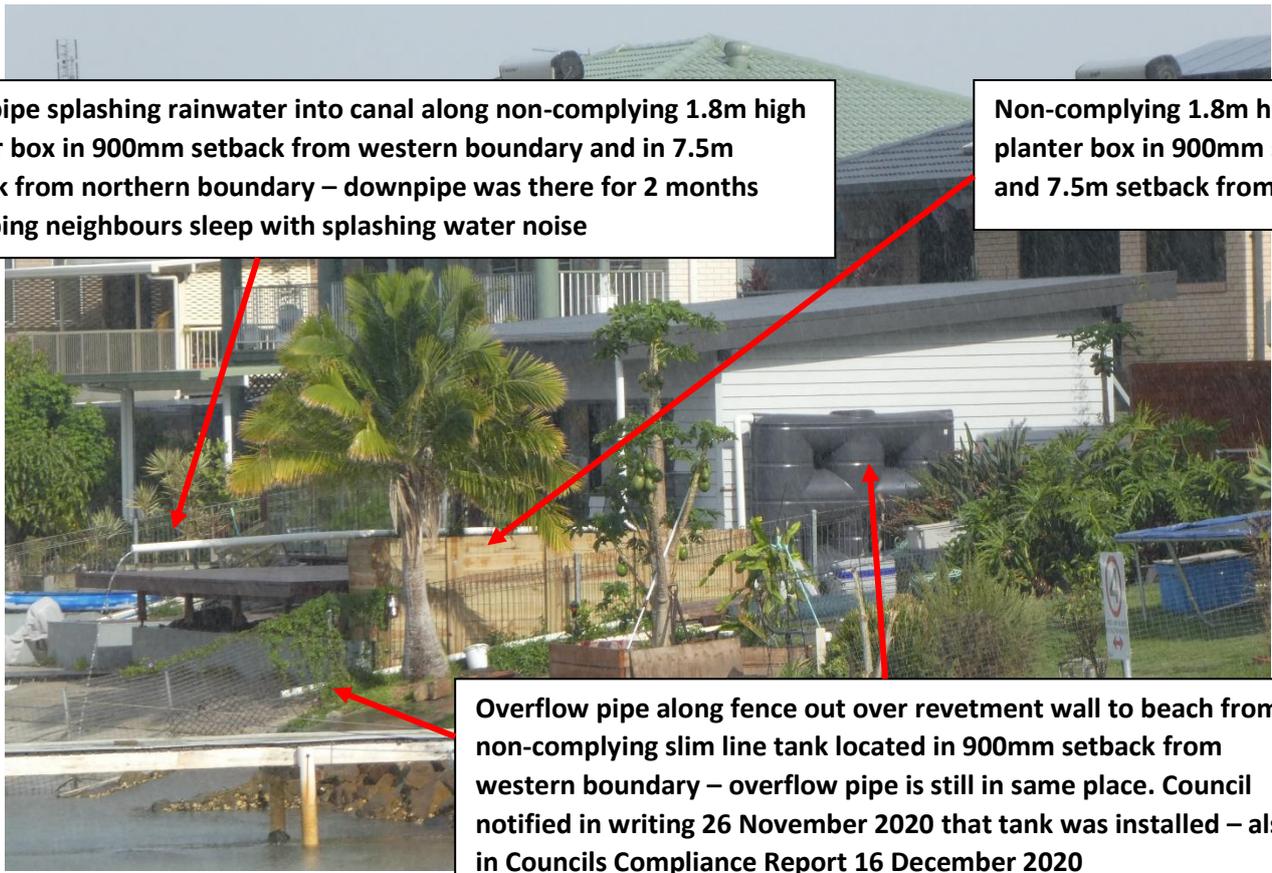
8. Photo taken 4 September 2020 19 Gumnut Road – roof complete and walls clad, no downpipe



9. Photo taken 5 November 2020 19 Gumnut Road – non-complying roof complete, grey walls clad, downpipe connected to gutter resting along top of non-complying planter box and out over revetment wall into canal for about two months, and non-complying water tank installed (in 900mm setback) with overflow pipe running along ground out over revetment wall to beachfront. 1.8m high non-complying planter box in 900mm setback and 7.5m setback

Downpipe splashing rainwater into canal along non-complying 1.8m high planter box in 900mm setback from western boundary and in 7.5m setback from northern boundary – downpipe was there for 2 months disturbing neighbours sleep with splashing water noise

Non-complying 1.8m high planter box in 900mm setback and 7.5m setback from canal



Overflow pipe along fence out over revetment wall to beach from non-complying slim line tank located in 900mm setback from western boundary – overflow pipe is still in same place. Council notified in writing 26 November 2020 that tank was installed – also in Councils Compliance Report 16 December 2020

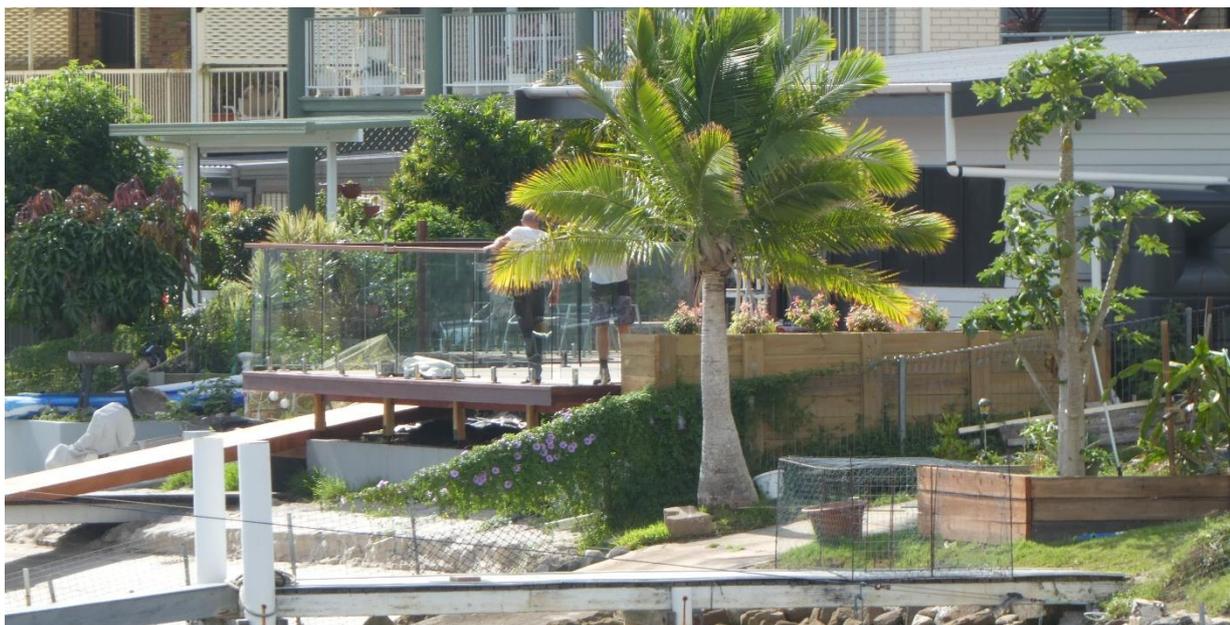
10. Photo taken 1 December 2020 19 Gumnut Road – downpipe and tank overflow still in place, non-complying glass panelling installed to deck. Non-complying roof larger than in Consent Plans and cantilevered to east, and Structural Plans show roof as a hip roof not flat

Larger extended non-complying roof cantilevered east towards pool



Downpipe along non-complying planter box and tank overflow on beach north of revetment wall

11. Photo taken 10 December 2020 19 Gumnut Road – downpipe now redirected to top of water tank overflow still in place out over beachfront, non-complying wood bench now installed on top of non-complying glass panelling and non-complying ramp extending from up near the pool to nearly first piers on the non-complying jetty



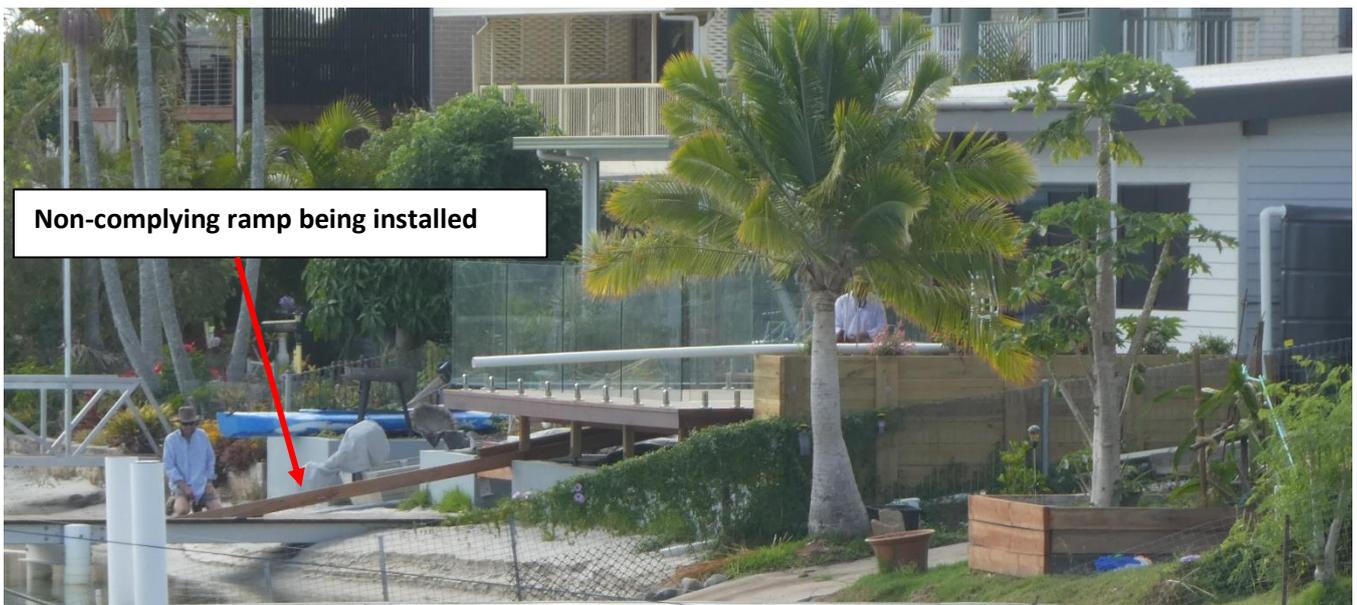
12. Photo taken at 7.34am 2 November 2020 – commercial dredge setting up to pump



13. Photo taken at 8.57am 2 November 2020 – sand pumped from dredge covering the grass and the revetment wall



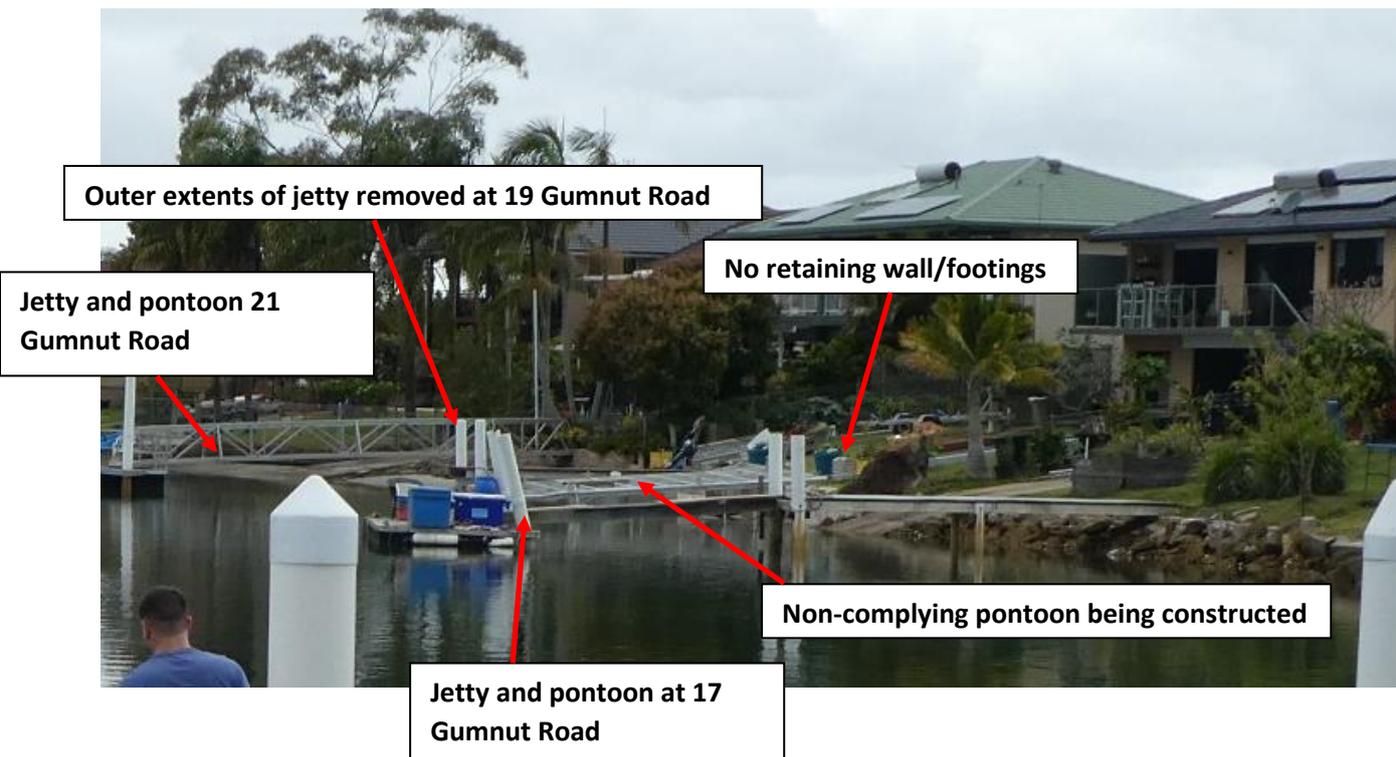
14 a). Photo taken 2 December 2020 19 Gumnut Road – downpipe still along top of non-complying planter box. Non-complying ramp being installed from up near pool to nearly first piers on non-complying jetty.



14 b) Taken 3 December 2020 - the new non-complying ramp from jetty towards the pool



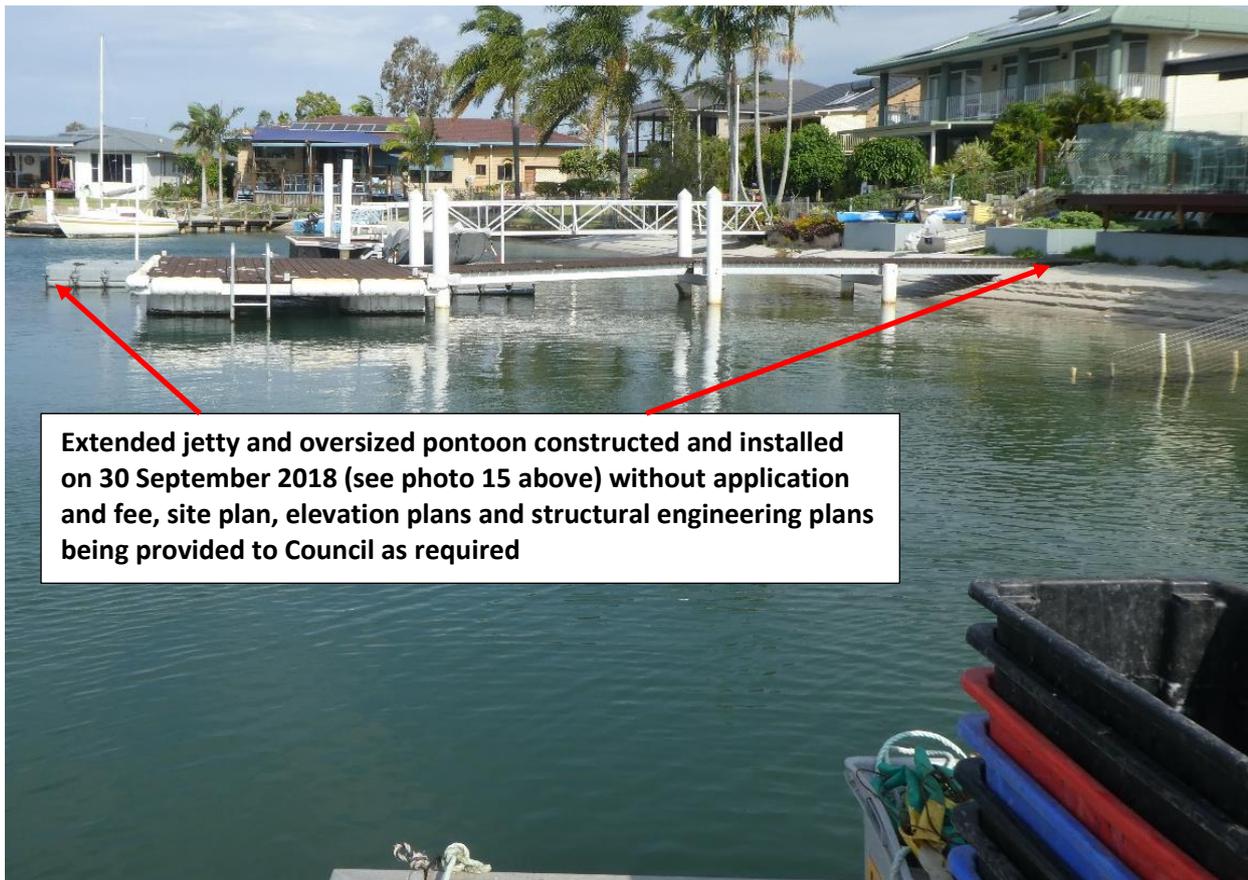
15. Photo taken 30 September 2018 of 19 Gumnut Road – outer extents of jetty demolished and removed back to first tall piers from the beachfront and pontoon being constructed on beachfront of 19 Gumnut Road. No retaining wall/footings constructed.



16. Photo taken 23 September 2019 showing retaining wall/footings already built prior to DA approval on 25 November 2019 (provided separately to Council)



17. Photo taken 24 November 2020 at 19 Gumnut Road showing new extended jetty and oversized pontoon with boat storage attached to the eastern side of the pontoon (impeding access to pontoon at 21 Gumnut Road) – much larger and further out than previous jetty (photo taken from the outer edge of pontoon at 17 Gumnut Road).



Extended jetty and oversized pontoon constructed and installed on 30 September 2018 (see photo 15 above) without application and fee, site plan, elevation plans and structural engineering plans being provided to Council as required

18. Screen dump of DAs for demolishing and installing new pontoons and jetties on Councils DA Track It

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Show	Application ID	Application Type	Lodgement Date	Details
Details	DA2020/0656	Development Applications	21-10-2020	17 Acacia Circuit YAMBA NSW 2464 Shed
Details	DA2020/0203	Development Applications	21-04-2020	19 Acacia Circuit YAMBA NSW 2464 Alterations and Additions
Details	DA2019/0502	Development Applications	17-09-2019	48 Acacia Circuit YAMBA NSW 2464 Demolish pontoon & pontoon
Details	DA2019/0501	Development Applications	17-09-2019	32 Acacia Circuit YAMBA NSW 2464 Demolish pontoon and pontoon and jet ski dock
Details	DA2019/0499	Development Applications	17-09-2019	28 Acacia Circuit YAMBA NSW 2464 Demolish pontoon, pontoon, hydrolift & jet ski dock
Details	DA2019/0500	Development Applications	17-09-2019	30 Acacia Circuit YAMBA NSW 2464 Demolish pontoon and pontoon and hydrolift

19. Screen dump of DAs for Gumnut Road Yamba back to 2015 on Councils DA Track It website – no DA for Demolished pontoon, pontoon and boat docks:

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APPLICATIONS DETERMINED

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Show	Application ID	Application Type	Lodgement Date	Details
Details	DA2020/0658	Development Applications	23-10-2020	3 Gumnut Road YAMBA NSW 2464 Carpport
Details	DA2019/0498	Development Applications	16-09-2019	19 Gumnut Road YAMBA NSW 2464 Swimming pool
Details	DA2019/0439	Development Applications	14-08-2019	19 Gumnut Road YAMBA NSW 2464 Studio, deck, carpport & awning
Details	DA2018/0397	Development Applications	18-07-2018	9 Gumnut Road YAMBA NSW 2464 Carpport
Details	DA2017/0712	Development Applications	03-11-2017	47 Gumnut Road YAMBA NSW 2464 Awning
Details	DA2016/0562	Development Applications	07-10-2016	29 Gumnut Road YAMBA NSW 2464 Swimming pool & patio cover
Details	DA2015/0304	Development Applications	10-06-2015	1 Gumnut Road YAMBA NSW 2464 Part screened enclosure

Showing 1 to 7 of 7 entries Previous 1 Next

20. Photo taken 28 January 2021 – installing large non-complying extendable awning



21. Photo taken 20 February 2021 of large non-complying extendable awning attached to non-complying studio roof, over a non-complying deck (resting on non-complying footings) with non-complying glass panelling on deck with wooden bar on top with a non-complying 1.8m high planter box on western boundary fence inside the 900mm setback. Studio and deck being used prior to Occupational Certificate – Council has been notified at least 5 times of this use since Dec 2020.

Structural Certification would be rendered invalid as certification was for the design of the studio and the studio was not built in accordance with the Consent and Structural Plans and also the Structural Plans show it as having hip roof yet the Consent Plans and built form is a flat roof.

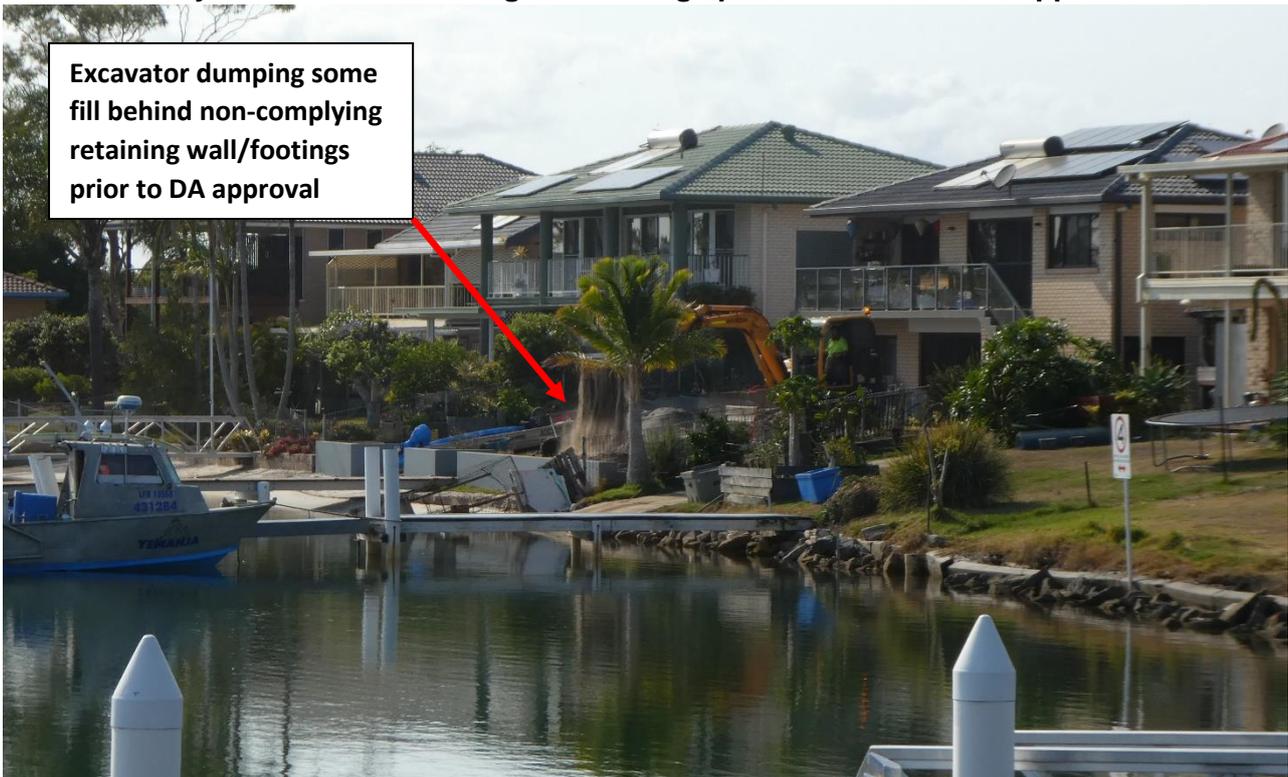
Large non-complying extendable awning (installed 28 Jan 2021 – Council emailed 31 January 2021) - out over non-complying deck awning



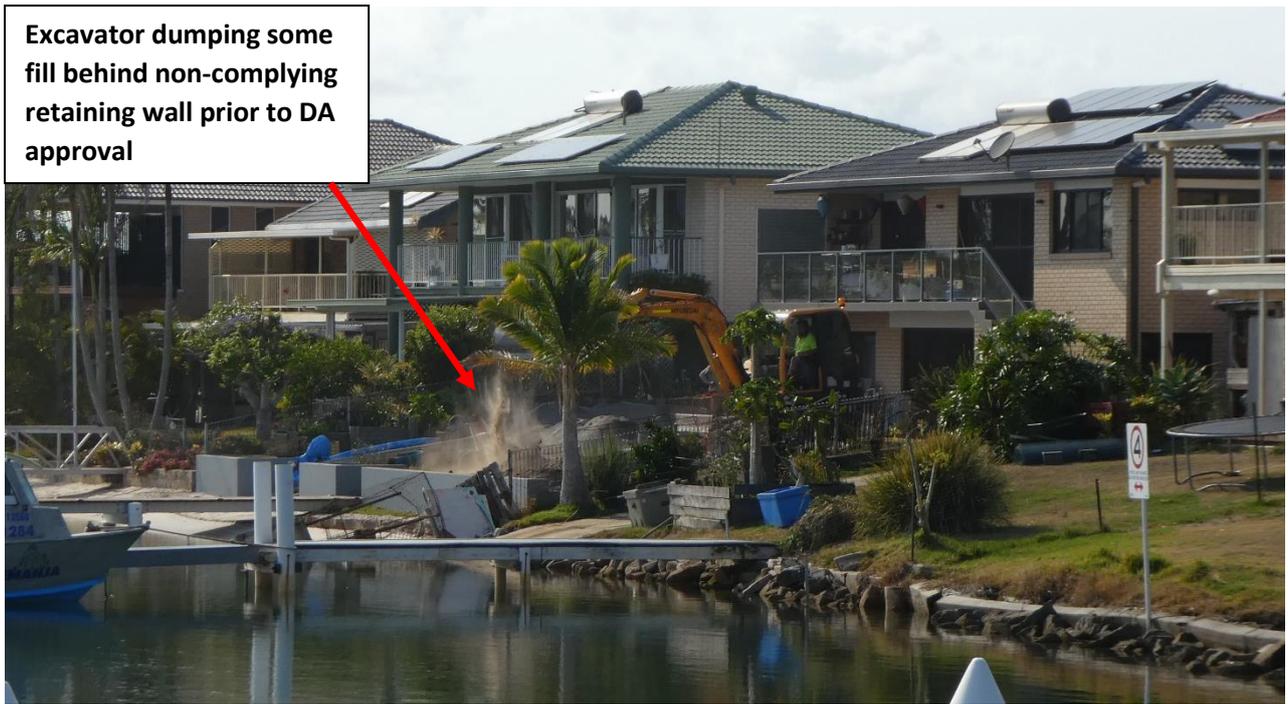
Non-complying glass panelling with wooden bar on top

22 a). Photo taken 29 October 2019 – backyard of 19 Gumnut Road Yamba – excavator filling behind already constructed retaining wall/footings prior to DA2019/0439 approval

Excavator dumping some fill behind non-complying retaining wall/footings prior to DA approval



22 b). Photo taken 29 October 2019 – backyard of 19 Gumnut Road Yamba – excavator filling behind already constructed retaining wall prior to DA2019/0439 approval



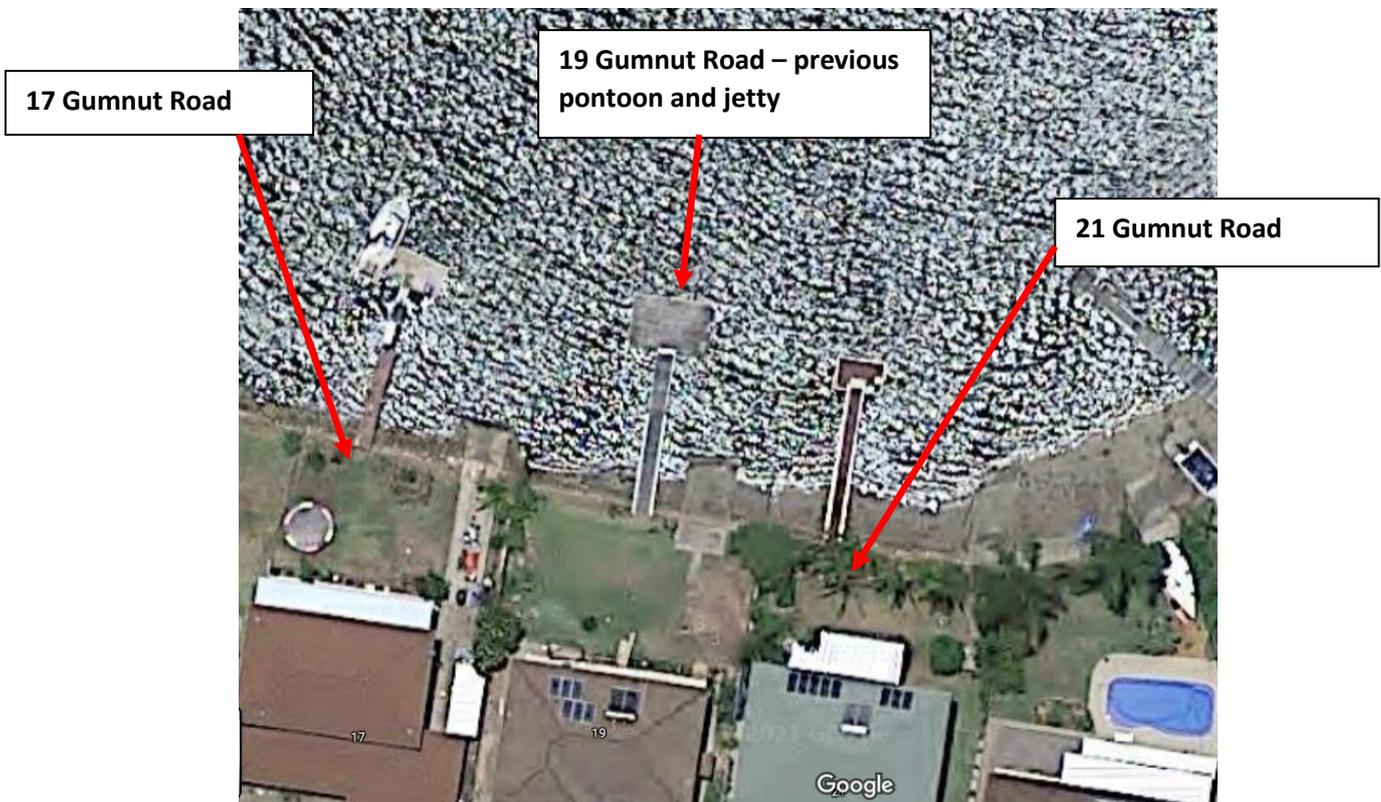
23. Photo taken 19 January 2018 – previous pontoon and jetty at 19 Gumnut Road Yamba – very different structure to new pontoon and jetty installed 30 September 2018.



24. Photo taken 16 December 2020 – new pontoon and jetty at 19 Gumnut Road Yamba – very different structure to old pontoon and jetty and much further out into canal– see photo 23 and 16 above.



25. Google earth – showing pontoons and jetties at 17, 19 and 21 Gumnut Road Yamba



26. Photo taken at 10.20am 25 March 2021 at the front of 19 Gumnut Road Yamba – a surveyor on the property surveying it for the first time.



27. Photo taken at 10.19am 25 March 2021 at the front of 19 Gumnut Road Yamba – surveyor surveying the property for the first time



ISSUES AND BREACHES DA2019/0439 CONDITIONS OF CONSENT

It appears there are some fourteen issues and breaches of the Conditions of Consent, a legal document, in relation to DA 2019/0439 – Studio, deck and carport. On the next three pages are the Points in the Conditions of Consent that are the issues and breaches:

1. *'Conformity with the EP & A Act, 1979, the Regulations thereunder, the Building Code of Australia and being generally in accordance with the Consent Plans numbered JW301 dated 15/11/19 (19 sheets).'*

DA2019/0439 has been **constructed very different to what was approved by Council and different to the Notification Plan dated 13 August 2019**. The constructed development is also quite different to the Consent Plans and Structural Plans, particularly the **studio as it has been built with a larger cantilever flat roof**. The Structural Plans also see the studio has a smaller hip roof.

Also, the retaining wall was constructed prior to the DA being approved, yet is a part of this DA (as can be seen in the Structural Plans dated 10 December 2019 Footing and Slab Plan Sheet 101 and 102). A photo dated 23 September 2019 was provided to Council in a submission (**see Attachment 3 photos – photo 16**) shows it was constructed at least two months prior to the DA being approved on 25 November 2019. More photos and information/questions about the raised wall were in another submission dated 15 November 2019. The following points in the submission state:

'Point 17. The revetment wall at 19 Gumnut Road was raised after the purchasers acquired the property. The wall is well above neighbouring properties (see photo 4 below showing wall height). Is approval required from Council to raise a revetment wall and will this impact on neighbouring properties, particularly in flood time? We also note that the decking material is not indicated in the plan. Will the deck also potentially impact the flow of water in flood time' and

Point 18 'On 29 October 2019 we watched an excavator place many bucket loads of soil from the pool excavation to the proposed deck location up behind the revetment wall (see photo 4 below showing filling behind revetment wall). Is approval from Council required to fill this land? Does Council consider this filling acceptable in a flood prone location and will this impact on the neighbouring properties in flood time?'

Please Note: Photo 4 referenced in the submission is the photo taken on 29 October 2019 – showing view of the raised revetment wall and filling behind revetment wall at 19 Gumnut Road (**see Attachment 3 photos – photo 22 a) and 22b**).

The studio and retaining wall (now foundations for the deck) may no longer comply with the Building Code of Australia as the owner and builder neglected to notify the Structural Engineer (Structerre Consulting Engineers) in accordance with point G.6 and G.8 General Notes, Sheet 1 of the certified Structural Plans.

2. In relation to an excavation that extends below the level of the base of the footings of a building on an adjoining allotment. **The owner or builder did not provide the adjoining neighbour notice of intention of the proposed work at least seven (7) days** before commencing this work, for either of these DAs.
7. **'No portion of the deck is to be enclosed without prior written approval being obtained from Council.'** Council emailed on 15 January 2021 stating that **'Council has not issued a written approval that the deck can be enclosed and therefore the document that you have requested does not exist.'** **The footings for the timber deck (half way between the studio and the canal end of the non-complying deck have not been sighted.**
9. *'All building work shall be constructed wholly within the boundaries of the property. The location of the rear northern boundary shall be **verified by a registered surveyor prior to construction commencing**. A copy of this survey shall be submitted to Council at the footing/slab inspection.'* It appears a survey plan (from a registered surveyor) was not provided prior to construction. Council have been requested, in writing, a number of times since 25 October 2019 (before

approval of DA2019/0439 on 25 November 2019), and after approval a number of times since 4 December 2019 (see Attachment 2 point 1).

10. *'Roof water, including overflow from a tank, is to be discharged into the most appropriate street gutter.'* This did not occur as required when the frame of the studio was inspected. The CVC DCP April 2019, Part I Erosion and Sediment Control, 15 Deemed to Comply Requirements point 9 *'Immediately following installation of the roof cladding, all guttering and downpipes are to be connected to the stormwater system. Inspection of the frame is not to be arranged until this is satisfactorily completed.'* (see Attachment 3 photos – photos 6 and 8).

The Councils Senior Building Surveyor undertook on-site inspections of the frame on 12 and 19 August 2020 (On the Building Inspection Report ticking Frame and Inspection result – Work Satisfactory, there was no tick for Stormwater Inspected on either of the Building Inspection Reports).

The downpipe of studio was connected in mid-October 2020. The pipe was sitting on top of the planter box and discharging water into the canal at quite a height (see Attachment 3 photos – photo 9). The water tank was installed early November 2020. On 8 December 2020 the downpipe was plumbed into the top of the water tank, but the overflow from the water tank remains, flowing out over the beach past the revetment wall (see Attachment 3 photos - photo 11).

12. *'All erosion and sediment control measures are to be installed and maintained in accordance with the Statement and Erosions Control that was submitted with the DA.'* A copy of Statement for Sediment and Erosion Control was signed by the owner dated 14 August 2019. Point 9 states *'Immediately following installation of the roof cladding, all guttering and downpipes are to be connected to the stormwater system. Inspection of the frame is not to be arranged until this is satisfactorily completed.'* As per Point 10 above, this did not occur.
14. *'All structures located within the 7.5 metre rear building alignment shall not exceed 1.2m metres in height from exiting ground level.'* This is not the case. The non-complying deck at the canal is about 1.5m high, the non-complying free-standing planter box is 1.8m high within the 7.5m setback and in the 900mm setback. The glass panelling with a wooden bar top is about 1.5m high. The water tank is also in the 900mm setback.
15. *'All construction below 2.9 metres AHD shall be of flood compatible building components in accordance with Councils Residential DCP'* (CVC DCP Part D Floodplain Management Controls, Schedule D1 page 53). If below 2.9 AHD then the wall structure of the studio is to be brick or blockwork, not cladding. The studio also has a floating timber floor on the concrete slab that does not comply with CVC flood compatible building components if below 2.9 AHD. We understand that **a survey plan should be undertaken by a registered surveyor** confirming existing floor levels; position of the existing and all proposed building/s, the existing ground levels to AHD around the perimeter of the building and contours of the site; the existing and proposed floor levels to AHD (CVC DCP Part D, D7, 7.1, 7.2 and 7.3 page 52) and the proposed stormwater design (all required at lodgement of a DA as per CVC DA Lodgement Checklist Minor Residential, prior to construction). **It appears a survey by a registered surveyor was not undertaken prior to or during construction (see also Point 9 above).**
17. *'External and internal lighting from the studio shall be provided in a manner that avoids light spillage onto adjoining and surrounding properties within the general bay area.'* We note that handwriting on the Memorandum that was provided to the DAP Panel dated 20 November 2019 states *'Recommend approval subject to appropriate condition for prevention of light spillage onto adjoining properties'* (see point 35 in Attachment 2).
18. *'The minimum side setback for the proposed rear deck shall be 900mm.'* This is not confirmed as a survey plan was not undertaken, as required, by a registered surveyor prior to construction. Council has been requested to provide a copy of a survey. This has not occurred to date. See Points 9 and 15 above. The MOD2021/0016 Plans are misleading as the western side of the deck is shown in the 900mm western boundary setback and the planter box is on top. See point 14 Attachment 2.

20. **'The proposed studio shall have a minimum rear setback of 7.5 metres.'** This is not confirmed as a survey plan was not undertaken, as required, by a registered surveyor prior to construction. We have been requesting Council ensure a survey is undertaken by a registered surveyor. See Points 9 and 15 above.
22. **Mandatory inspections: 'd) Before internal covering/lining of the *framework* for any floor, wall, roof or other building element'. This was not carried out in accordance to Councils DCP Plan Part 1 Schedule I1 point 9 and the Erosions and Sediment Control Plan point 9 whereby the downpipe is required to be connected prior to inspection (see Attachment 2 point 24).**
26. **'The building shall comply with the Australian Building Codes Board Standard Construction of Buildings in Flood Hazard Areas. A Structural Engineers certificate shall be submitted prior to issue of the construction certificate.'**
Our concerns are:
- (i) **That a Structural Engineers Flood Certificate for proposed development dated 28 February 2020 and the Certificate of Compliance NSW – Structural Design is dated 19 December 2019 was provided by Structerre Consulting Engineers prior to commencement of construction of the studio (Notice of Commencement of Work dated 23 March 2020). The Certificate is **only for the design of the studio**; however, the studio building **has not been constructed in accordance with the Consent Plans and it appears the Structural Plans as well, as the roof is larger, is flat and it is cantilevered out towards the east from the timber posts. Council Building and Environmental Services Officer certified DA2019/0439 dated 2 March 2020 prior to the non-complying structure being built (see Attachment 2 points 3 and 4).****
 - (ii) **There also appears to some discrepancy, in relation to the style of roof – a flat roof is seen in the Consent Plans and diagram of a hip roof in the Structural Plans;**
 - (iii) **We also note that the Structural Plans state at Roof Truss Notes at RT 8. on Sheet 002 'provide certification from a structural engineer, as defined in the Queensland Building By-Laws, that the roof trusses are structurally sufficient.' – this appears to not to have been provided.**
 - (iv) **The Structural Plans on Sheet 003 – 'Procedure or Task Deviations PT1 Onsite variations it is the builders responsibility to strictly build in accordance with the documentation and not to make any variations to the construction without the specific written approval from the Engineer.' This appears not to have occurred;**
 - (v) **Structural Plans Sheet 003 - 'Procedure or Task Deviations PT2 Compliance InspectionsEach level of construction is to be structurally complete and inspected to ensure design compliance by certifying authority prior to advancing to the next stage of work.' This appears this has not occurred.**
 - (vi) **We also note that all wind bracing as per the Structural Plans Wind Bracing Plan Sheet 007 was for the original smaller roofed studio, but the roof as built is considerably larger.**
 - (vii) **It appears the dimensions of the studio have also not been checked as to whether it was built in accordance with the Consent Plans, Plan of the Backyard Sheet A102 – 5m x 6m (30sqm).**
27. **'The development is not to be occupied or used until such time as an Occupation Certificate has been issued.'** On 22 December Council were informed the owners of 19 Gumnut Road Yamba were using the studio and deck. **Council has been informed the owners continued to use the studio and deck at least on five occasions throughout January and February 2021 (see Attachment 2 points 3, 4 and 10).** Concerns are the risk with using the non-complying structures. **Council has taken no action in accordance with its Enforcement Policy.**

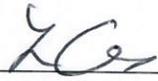
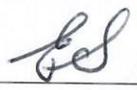
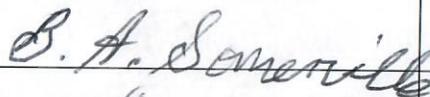
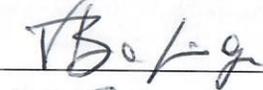
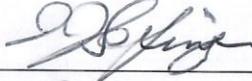
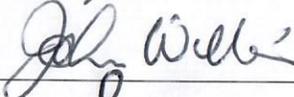
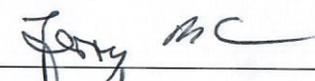
SUBMISSION: MOD2021/0016 AND DA2021/0153

Attachment 5

Date	Name	Address	Signature	Phone number
24.3.21	HELEN COLLINS	36 WATTLE DRIVE YAMBA	Helen M Collins	0415078 224,
24/3/21	Shane Benson	1 Burrellan Ave Yamba	Shane Benson	0400308666
24.3.21	BETTY CALLAWAY	13 Burrellan Ave Yamba.	Betty Callaway	0902 561716
24.3.21	Danny Quinn	1/67 WITONGA DR	D. Quinn	66463839
24.3.21	BARRY MEREDITH	2/71 WITONGA DRIVE	Barry Meredith	0408768664
24/3/21	Liz Meredith	2/71 Witonga Drive	Liz Meredith	0408768664
24/3/21	Jan McKay	13 Witonga Dr Yamba	Jan McKay	0408484225
24/3/21	Patricia Cochran	3 Burrellan Ave Yamba	P.A. Cochran	041871 4739
24/3/21	Ann Cochran	3 Burrellan Ave Yamba	Ann Cochran	0418714739
24/3/21	PETER SWEETMAN	61 WITONGA DR. YAMBA	Peter Sweet	0418665040
24/3/21	DIANE SWEETMAN	61 WITONGA DR. YAMBA	Diane Sweetman	04000 11155
24/3/21	JANICE PERRETT	5 Burrellan Ave. Yamba	Janice Perrett	0438 435382

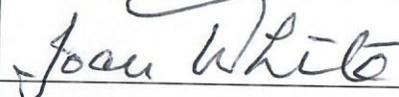
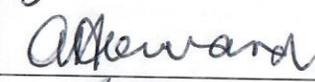
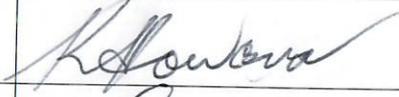
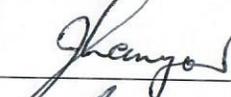
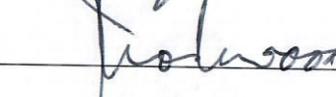
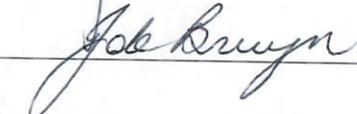
SUBMISSION: MOD2021/0016 AND DA2021/0153

Attachment 5

Date	Name	Address	Signature	Phone number
23.3.2021	YVONNE WILLIS	34 ACACIA CIRCUIT YAMBA		66461796
23.3.2021	Lynne Cairns	4 Acacia Circuit Yamba		0417422397
23.3.2021	Robert Cairns	4 Acacia Crt Yamba		66469860
24.3.2021	B Somerville	36 acacia crt		0459907940
24.3.2021	BETTY SOMERVILLE	36 ACACIA CIRCUIT, YAMBA		0459907940
24.3.2021	VALERIK BOFINGER	38 Acacia Cir Yamba		66462584
24.3.2021	IAN BOFINGER	38 ACACIA CIRCUIT YAMBA		66462584
24.3.21	John Willis	34 Acacia Cir Yamba		66461796
24.3.21	Ston Cousins	1 Taine Court Yamba		0401431522
24.3.21	TERRY Cousins	1 Taine Court Yamba		0429 016 886
24.3.21	Dore Schwarz	35 Melbourn Dr Yamba		66458655
24.3.21	KEN COLLINS	36 NATHAN, YAMBA		0413734955

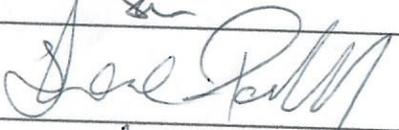
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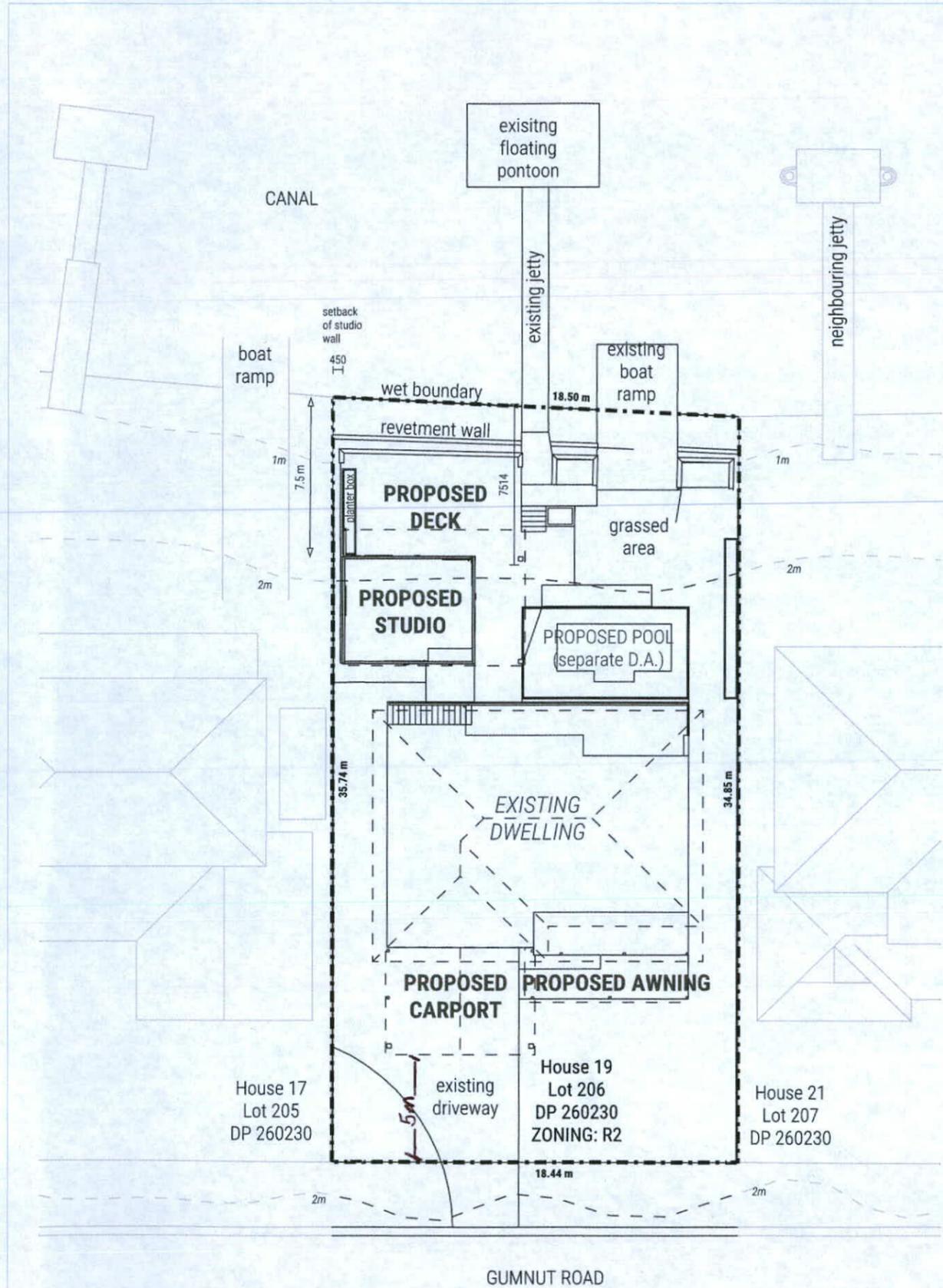
Attachment 5

Date	Name	Address	Signature	Phone number
24-3-21	KEN WHITE	42, ACACIA CCT		66461367
"	Jean White	—		"
"	Ann Howard	46 " "		66458128
"	KEVIN HOWARD	46 ACACIA CCT		66 458128
25/3/21	JACKIE LANYON	10 NABINLA CRT		0414 829 104
"	Garry Taylor	99 WITONGA PVE		66469060
25 MAR 2021	JOHN LOCKWOOD	97 WITONGA DRIVE		66459966
"	JOYCE DE BRUYN	99 WITONGA DVE		66469060

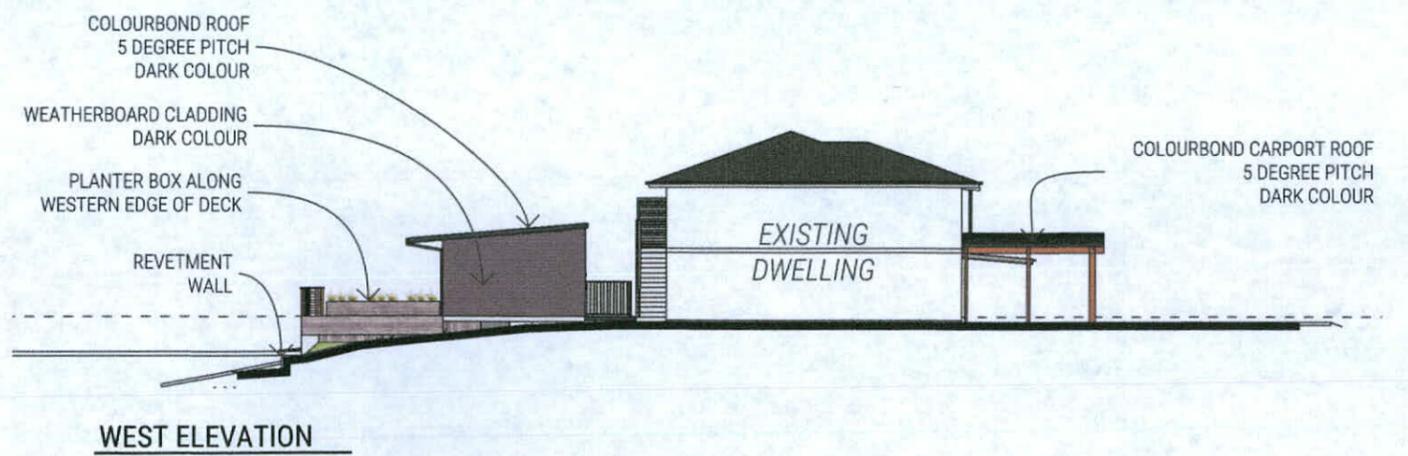
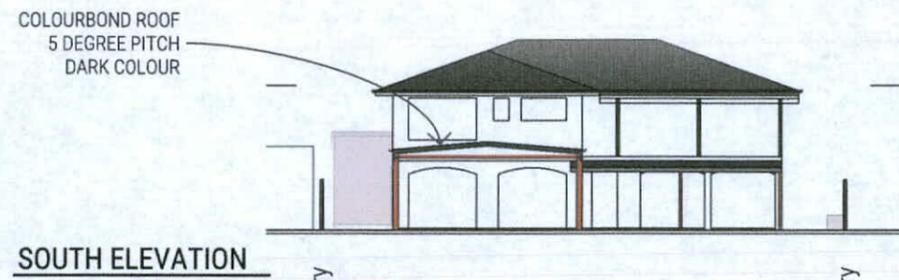
SUBMISSION: MOD2021/0016 AND DA2021/0153

Attachment 5

Date	Name	Address	Signature	Phone number
27/3/21	HENRY HERON	27 MELALEUKA DVE YAMBA		0429 347660
25.3.21	DAVE GADON	5 NABILA CT YAMBA		0418712192
25-03	JOHN MCKEENY	5 Melaleuca Drive		0427 32 3133
25.03.21	Skye McKenry	5 Melaleuca Dr. yamba		0409854939
25/3/21	Shane Powell	17 Gurnett Road yamba		0403711741
25/3/21	Stephanie Petersen	17 Gurnett Road yamba		0414683835



SITE PLAN - PROPOSED



CLIENT	PROJECT ADDRESS	PROJECT	DRAWING TITLE	PROJECT #	DRAWN	SCALE	DOCUMENT DATE	DRAWING No.	REV.	REVISIONS	CONTACT
KRYSY & TODD CAMPBELL	19 GUMNUT ROAD, YAMBA NSW Lot 206/ DP 260230	19 Gumnut Road YAMBA	NOTIFICATION PLAN	JW301	JH CHECK	1:250 @ A3	13 / 08 / 19	A802	B	A PRELIMINARY 07/08/19 B DA ISSUE 13/08/19	info@jwhida.com +61 406 802 037 JWHIDA.COM BUILDING DESIGN SERVICES DESIGN • DRAFTING • ENERGY RATING • VISUALISATION

CLARENCE VALLEY COUNCIL
DEVELOPMENT APPLICATION ASSESSMENT REPORT – Building
Surveyor

Application No: DA2019/0439

Address: 19 Gumnut Road YAMBA NSW 2464

Lot and DP: Lot 206 DP 260230

Description: Studio, deck, carport & awning

Classification: 1a & 10a

Site inspection date: 13/11/19

SITE EVALUATION

Street number / Rural Road Number	<input checked="" type="checkbox"/> Existing No:19	<input type="checkbox"/> New No:
Water connected	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Kerb and gutter/footpath condition/photo taken:	Good	
Building clear of easement:	Yes	
Building clear of influence sewer main:	Yes	
Native vegetation affected/clearing required:	No	
Cut and Fill needed–retaining walls needed – erosion/sediment controls required:	Yes– sediment & erosion statement provided to mitigate	
Vehicular access satisfactory/ required:	Suitable	
Means of stormwater disposal:	Street	
Surface water drainage issues:	No	
Effluent disposal:	N/A	
Bushfire assessment /BAL:	N/A	
Wind category:	T	S TC N
Flood prone:	2.9m floor level	
Setbacks required:	7.5m, 6m, 0.9m	
Foundation classification:		
Any building envelopes:		
Private open space/Landscaped area:	Additional private open space has been provided by the flat area of the deck	
Class of building:	Rise storeys:	Type cons. Reqd:
Is there a dwelling entitlement:	Yes	
Any demolition work required/asbestos present:	Maybe	
Is land contaminated former horticultural land:	No	
Within drinking water catchment:	No	
Proximity to levees, riverbank instability, coastal hazard:	No	
Other site characteristics that may affect proposal:		
<p>The content of the submissions mainly related to noise, outdoor lighting, parking on the road reserve; and works on the existing pontoon and revetment wall prior to lodgement of the DA; lack of details for the side fence and type of plants in the planter box; the proposed use of the studio (which was not initially provided); reduced site setback (450mm) for studio; no other detached rooms in similar locations around the bay; solar</p>		

access; views & reductions in property values.

The western side setback has now been increased to 900mm and provided a 450mm offset from the fascia for the studio which now complies with CVC's studio fact sheet & Residential DCP.

A statement of use has been received from the applicant confirming the use of the studio will be a detached rumpus room due to the size of his family.

The adjoining (no17) two storey property owner raised issues with solar access to the living room however the proposed apex height of the studio is 3.326 metres with a 900mm side setback.

The adjoining (no17) living room has a setback of 4.5 metres from the eastern boundary (garage has a 1.5m side setback) and one window with dimensions of 1.8 x0.9 however has multiple windows on the northern elevation as detailed below.

The views from No 17 are predominately to the north as the property is located at the end of the canal.

Evaluation – Section 4.15			
Zone: R2	Permissible with consent:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
LEP, DCP, Regulations, etc. CVC LEP 2011:	Complies		
Likely impacts of development, including environmental impacts on natural and built environments and social and economic impacts in locality:	<p>The proposed studio has a relatively small footprint of around 30m² with a presumed raft slab construction will create minimal environmental impacts controlled by suitable sediment and erosion controls and management of acid sulfate soils.</p> <p>The perceived existing anti-social behaviour may be mitigated by the create of the detached rumpus room providing an alternative area for entertaining rather than outside reducing the noise to the bay which has been described as like an amphitheatre.</p> <p>The proposed contemporary design of the rumpus room and deck compliments the existing dwelling and may provide economic benefits to adjoining properties by the creation of additional privacy and improved aesthetics.</p>		
Suitability of the site for the development:	Complies with Residential DCP		
DCP variation required?	No		
Any submissions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	8 submissions
The public interest	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Submissions from properties that were not formally notified
Other relevant matters: The proposal complies with Council Residential DCP			
AFFECT OF ADJOINING LAND			
In forming an opinion as to the likely impact whether the enjoyment of the adjoining land may be detrimentally affected by the proposal, the following have been taken into consideration as being applicable.			
1. The views to and the views from the adjoining land	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Minor view impact to the eastern side of the bay.- 3.326 m apex with 900mm side setback and 7.5m rear setback. Predominant view to north as the site is at the end of the bay
2. The overshadowing of the adjoining land	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Minor overshadowing and almost half the height(3.326m) that is permissible(6.5m) under the DCP
3. Visual and acoustic privacy of the adjoining land	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Minor privacy impact from No17 & No 21however no submission received from No 21
4. The likely affect by noise	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Possible noise affect from the occupants residential use of detached rumpus room in a R2 residential

			zone. No windows or doors on western elevation.
5. Relationship and compatibility of adjacent sites	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Residential use in a residential R2 zone complying with DCP
6. Any relevant matter in criteria in a local policy adopted under Part 3 by the Council	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Generally considered as a minor impact and a suitable proposal.
MATTERS FOR CONSIDERATION			
Compliance with the BCA:	<input type="checkbox"/> Yes		<input type="checkbox"/> No
Comments:			

RECOMMENDATION: **APPROVE** **REFUSE**

ASBESTOS CONDITONS ON CONSENT **Yes** **No**

ADVICES: (highlight applicable)

AMand01, AMand05, AMand07(a, b, c),flood engineering

AOpt18, AOpt19, AOpt20, AOpt21, AOpt22, AOpt23,

ABld01 (*N1, N2, N3, N4*), ABld02, ABld04, **ABld10**, ABld13, ABld14, ABld18,

ABld19, ABld20, ABld24, ABld25, ABld28, ABld29, **ABld31**, ABld34, ABld35,

ABld42, ABld43, ABld44, ABld45, ABld46, ABld47, ABld49, ABld50, ABld51,

ABld52, ABld53, **ABld54**, **ABld55**, **ABld56**, ABld57, ABld58, ABld60, ABld63,

ABld64, ABld66, ABld67, ABld69, ABld70, ABld71, ABld72, ABld73, ABld74,

ABld75, ABld76, ABld77, ABld78, ABld79, ABld801, ABld81, ABld82, ABld83

AEng01, AEng04, AEng05, AEng06, AEng07, AEng08

ATermite02, **ATermite03**,

AFire01, AFire02, AFire03, AFire04, AFire05, AFire06, AFire10, AFire15, AFire16,

AFire17, AFire18, AFire19, AFire20, AFire21, AFire27, AFire28, AFire29, AFire31,

AFire32

AVent02, AVent03

ASound01, ASound02, ASound03, ASound04, ASound05, ASound06,ASound07

AAccEgr01, AAceEgr02, AAceEgr03, AAceEgr04, AAceEgr05, AAceEgr06,

AAceEgr07, ,AAceEgr12, AAceEgr13

AEmerg01, AEmerg02, AEmerg03, AEmerg04,

ADisabld01, ADisabld02, ADisabld03, ADisabld04, ADisabld05, ADisabld07,

ADisabld08, ADisabld09, ADisabld10, ADisabld11, ADisabld13, ADisabld14

AEff01

AFood01, AFood02, AFood03, AFood04, AFood05, AFood06, AFood07,

AFood08, AFood09, AFood10, AFood10, AFood12, AFood13, AFood14,

AFood15, AFood16, AFood17, AFood18, AFood19, AFood20, AFood21,

CMudBrick,

NON STANDARD ADVICES

CONDITIONS: (highlight applicable)

CAAPlans01, CAAPlans02,

Drawing No	Drawn/Submitted by	Drawing dated	Sheets	Revision

COccCert01, CHours01, CSiteSaf01, CSiteSaf02, CToilet01,

CAAdjBld01, CRetain01, CSign01, CHomeBld01, CBasixCert, CBasix01,

CRoof01, CIntComp,

CInspect

~

Mandatory Inspections The head contractor or owner-builder must give Council as the certifying authority at least 24 hours notice to enable the following inspections to be performed at the appropriate time:

- a **Pier holes** (if any), before concrete is poured,
- b **Footings**, with reinforcement in place before pouring of concrete,
- c After reinforcement is in positions and before pouring of any **in-situ reinforced concrete** building element,
- d Before internal covering/lining of the **framework** for any floor, wall, roof, or other building element,
- e Before all walls, floors and ceilings required by the BCA to have a **fire resistance level** are enclosed, and before covering of fire/smoke protection at service penetrations and the junctions of fire resisting construction in buildings containing sleeping accommodation,
- f Before all walls, floors and ceilings required by the BCA to have a **sound insulation** requirement are enclosed,
- g **Plumbing work** prior to covering/lining walls,
- h **Sewer drainage** work prior to back filling/lining,
- i Before covering **waterproofing in any wet areas**,
- j Before covering any **stormwater drainage** connections,
- k After reinforcement is in position and before pouring of any **structural element (including pool coping) of a swimming pool**,
- l After the pool and pool fencing are completed and **before filling of the pool**,
- m After the **building work has been completed** and prior to occupation.

COpt01, COpt03, COpt04, COpt06

CLndFill01, CLndFill05, CLndFill06, CAcidSul01, CLndFld02, CLndFld04, 2.9 m

CLndFld05,

CErosSed02, CErosSed03, CErosSed05, CErosSed07, CErosSed10,

CErosSed11, CErosSed30,

CBldg01, CBldg02, CBldg03, CBldg04 (deck), CBldg05, CBldg06, CBldg07,

CBldg08, CBldg09, CBldg10, CBldg11, CBldg13, CBldg14, CBldg15, CBldg16,

CBldg17, CBldg18, CBldg20, CBldg21, CBldg22, CBldg23, CBldg24, CBldg25,

CBldg26, CBldg27, CBldg28, CBldg29, CBldg30, CBldg31, CBldg32, CBldg33,

CBldg34, CBldg35, CBldg36, CBldg37, CBldg38, CBldg39, CBldg40,

CBldg41, CBldg42, CBldg43, CBldg44, CBldg45, CBldg46

CEEff01, CEEff02, CEEff05, CEEff06, CEEff07, CEEff08,

CRelocat02, CRelocat03, CRelocat04, CRelocat05, CRelocat06, CRelocat07,

CRelocat08, CRelocat09

CAsbestos1, CAsbestos2, CAsbestos3, CAsbestos4, CAsbestos5, CAsbestos6, CAsbestos7,

CSPool02, CSPool03, CSPool04, CSPool05, CSPool06, CSPool07, CSPool08, CSPool09, CSPool10, CSPool11, CSPool12, CSPool13, CSPool14, CSPool15, CSPool16, CSPool39, CSPool41,
 CBFire03, CBFire25, CBFire26, CBFire27, CBFire28,
 CWatTnk
 CDefer01, CDefer02, CDefer03, CDefer04, CDefer05, CDefer06, CDefer07, CDefer08, CDefer09,
 CDefer010, CDefer011, CDefer012

NON STANDARD CONDITONS

1. Fencing is not part of this approval.
2. All structures located within the 7.5 metre rear building alignment shall not exceed 1.2 metres in height from existing ground level.
3. All construction below 2.9 metres AHD shall be of flood compatible building components in accordance with Councils Residential DCP.
4. All proposed landscaping shall be completed prior to requesting a final inspection.
5. External and internal lighting from the studio shall be provided in a manner that avoids light spillage onto adjoining and surrounding properties within the general bay area.
6. The minimum side setback for the proposed rear deck shall be 900mm.
7. The maximum size studio eave on the western elevation with a 900mm wall setback shall be 450mm.
8. The proposed studio shall have a minimum rear setback of 7.5 metres.

Assessing officer:	SW	Date:	20/11/19
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OTHER APPROVALS:

<input type="checkbox"/> Water	<input type="checkbox"/> Sewer	<input type="checkbox"/> Onsite waste water management	<input type="checkbox"/> Stormwater
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Has a Construction Certificate been applied for? Yes No

If Yes:	Comment
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1. Have conditions of DA been satisfied?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	
2. Have contributions been paid? Amount: Date: Receipt No:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	
3. Section 79E Fire Protection & structural strength.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	
4. Has HOW/OB permit been received?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	
5. Has Long Service Levy been paid?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	
6. Have engineer's details been received?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	
7. Has a PCA contact been submitted?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	
8. Is the dwelling in a pressure sewer area?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	

Recommendation for issue of Construction Certificate

<input type="checkbox"/> Approve	<input type="checkbox"/> Refuse	<input type="checkbox"/> Add info:
Assessing officer:	Choose an item.	Date: Click here to enter a date.

BCA Compliance Checklist Class 1-10 Building – CC No.....		
Part 3.1 - Site Preparation		Compliance
3.1.1	Earthworks	
3.1.2	Drainage	
3.1.3	Termite Risk Management	
Part 3.2 - Footings and Slabs		
3.2.2	Preparation	
3.2.3	Concrete and Reinforcing	
3.2.4	Site Classification	
3.2.5	Footing and Slab Construction	
Part 3.3 - Masonry		
3.3.1	Unreinforced Masonry	
3.3.2	Reinforced Masonry	
3.3.3	Masonry Accessories	
3.3.4	Weatherproofing of Masonry	
3.3.5	Earthwall Construction	
Part 3.4 - Framing		
3.4.1	Sub-Floor Ventilation	
3.4.2	Steel Framing	
3.4.3	Timber Framing	
3.4.4	Structural Steel Members	
Part 3.5 - Roof and Wall Cladding		
3.5.1	Roof Cladding	
3.5.2	Gutters and Downpipes	
3.5.3	Wall Cladding	
Part 3.6 - Glazing		
3.6	Glazing	
Part 3.7 - Fire Safety		
3.7.1	Fire Separation	
3.7.2	Smoke Alarms	
3.7.3	Heating Appliances	
3.7.4	Bushfire Areas	See Building in Bush Fire Prone Areas
3.7.5	Alpine Areas	N/A in CVC Area
Part 3.8 - Health and Amenity		
3.8.1	Wet Areas	
3.8.2	Room Heights	
3.8.3	Facilities	
3.8.4	Light	
3.8.5	Ventilation	
3.8.6	Sound Insulation	
Part 3.9 - Safe Movement and Access		
3.9.1	Stair Construction	
3.9.2	Balustrades	
3.9.3	Swimming Pool Access	See Swimming Pool Act

Comments



Pre Certification Inspection Report

Record of Inspection – Clause 129B or Clause 143B Inspection Report		
Type of inspection	Prior to issue of certificate inspection	
Site / inspection Details		
Address: 19 Gumnut Road YAMBA NSW 2464		
Description of works:		
Date of inspection:	Click here to enter a date.	
DA/CDC No: DA2019/0439 Date consent issued:		
CC No:		
Current Fire Safety Measures in the existing building	See attached fire safety list – tick relevant fire services in existing building and any comments	
Do the plans and specifications accompanying the application of the CC or CDC adequately and accurately depict the condition of the existing building or the existing site conditions of the site the subject of the certification	<input type="checkbox"/> Yes <input type="checkbox"/> No Comments:	
Are there any features of the site, or of any building on the site, that would result in the proposed development the subject of the application for the complying development certificate: (I) Not being complying development, or (II) Not complying with the Building Code of Australia.	<input type="checkbox"/> Yes <input type="checkbox"/> No Comments:	
Has any building work authorized by the relevant development consent commenced on the site	<input type="checkbox"/> Yes <input type="checkbox"/> No Comments:	
Accredited Certifier Details		
Details of Nominated Principal Certifying Authority	Name of PCA:	Clarence Valley Council
	Officer:	Choose an item.
Details of Accredited Certifier undertaking Inspection	Signature:	
	Date:	Click here to enter a date.

Fire Safety Measures in the Existing Building

Fire Safety Measure	Comments
Access panels, doors & hoppers to fire resisting shafts	
Automatic fail safe devices	
Automatic fire detection & alarm systems	
Automatic fire suppression systems	
Emergency lifts	
Emergency lighting	
Emergency warning & intercommunication systems	
Exit signs	
Fire alarm monitoring	
Fire control centres & rooms	
Fire dampers	
Fire doors	
Fire hose reel systems	
Fire hydrant systems	
Fire seals protecting openings in fire resisting components	
Fire shutters	
Fire windows	
Lightweight construction	
Mechanical air handling systems	
Perimeter vehicle access for emergency vehicles	
Portable fire extinguishers & fire blankets	
Safety curtains in proscenium openings	
Smoke & heat vents	
Smoke dampers	
Smoke detectors & heat detectors	
Smoke doors	
Solid core doors	
Standby power systems	
Wall wetting sprinklers & drencher systems	
Warning & operational signs	
Other measures	
Travel	

BUILDING CODE CHECKLIST

Class 2, 3, 5, 6, 7 and 8 buildings

Is this required?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
CC No:		DA DA2019/0439	No:
Address: 19 Gumnut Road YAMBA NSW 2464			
Building:			
Assessment officer:			
Plan No's/File encl:			
Class of building(A3.2):			
Rise in storeys (C1.2):			
Type of construction required (C1.1, C1.3 and C1.4):			
Floor area limitations (C2.2, C2.3 and C2.4):			
Fire Source Features (FSF) (Spec. C1.1, Clause 2.1)			
FSF	Minimum Setback (Metres)	Exposed to FSF (Yes/No)	
North		<input type="checkbox"/> Yes	<input type="checkbox"/> No
South		<input type="checkbox"/> Yes	<input type="checkbox"/> No
East		<input type="checkbox"/> Yes	<input type="checkbox"/> No
West		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Fire Resistance Levels (FRL) (Part C1)			
a) External Loadbearing Walls			
Wall	Minimum Required FRL (-/-/-)	Minimum Proposed FRL (-/-/-)	
North			
South			
East			
West			
External Column			
b) External non-Loadbearing Walls			
Wall	Minimum Required FRL (-/-/-)	Minimum Proposed FRL (-/-/-)	
North			
South			
East			
West			
Other			
Common walls			
Fire walls			
c) Fire Resisting Lift and Stair Shafts			
Wall	Minimum Required FRL (-/-/-)	Minimum Proposed FRL (-/-/-)	
Loadbearing			
Non-Loadbearing			
d) Walls bounding public corridors, hallways or between bounding sole-occupancy units			
Wall	Minimum Required FRL (-/-/-)	Minimum Proposed FRL (-/-/-)	
Loadbearing			
Non-Loadbearing			

e) Vent and garbage shafts and the like		
Wall	Minimum Required FRL (- / - / -)	Minimum Proposed FRL (- / - / -)
Loadbearing		
Non-Loadbearing		
Other loadbearing		
Walls and columns		
f) Other		
Wall	Minimum Required FRL (- / - / -)	Minimum Proposed FRL (- / - / -)
Loadbearing walls		
Loadbearing columns		
Floors		
Roofs		
Materials of construction (Spec C1.10):		
Means of Egress (Part D):		
a) No. of exits (D1.1, D1.2):		
b) Fire isolation (D1.3, D1.7, D2.10, D2.11, D2.6, D2.22):		
c) Travel distances (D1.4, D1.11 and D1.5):		
d) Dimensions of exits (D1.6 and D2.9):		
e) External stairs & non fire-isolated stairs/ramps (D1.8 and D1.9):		
f) Discharge to Open space (D1.10 and D2.12):		
g) Non-required stairs and ramps (D1.12 and Spec. D1.12):		
h) Separation of rising and descending stairs (D2.4):		
i) Installations in paths of travel and exits (D2.7):		
j) Enclosure under stairs and ramps (D2.8):		
k) Balustrades and handrails (D2.16 and D2.17):		
l) Doors, Doorways and swing of door (D2.19, D2.20, D2.22 and D2.23):		
m) Exit latch operation (D2.21):		
Protection of Openings and Separation (Part C)		
a) Vertical separation (C2.6):		
b) Fire Walls (C2.7):		
c) Separation between different classes (C2.8 and C2.9):		
d) Lift shaft & equipment room separation (C2.10, C2.12, Spec. C3.10):		
Protection of Openings		
a) External walls (C3.2 and C3.3):		
b) Fire isolation (C3.5, C3.6, C3.7, C3.8 and C3.9):		
c) Bounding Construction (C3.11) – Class 2 and 3 buildings:		
d) Service Installations (C3.12, C3.13 and C3.14):		
Disabled Access		
a) Access to Buildings (D3.2 and Table D3.2):		
b) Parts to be accessible and concessions (D3.3 and D3.4):		
Fire Fighting		
a) Mains and Water Supply (E1.2):		

b) Hydrants (E1.3):	
c) Fire Hose Reels & Portable Fire Extinguishers (E1.4 and E1.6):	
d) Sprinklers (E1.5):	
e) Fire & Smoke Alarms (Class 3 buildings) (E1.7):	
f) Fire Control Centres (E1.8):	
g) Smoke Hazard Management (E2.1, Table E2.1, E2.4, E2.6, E2.7 & Table E2.2):	
h) Smoke and Heat Vents (E2.5):	
Services	
a) Lifts (Part E3):	
b) Emergency Lighting (Part E4 and E4.2):	
c) Exit Signs (E4.5, E4.6 and E4.7):	
d) Emergency Warning & Intercommunication Systems (E4.9):	
Health and Amenity	
a) Drainage (F1.1):	
b) Waterproofing wet areas & floor waste provision (F1.7 and F1.11):	
Sanitary and Other	
a) Table F2.1 and F2.3 and Table 2.4:	
Room sizes (Part F3):	
Light and Ventilation (F4):	
Noise Transmission (F5 and Spec. F5):	
Ancillary Provisions (Part G):	
Energy Efficiency (Part J)	
Building Fabric:	
Glazing:	
Building Sealing:	
Air Movement:	
Air Conditioning and Ventilation:	
Artificial Lighting and Power:	
Hot Water Supply:	
Access for Maintenance:	
Matters to be followed up:	
Assessment Officer:	Choose an item.
Date:	Click here to enter a date.

CONSTRUCTION CERTIFICATE ASSESSMENT REPORT

Used for class 2 to 9 and multi – residential buildings only

Is this required?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Application References			
CC No:			
DA No:	DA2019/0439		
Subject Land:	19 Gumnut Road YAMBA NSW 2464		
Applicant:			
Proposal:			
Assessing Officer:			
Building Code of Australia			
Class:		Rise in Storeys:	
Type of Construction:			
BCA Compliance checklist completed and attached?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Comments:			
Assessment	Comment		
Have DA conditions been satisfied?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Are the Construction Certificate plans consistent with the Development Consent plans?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Change of use assessment completed?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Have Section 93 EP&A Regs, fire safety/ protection/ upgrade been satisfied?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Are other approvals required?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Pre Certification site inspection report done?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Is the existing building subject of a performance solution?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Have contributions been paid?	Amount:	Receipt:	Date:
Comments:			
Referrals / Concurrences			
Planning Comment:			
Engineering Comment:			
Environmental Comment:			
State Agency Comment:			
Recommendation			
That, pursuant to the provisions of Section 109c (1)(b), 81A(2) of the Environmental Planning & Assessment Act, 1979.			
Approve CC No:			
Refuse CC No:			
Refusal reasons:			
Advices			

Inspections Schedule

Inspect

- ~ **Mandatory Inspections** The head contractor or owner-builder must give Council as the certifying authority at least 24 hours notice to enable the following inspections to be performed at the appropriate time:
- a **Pier holes** (if any), before concrete is poured,
 - b **Footings**, with reinforcement in place before pouring of concrete,
 - c After reinforcement is in positions and before pouring of any **in-situ reinforced concrete** building element,
 - d Before internal covering/lining of the **framework** for any floor, wall, roof, or other building element,
 - e Before all walls, floors and ceilings required by the BCA to have a **fire resistance level** are enclosed, and before covering of fire/smoke protection at service penetrations and the junctions of fire resisting construction in buildings containing sleeping accommodation,
 - f Before all walls, floors and ceilings required by the BCA to have a **sound insulation** requirement are enclosed,
 - g **Plumbing work** prior to covering/lining walls,
 - h **Sewer drainage** work prior to back filling/lining,
 - i Before covering **waterproofing in any wet areas**,
 - j Before covering any **stormwater drainage** connections,
 - k After reinforcement is in position and before pouring of any **structural element (including pool coping) of a swimming pool**,
 - l After the pool and pool fencing are completed and **before filling of the pool**,
 - m After the **building work has been completed** and prior to occupation.

Fire Safety Schedule

Assessment Officer:

Choose an item.

Date:

[Click here to enter a date.](#)



clarence
VALLEY COUNCIL

Memorandum

To: DAP Panel for Directions
From: Scott Whitehouse
Date: 20/11/19
Subject: DA2019/0439 19 Gumnut Road Yamba

Purpose

To confirm the suitability of the proposal as the DA received 8 submissions including properties that were not formally notified.

Assessment

DA2019/0439 was received for a studio (detached rumpus room) deck, carport and front awning.

The content of the submissions mainly related to noise, outdoor lighting, parking on the road reserve; and works on the existing pontoon and revetment wall prior to lodgement of the DA; lack of details for the side fence and type of plants in the planter box; the proposed use of the studio (which was not initially provided); reduced site setback (450mm) for studio; no other detached rooms in similar locations around the bay; solar access; views & reductions in property values.

The western side setback has now been increased to 900mm and provided a 450mm offset from the fascia for the studio which now complies with CVC's studio fact sheet & Residential DCP.

A statement of use has been received from the applicant confirming the use of the studio will be a detached rumpus room due to the size of his family.

The adjoining (no17) two storey property owner raised issues with solar access to the living room however the proposed apex height of the studio is 3.326 metres with a 900mm side setback.

The adjoining (no17) living room has a setback of 4.5 metres from the eastern boundary (garage has a 1.5m side setback) and one window with dimensions of 1.8 x0.9 however has multiple windows on the northern elevation as detailed below.

The views from No 17 are predominately to the north as the property is located at the end of the canal.



Recommendation

The application is conditionally approved.

External lighting and fencing is not part of this approval.

Checked by Co-ordinator: (initials)

Present at DAP meeting: Carmen Landes, Cireynis Conroy, Ben Bancroft, Alex Clark

Decision by DAP Panel

Recommend approval subject to :- appropriate conditions for prevention of light spillage into adjoining properties and landscaping to be completed prior to issue of D.C.

Signature

J McCleary 20/11/19

Quinn 20/11/2019.



25 November 2019

Reference:MD19/0439
Contact:Scott Whitehouse:DB
Your Reference: N/A

T B Campbell
PO Box 355
YAMBA NSW 2464

NOTICE OF DETERMINATION OF APPLICATION

Pursuant to Section 4.18(1)(a) of the Environmental Planning and Assessment Act, 1979

Application No: DA2019/0439
Applicant: Todd Brenton Campbell
Owner: Krystyna Marie Campbell & Todd Brenton Campbell
Property Address: 19 Gumnut Road YAMBA NSW 2464
Legal Description: Lot 206 DP 260230
Development Proposal: Studio, deck, carport & awning

DEVELOPMENT CONSENT

Notice is given that Council has considered your application for the subject development. The determination of the application is an “**operational**” consent.

The Development Application has been determined by:

Consenting to the development with conditions.

Determination of the application was made:

Under delegated authority of the Building Surveyor

Determination Date:

25 November 2019

Approved Plans and Documentation

THE DEVELOPMENT SHALL COMPLY WITH THE PLANS LODGED WITH THE APPLICATION AND AS MAY BE AMENDED BY THE FOLLOWING CONDITIONS OF CONSENT AND/OR BY AMENDED PLANS AND DETAILS.

Consent No: DA2019/0439
Consent Validation Date: 25 November 2019
Page 1 of 8

Definitions

Applicant means Todd Brenton Campbell or any party acting upon this consent.

Advice to Applicant

Council in determining the subject application requests you to take note of the following advice and where pertinent to convey the advice to future owners or tenants:

All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a construction certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act, 1986. Value of works must be included on Construction Certificate Application form.

If the premises requires or requests a larger water meter then the appropriate fee in Council's Fees and Charges will be applicable, less any capital contributions paid to date.

1. No construction is to be commenced until a Construction Certificate has been issued.
2. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
3. The following information shall be submitted to the Council or Principal Certifying Authority prior to issue of a Construction Certificate:
 - a Home Building Compensation Fund (HBCF) Insurance Certificate or copy of the Owner Builder permit
 - b Complete set of engineering details including flooding
 - c The name and licence number of the builder (if not carrying out the work as an owner builder)
4. Metal building components installed in coastal locations shall have corrosion protection measures complying with the Building Code of Australia. This applies to brick wall ties, steel framing, fixings and metal sheet roofing in locations within 10km of breaking surf or 1km of salt water not subject to breaking surf. Higher standards apply the closer the location is to breaking surf.
5. Demolition work is to be carried out in accordance with AS 2601.

6. A safety balustrade shall be provided in accordance with Clause 3.9.2 of the Building Code of Australia (BCA) to all landings, balconies and stairways with a height of one (1) metre above ground level. The balustrade is to be constructed in such a manner that a 125mm sphere is not able to pass through it at any point. Wire balustrade systems shall comply with the requirements of Clause 3.9.2.3(f) of the BCA. The height must not be less than-
 - a 1m above the floor of any path, balcony, landing or the like; or
 - b 865mm above the nosing of stair treads or the floor of a ramp.
7. All glazing is to be selected and installed in accordance with the provisions of AS 1288 or AS 2047. Upon completion of the building and prior to its occupation, the glass suppliers/installers certificate is to be submitted to Council.
8. A smoke alarm system designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, and complying with Part 3.7.2 of the Building Code of Australia shall be installed. Smoke alarms must be interconnected where there is more than one alarm. A licensed electrical contractor's installation certificate is to be submitted to Council prior to occupation.
9. The dwelling floor shall be treated and maintained against termites in accordance with AS 3660.1.
 - a Upon installation of the method of treatment a Certificate shall be issued to Council by the licensed installer of the system certifying that the system installed is in accordance with AS 3660.1.
 - b A durable notice must be permanently fixed to the building in the electricity meter box indicating:
 - i the method of protection;
 - ii the date of installation of the system;
 - iii where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label;
 - iv the need to maintain and inspect the system on a regular basis.

Conditions of Consent

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with plan(s) numbered JW301 dated 15/11/, (19) sheets, drawn by JWDIDA Building Design Services, as amended in red, or where modified by any conditions of this consent.

2. **Adjoining Building Work** A person who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land shall, at their own expense and where necessary:
- a Preserve and protect the building from damage; and
 - b If necessary, underpin and support the building in an approved manner, details of which are to be submitted with the application for the Construction Certificate and certified by a professional engineer or an accredited certifier.

The person who causes this excavation must, at least seven (7) days before commencing this work, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to this owner of the proposed work. (Note: An adjoining allotment of land includes a public road and any other public place. A building includes a fence).

3. Prior to any work commencing involving the disturbance or removal of any asbestos materials the principal contractor shall give two days written notice to the owner or occupier of any dwelling within 20m of the development site of his intention to carry out the work.
4. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Clarence Valley Council's Asbestos Policy, the relevant requirements of SafeWork.
- a Work Health and Safety Act 2011 and associated regulations
 - b SafeWork NSW Code of Practice - How to Safety remove Asbestos.
 - c Australian Standard 2601 (2001) - Demolition of Structures
 - d The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.

A copy of Council's Asbestos Policy is available on Council's web site at www.clarence.nsw.gov.au or a copy can be obtained from Council's Customer Service Centres.

5. On demolition sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.
6. The building shall not be used as flats or adapted for separate occupation.
7. No portion of the deck is to be enclosed without prior written approval being obtained from Council.

8. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
9. All building work shall be constructed wholly within the boundaries of the property. The location of the rear northern boundary shall be verified by a registered surveyor prior to construction commencing. A copy of this survey shall be submitted to Council at the footing/slab inspection.
10. Roof water, including overflow from a tank, is to be discharged into the most appropriate street gutter. Provide non breakable fittings where the stormwater pipe meets the kerb. Where the gutter is unformed, concrete protection is to be provided to the end of the pipe.
11. The waste management plan submitted with this application shall be complied with during demolition/construction work and all measures required for the ongoing use of waste management facilities in the development shall be in place prior to the issue of the Occupation Certificate.
12. All erosion and sediment control measures are to be installed and maintained in accordance with the Statement for Sediment and Erosion Control that was submitted with the Development Application.
13. Fencing is not part of this approval.
14. All structures located within the 7.5 metre rear building alignment shall not exceed 1.2 metres in height from existing ground level.
15. All construction below 2.9 metres AHD shall be of flood compatible building components in accordance with Councils Residential DCP.
16. All proposed landscaping shall be completed prior to requesting a final inspection.
17. External and internal lighting from the studio shall be provided in a manner that avoids light spillage onto adjoining and surrounding properties within the general bay area.
18. The minimum side setback for the proposed rear deck shall be 900mm.
19. The maximum size studio eave on the western elevation with a 900mm wall setback shall be 450mm.
20. The proposed studio shall have a minimum rear setback of 7.5 metres.
21. **Working/Construction Hours** Working hours on the construction project being limited to the following:
7.00 am to 6.00 pm 6 days per week No work permitted on Sundays and public holidays

The builder to be responsible to instruct and control sub contractors regarding the hours of work and the requirements of the Protection of the Environment Operations Act 1997 and Regulations.

22. **Mandatory Inspections** The head contractor or owner-builder must give Council as the certifying authority at least 24 hours notice to enable the following inspections to be performed at the appropriate time:
- a **Pier holes** (if any), before concrete is poured,
 - b **Footings**, with reinforcement in place before pouring of concrete,
 - c After reinforcement is in positions and before pouring of any **in-situ reinforced concrete** building element,
 - d Before internal covering/lining of the **framework** for any floor, wall, roof, or other building element,
 - e Before covering any **stormwater drainage** connections,
 - f After the **building work has been completed** and prior to occupation.

If any of these inspections are not performed an Occupation Certificate cannot be issued for the building. Inspection bookings can be made online at www.clarence.nsw.gov.au until midnight on the day before the inspection or by calling Council on 02 6643 0200 during office hours. The Development Application number must be provided when booking an inspection.

23. Imported fill shall not come from a contaminated source. Any imported fill shall be free of building and other demolition waste and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 of the *Protection of the Environment Operations Act 1999*, excavated natural material or the relevant waste resource recovery exemption from the NSW Environment Protection Authority (EPA). Written details of the source of fill shall be submitted to Council prior to fill being imported to the site.
24. The filling of the site is not to adversely affect adjacent properties or local drainage patterns. Provision is to be made for the free passage of surface stormwater away from affected sites.
25. To meet Council's Floodplain Management Controls the floor level of the primary habitable floor level is to be a minimum of 2.9 metres Australian Height Datum (AHD). A certificate indicating the height of habitable floors on the ground floor (related to AHD) is to be forwarded to the Principal Certifying Authority:
- a In the case of timber floors, on completion of the floor framing;
 - b In the case of concrete slabs when formwork is in place but prior to pouring concrete.

This certificate is to be provided by a Registered Surveyor. No further work is to be carried out on the building until such certificate is provided to the Principal Certifying Authority.

26. The building shall comply with the Australian Building Codes Board Standard for Construction of Buildings in Flood Hazard Areas. A Structural Engineers certificate shall be submitted prior to issue of the construction certificate to verify the building will withstand the likely forces imposed on it by a 1:100 year flood event including hydrostatic, hydrodynamic, debris, wave, erosion and scour actions.
27. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
28. The roof covering is to be of a colour which does not produce glare which adversely affects the amenity of adjoining properties. White colorbond, galvanised iron and zincalume are not permitted.
29. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:
 - a Stating that unauthorised entry to the work site is prohibited;
 - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
 - c Showing the name, address and telephone number of the principal certifying authority for the work.

Any such sign is to be removed when the work has been completed.

30. **Site Safety Management** Building equipment and/or materials shall be contained wholly within the site and shall not be stored or operated on the footpath or roadway, unless specific written approval has been obtained from Council beforehand.

All excavations and back filling associated with the erection and demolition of a building must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

Reasons

1. To ensure that the development complies with Council's Local Environmental Plans and any Development Control Plan(s) that may be applicable to the proposed development.
2. To ensure that the surrounding environment is not detrimentally affected as a result of the development.
3. To comply with legislative requirements.
4. To ensure works are completed to an appropriate standard and documented.

Right of Appeal and Validity of Consent

Section 8.2 of the Act provides that you may request a review of your determination by Council. The review must be requested within 6 months of the date of this notice and must be accompanied by the prescribed fee.

Section 8.7 of the Act provides that you have a right of appeal to the Land and Environment Court against Council's decision in the matter, exercisable within 6 months after receipt of this notice.

Consent becomes effective from the consent validation date. Section 4.53 of the Act provides for the period of validity of consent, and it is the applicant's responsibility to ensure that commencement of the development is carried out within the prescribed period. The consent period for this application will be five (5) years.

If you require further information in regard to this notice of determination please contact Scott Whitehouse of Council's Environment, Development and Strategic Planning Services section on 02 6645 0245.

Yours faithfully



Scott Whitehouse
Senior Building Surveyor
BPB Accreditation BPB1071

From: spowelly POWELL
Sent: Thu, 25 Mar 2021 14:03:06 +1100 (AEDT)
To: Council Email
Subject: Submission - MOD2021/0016 and DA2021/0153

Att: Mr Ashley Lindsay - General Manager Clarence Valley Council

Overview points on the direct impact on 17 gumnut road

We would like to share how this whole situation with 19 gumnut DA has affected my partner Stephanie and myself.

The approval of a social area to be built right on our fence has created so much disturbance in our lives. I now have anxiety issues as come every Friday and over the weekend not knowing what to expect. The question mark, when these gatherings and parties on our fence line may happen? I believe everyone feels the same way, we believe our home is meant to be a family place, a place to rest and to find peace, where "yes" social gatherings do take place, but not loud crazy parties (loud music, yelling and foul language) like nobody lives around. We would like to think neighbours would respect each other's privacy but we know this is not always true as we personally learned quickly when the Campbell family moved in next door in 2017. This is not minor privacy as stated in the DA Assessment Report dated 13 November 2019. They carelessly kept waking us up at late hours numerous of times or throwing huge teenager's gatherings throughout the day as well. Thank god for Covid it saved us for few months.

I lived here for 17 years in this neighbourhood without any disturbance before they came along, I never had any major issue with neighbours. We have placed so many complaints about these issues and hoped we wouldn't ever have to deal with it again. The first night the deck was finished we were woken by Tod Campbell with his deck light on at 1:30 am standing on his deck, drinking with a mate having a chat like nobody lived around. Our bedroom faces the water and is right on the east corner of the upstairs veranda, so yes our bedroom is located very close to our fence division to this deck and studio.

We have had peace and respect totally stripped away from us, especially when this studio and deck, a large social area built right on the fence, a deck that protrudes out to the revetment wall. How was that approved and built without our consent and was not in the Notification Plan prior to DA approval? Nobody in the CVC cared to listen to us or visit our property, NOT ONCE.

We are never relaxed inside our home now especially at night when our lights are on, they have easy visual access to our whole house from their deck due to its position, even our bedrooms. Someone can be hanging out on the deck in the dark looking straight in to the rooms of our home.

The visual is not the only problem as the noise is also so much closer when they are socialising in their studio and deck, it is like the party is in my own backyard. We can hear everything from inside our home, so during Summer due to the east and NE winds we get all the cigarette smoke straight into our living room and bedrooms when they stand out on the extents of the deck in all directions.

The last party they had we had to lock up everything, suffocate in the heat since we don't have air conditioning and never will as we like fresh air very much. We lost the most beautiful summer breeze from the east due to this studio being built, our house became hotter and losses sun especially in winter. We used to wake up in our winter mornings, open the curtains downstairs and enjoy this absolutely beautiful sunlight in our living room which used to warm up our home. We did for years and loved it so much and now is completely gone being blocked by this large, oversized studio next to our fence.

With the Campbells moving next door and the approval of this development came another issue, all the bright lights. Nobody in this canal for years used bright lights at this level, the people that live here for long time still don't have lights on into the late evening hours and into the early morning, as they understand how this affects neighbour. Enough bright lights to shine on my bedroom veranda, which is still a current problem, not counting the ridiculous bright lights set up over this deck that shines in over all over our backyard when is turn on.

My income has been affected, I am a commercial ocean fisherman, I get up to work at 4 am to start my day and I have had many nights affected by noise from the neighbours and now new studio and deck. I've been affected to the point of being so tired for losing sleep that I can't go to work as my job is extremely dangerous and I need to be very alert when out in the ocean. I have also lost income having to close our AIRBNB and are now not taking any further bookings. The AIRBNB is located at the front of my house, so I could sleep in there knowing I was not going being disturbed by any of them. Although I am still regularly disturbed when their friends leave at midnight and talk very loudly out on the footpath. This has affected my relationship with my partner creating feelings of separation between us as she likes to sleep in our bedroom and puts up with it turning a playlist of nature sounds to create noise to block their noise, particularly when they come home late, talking, banging gates and walking out over the deck with high heels and boots.

The way we were treated by the Council all this time, how we were completely ignored, our feelings ignored, our requests ignored, our concerns ignored just made us feel completely unsupported and alone. This is not going away as this is an escalating problem specially now with the completion of the studio and deck to date.

The DA summary states this build will add value to our home and this was to mitigate noise, we knew that was a joke and it is clearly a joke now that it is done. In fact, it has exacerbated the intrusive loud noise.

We hope with this letter we finally get the attention we deserve and consideration we deserve from the council and something needs to be done to this non-complying DA that has been built right up to our fence, within the 900mm setback.

Kind Regards,

Shane Powell & Stephanie Pettersen

17 gumnut road Yamba
0403 711 741

From: dschwarz@westnet.com.au
Sent: Thu, 25 Mar 2021 10:13:01 +1100
To: Council Email
Subject: Objection to DA2021/0153
Attachments: Objection to DA2021/0153

See attached DA objection.

From: dschwarz@westnet.com.au
Sent: Thu, 25 Mar 2021 10:08:16 +1100
To: dschwarz@westnet.com.au
Subject: Objection to DA2021/0153

General Manager

Clarence Valley Council

Via email : council@clarence.nsw.gov.au

Objection to DA2021/0153 and MOD2021/0016, currently under assessment

Dear Sir

I wish to lodge an objection to the current DA and modification listed above.

I do so reluctantly – I know one of the applicants (I trust he will not take this objection personally). I live on the same canal but the property in question is some 200m from my home and barely visible. My spouse tells me to therefore mind my own business. However, my objection revolves around the entire Crystal Waters waterfront area; should this DA be approved it would seem the existing DCP 7.5 metre open area from the revetment wall on all Crystal Waters “wet” lots is being ignored.

To me this DA is, in effect, extending the house rear building alignment to the revetment wall. The applicant has already in some earlier DA gained approval to put a timber deck over almost his entire back yard, with glass fencing extending to/over the revetment wall. Adding the “retractable” roof over most of this deck and the “retractable” privacy screen down one side of the property in effect creates another room in my opinion. One wonders just how often the two structures will be retracted? And this “room” is right down to the water’s edge, certainly not what I envisage our planners want? When I built my home here 23 years ago I was not allowed to build anything except a boat ramp within the 7.5 metre setback; I know because my architect had to refine our plans.

My objection is based on a concern that this man made structure on one small canal block is gross overdevelopment of the site and will detract significantly from the area; surely we don’t want to end up like another Gold Coast? What is worse however, is that it creates a precedent for every other property on Crystal Lake to do the same thing. While I can perhaps cope with one such building (beauty is, after all, in the eye of the beholder), multiple constructions of a similar style will create, in my opinion, a visual nightmare.

One final problem. The requirement for a floating pontoon surely cannot be approved on Community land. This waterway is currently subject to a Planning Proposal to change it to

Operational land. Council should not, now it knows about this land issue, be approving the construction of any pontoons on community land?

Yours sincerely,

David Schwarz

35 Melaleuca Drive, Yamba

24 March 2021