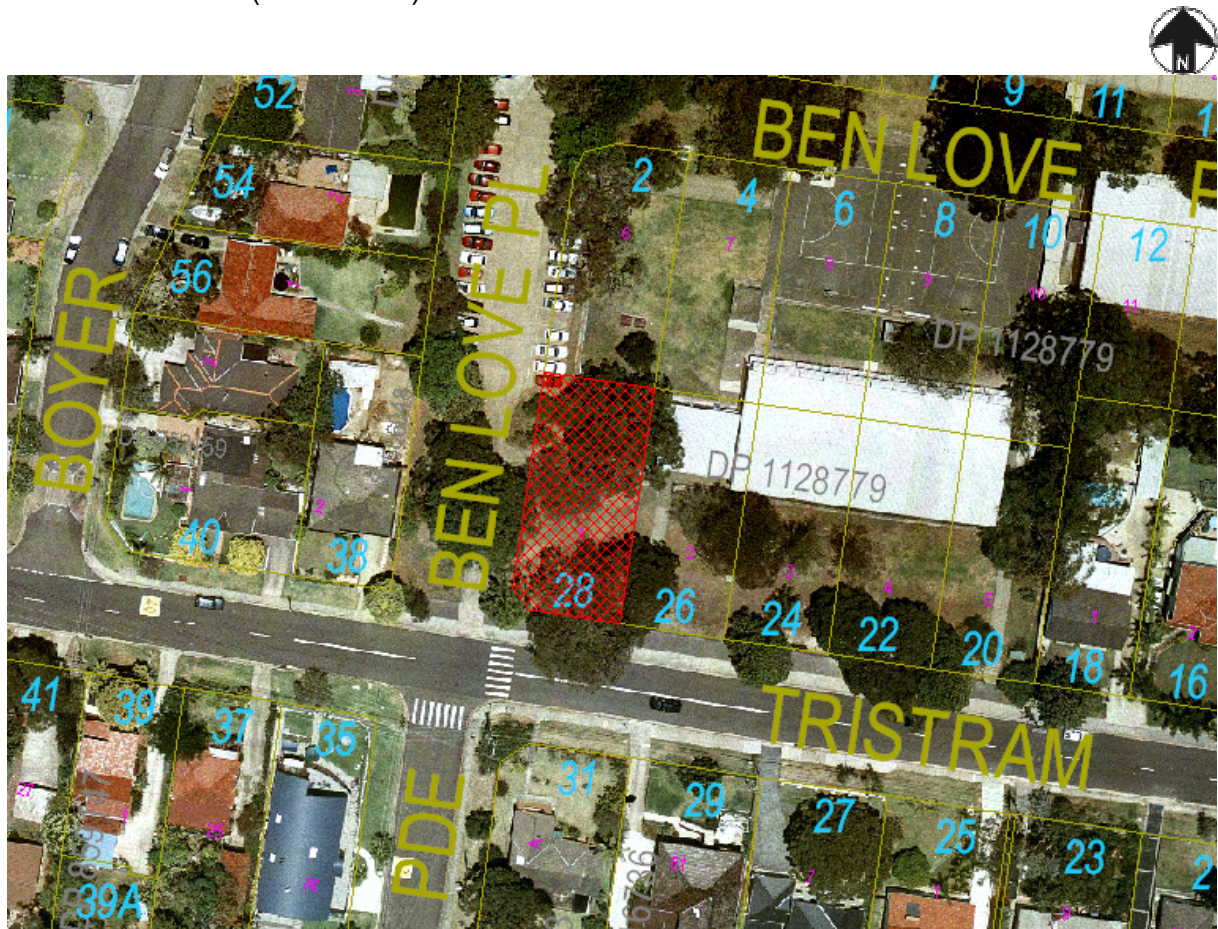


DEVELOPMENT ASSESSMENT REPORT

Assessment Officer:	Julian Lyons
Address / Property Description:	Lot 1, DP 1128779, No. 28 Tristram Road, Beacon Hill
Development Application No:	DA2008/1674
Proposal:	Construction of a two storey dwelling house including a driveway
Application Lodged:	3 December 2008
Plans Reference:	Drawing No A13352, pages 1 to 9, Issue D, dated 20-10-08 and prepared by A & N Design Sydney
Amended Plans:	Drawing No A13352, pages 1 to 9, Issue G, dated 1-5-09 and prepared by A & N Design Sydney
Applicant:	Eden Brae Homes
Owner:	Joaquina Therese Martin Seamus Francis Martin
Locality:	B1 Frenchs Forest East
Category:	Category 1 (Housing)
Variations to Controls (Cl.20/Cl.18(3)):	Nil
Referred to ADP:	No
Referred to WDAP:	No
Land and Environment Court Action:	No
SUMMARY	
Submissions:	Nil
Submission Issues:	Nil
Assessment Issues:	• Side Building Envelope • Front Building Setback
Recommendation:	Approval
Attachments:	Nil

LOCALITY PLAN (not to scale)



Subject Site: Lot 1, DP 1128779, No. 28 Tristram Road, Beacon Hill

Notification: The subject application has been notified in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to eight (8) adjoining land owners and occupiers for 30 calendar days commencing on 16/12/2008 and being finalised on 16/1/2009.

No submissions were received within this period.

SITE PHOTOS



SITE DESCRIPTION

The site is known Lot 1, DP 1128779, No. 28 Tristram Road, Beacon Hill, and is adjacent to the north side of Tristram Road and the east side of Ben Love Place.

The site is currently vacant and is almost rectangular in shape with an area of 626sqm and has the following boundary dimensions:

Boundary	Length
Front -Tristram Road (south)	13.88m, 4.26m
Front – Ben Love Place (west)	33.97m
Side (north)	17.25m
Side (east)	36.97m

The site has of a fall of approximately 3.45m over 37m from the front (south) of the site. There is a single significant tree within the front setback of the property to Tristram Road.

The site is adjoined by a two storey dwelling under construction to the east, No. 26 Tristram Road and a two storey dwelling under construction towards the rear (north) at No.2 Ben Love Place.

SITE HISTORY

The subject site was created as part of a new subdivision of 28 lots for which consent was granted on 15 November 2006 under Development Consent No. DA 40-7-2006 by the Department of Planning. The subdivision was registered on 25 September 2008.

A search of Council's records has revealed no other history of significance to this development application.

It is noted that Section 94 Contributions were levied on the subdivision which created the subject lot.

PROPOSED DEVELOPMENT



Construction of a two storey dwelling and driveway consisting of the following;

Ground Floor Level - double garage, living/dining/games rooms, study, guest room, kitchen, laundry, and rear alfresco; and

First Floor Level - four bedrooms with ensuites, rumpus room, and front and rear balconies.

AMENDMENTS TO THE SUBJECT APPLICATION

Amended plans were submitted to Council on 5 May 2009. The amendments are in response to concern raised by Council over the proposed encroachment of the secondary street front building setback, of 2.4m to 2.9m to Ben love Place, and the proposed breach of the side boundary envelope to the east. The amended plans indicate that the width of the dwelling has been reduced and the rear section of the second floor has been stepped in along the eastern elevation. The new proposed secondary front building setback from the dwelling to Ben Love Place is 3m to 3.5m.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979 (EPA Act 1979);
- b) Environmental Planning and Assessment Regulations 2000;
- c) State Environmental Planning Policy (BASIX) 2004
- d) State Environmental Planning Policy (Infrastructure) 2007;
- e) Warringah Local Environmental Plan 2000;and
- f) Warringah Development Control Plan

REFERRALS

Internal Referrals

Development Engineers

Council's Development Engineers have reviewed the application and have raised no objection to the proposal subject to conditions.

NOTIFICATION AND SUBMISSION RECEIVED

The application was notified by letter dated 16 December 2008 to eight (8) adjoining and surrounding properties. No submissions were received as a result of this notification.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on SEPP (BASIX) 2004, SEPP (Infrastructure) 2007 and WLEP 2000 in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on "Draft Environmental Planning Instruments" in this report.



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Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been address via a condition of consent. Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter has been addressed via a condition of consent.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report and, the proposal is satisfactory in this respect. (ii) The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the surrounding land and the proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development as it is a gently sloping site with no significant physical constraints, has direct access form the street and can be adequately drained. Also the proposal maintains the residential amenity of the neighbouring properties and will retain the canopy tree within the front setback and further, will provide a significant opportunity to establish landscaping which will, enhance the existing streetscape and surrounding properties.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were made against this development.
Section 79C (1) (e) – the public interest	The amended design of the dwelling integrates well with the existing dwellings located along Tristram Road and the dwellings approved within the surrounding subdivision. Further, the proposal, subject to a condition, complies with all the relevant planning controls under WLEP2000. Therefore, the proposal is not contrary to the public interest.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

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



A BASIX certificate with certificate number 215306S has been submitted with the application. This certificate confirms that the proposed development will meet the NSW government's requirements for building sustainability, though the addressing of water and energy performance targets. Furthermore, a condition of consent has been imposed requiring compliance with the requirements of the applicable BASIX certificate.

State Environmental Planning Policy - Infrastructure

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool; as such the development application is not required to be referred to the electricity supply authority. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character (DFC) – B1 Frenchs Forest East

The subject site is located in B1 Frenchs Forest East locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for this locality is as follows:

The Frenchs Forest East locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses.

Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The streets will be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

The relationship of the locality to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape including rock outcrops, remnant bushland and natural watercourses.

The use of materials that blend with the colours and textures of the natural landscape will be encouraged. Development on hillsides or in the vicinity of ridgetops must integrate with the natural landscape and topography.

The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control listed in clause 39 (Local retail centres).



The proposed development is defined as 'Housing' under the WLEP 2000 dictionary. 'Housing' is identified as Category One development in this locality.

Clause 12(3)(a) of WLEP 2000 requires the consent authority to consider Category 1 development against the locality's DFC statement. An assessment of consistency of the proposed development against the relevant components of the locality's DFC is provided hereunder:

The Frenchs Forest East locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses.

Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The streets will be characterised by landscaped front gardens and consistent front building setbacks.

Comments: The proposed development is for a detached style dwelling house and will not alter the visual pattern or scale of the dwellings within the locality. Furthermore, the development provides for front setbacks consistent with development found within the subdivision, and a suitable condition will be placed on the consent requiring landscaping. Therefore, the proposal satisfies this section of the DFC statement.

The use of materials that blend with the colours and textures of the natural landscape will be encouraged.

Comments: A suitable condition will be placed on the consent to ensure that the external finishes and colours are of natural tones and colours.

As detailed above the proposed development is considered to be consistent with the Locality's DFC statement.

Built Form Controls (Development Standards)

The following table outlines compliance with the Built Form Controls of the above locality statement:

Built Form Compliance Table (B1 Frenchs Forest East)			
Built Form Standard	Required	Proposed	Compliance
Housing Density	1/600sqm	1 dwelling on the site	YES
Building Height	8.5m (roof)	8.3m – 6.4m	YES
	7.2m (ceiling)	6.2m	YES
Front Building Setback	6.5m (primary)	7.3m – 7.9m (Tristram Road)	YES
	3.5 (secondary)	Primary Wall: 3m - 3.5m (Ben Love Place)	NO
		Alfresco Patio: 1m (Ben Love Place)	NO
Side Boundary Envelope	4m / 45 degrees	The north eastern corner of the dwelling breaches the envelope to a minor extent	NO
Side Setbacks	900mm	North: 12.2m	YES
		East: 1.35m	YES
Landscaped Open Space	40%	52%	YES

As detailed in the above table, the proposed development does not comply with the building front building setback and side building envelope controls. Further discussion is provided below:

- **Front Building Setback** – The amended plans proposed a front building setback of 1m to the alfresco area, and 3.5m to the western wall of the dwelling from Ben Love Place. The site has dual frontage to Tristram Road and Ben Love Place, and in this instance it is considered that Ben Love Place is the secondary frontage. WLEP 2000 stipulates that the secondary front building setback may be reduced to 3.5m. A suitable condition will be placed on the consent requiring the alfresco area to be setback 2m. Notwithstanding this, a small portion of the western wall projects, to a minor extent, into the 3.5m setback. However, given that it is a relatively minor semi-open element of wall articulation that adds positively to the character of the dwelling, it is considered acceptable and does warrant a variation under Clause 20.
- **Side Building Envelope** – The north eastern corner of the proposed development, as amended, breaches the Side Building Envelope. It is considered that the breach of the side building envelope is a consequence of the slope of the site and is so minor in nature and will not have a detrimental impact on the streetscape or the amenity of adjoining properties that it does warrant a variation under Clause 20.

Therefore, the proposed development, subject to a special condition in relation to the setback to the alfresco area, will be complaint, subject to an acceptable very minor breach of the side boundary envelope, with the Built Form Controls for the B1 – Frenchs Forest East locality.

General Principles Of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	YES	Suitable conditions will be imposed on the consent in relation to the reflectivity of glass.	YES (condition required)
CL39 Local retail centres	NO		N/A
CL40 Housing for Older People and People with Disabilities	NO		N/A
CL41 Brothels	NO		N/A
CL42 Construction Sites	YES	Construction is proposed, accordingly conditions have been included in the consent to reduce the impact of the construction process on the adjoining properties and neighbour hood.	YES (condition required)
CL43 Noise	NO		N/A
CL44 Pollutants	NO		N/A
CL45 Hazardous Uses	NO		N/A



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General Principles	Applies	Comments	Complies
CL46 Radiation Emission Levels	NO		N/A
CL47 Flood Affected Land	NO		N/A
CL48 Potentially Contaminated Land	YES	Potential contamination of the site was addressed as part of the subdivision which created the subject lot and therefore, no further assessment is required.	YES
CL49 Remediation of Contaminated Land	NO		N/A
CL49a Acid Sulfate Soils	NO		N/A
CL50 Safety & Security	NO		N/A
CL51 Front Fences and Walls	YES	A 1.8m high front fence is proposed along the boundary to Ben Love Place. The applicant has not provided the construction details of the proposed fence. The lots within the subdivision are currently unfenced. It is considered that the lot, as the prominent corner lot will contribute significantly to the future character of the subdivision. A 1.8m fence will visually detract from the area and is inconsistent with the desired character of the area in regards to maintaining and enhancing a landscaped front garden setting, where screening should be provided by vegetation. Therefore, a 1.8m high front fence is unwarranted and considered inappropriate. Therefore, a suitable condition will be placed on the consent stating that 'no front fence is approved under this consent'.	YES (Condition required)
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO		N/A
CL53 Signs	NO		N/A
CL54 Provision and Location of Utility Services	YES	The site is currently vacant and was created as part of a recent subdivision approval (Development Application DA 40-7-2006). Part of the approval requires each created lot to be supplied with new utility services. Accordingly, it is expected that the development will be serviced by new utilities services and therefore, the requirements of this General Principle are satisfied.	YES
CL55 Site Consolidation in 'Medium Density Areas'	NO		N/A
CL56 Retaining Unique Environmental Features on Site	NO		N/A
CL57 Development on Sloping Land	NO		N/A
CL58 Protection of	YES	The proposal does not seek to remove any existing trees,	YES



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General Principles	Applies	Comments	Complies
Existing Flora		nor is it foreseen that the works will have a detrimental impact on the existing significant canopy tree situated within the front setback to Tristram Road.	(condition required)
CL59 Koala Habitat Protection	NO		N/A
CL60 Watercourses & Aquatic Habitats	NO		N/A
CL61 Views	YES	The proposal will maintain an adequate level of view sharing in accordance with this clause.	YES
CL62 Access to sunlight	YES	The sites north-south orientation and the design of the proposed dwelling will limit the amount of overshadowing to the adjoining lot to the east, No 26 Tristram Road. Notwithstanding this, the proposal will maintain reasonable solar access to the private open space of the adjoining lot in accordance with this clause.	YES
CL63 Landscaped Open Space	YES	The landscaped open space provision for the site is calculated at 52% of the site area. The minimum area required for landscaped open space is 40%. Further, a condition will be placed on the consent requiring future planting to consist of at least 70% locally native species. Therefore, the proposal is in accordance with this clause.	YES
CL63A Rear building setback	NO		N/A
CL64 Private open space	YES	Private open space will be provided on-site in accordance with the principles for private open space under Clause 64.	YES
CL65 Privacy	YES	The proposed development is considerate of the surrounding development and has been designed with minimal overlooking opportunities from the first floor through the design and location of windows on the east elevation in regards to the adjoining property No. 26 Tristram Road. Further, the development will maintain an adequate distance of separation from the adjoining dwelling to the rear, No. 2 Ben Love Place to mitigate any privacy impacts. Therefore, the proposal will satisfy the objectives and intent of this clause.	YES
CL66 Building bulk	YES	The design provides sufficient articulation including a projected entry area and front balcony, a stepped back and in second storey, and a broken up pitched roof form, which will minimise the bulk of the dwelling when viewed from the street and the adjoining and surrounding properties. Therefore, the proposal meets the outcome and intent of this clause.	YES
CL67 Roofs	YES	The proposed hipped roof form is carried across the various roofed components of the building, and is consistent with the character of the dwelling and will	YES



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General Principles	Applies	Comments	Complies
		complement the local skyline. Therefore, the proposal will satisfy the outcomes of this clause.	
CL68 Conservation of Energy and Water	YES	A BASIX certificate has been submitted with the application which will ensure that adequate conservation of energy and water is undertaken in accordance with the applicable state policy.	YES
CL69 Accessibility – Public and Semi-Public Buildings	NO		N/A
CL70 Site facilities	YES	The garbage bins will be stored in the garage and a letter box can be provided at the street front.	YES
CL71 Parking facilities (visual impact)	YES	The proposal includes a double garage which is integrated into the front of the dwelling and occupies less than 50% of the width of the dwelling. As such, the proposed garage will not dominate the street front or open spaces and therefore, is consistent with this clause.	YES
CL72 Traffic access & safety	YES	The proposal is satisfactory in relation to traffic safety.	YES
CL73 On-site Loading and Unloading	NO		N/A
CL74 Provision of Carparking	YES	The development provides for a double garage, which meets the minimum requirement to provide two carparking spaces in accordance with this clause.	YES
CL75 Design of Carparking Areas	YES	The proposal provides for a double garage (6.0m x 5.6m) and allows for a safe entry and exit to the site and therefore, is consistent with this clause.	YES
CL76 Management of Stormwater	YES	A condition will be included, which will ensure that stormwater is managed in accordance with this clause.	YES (condition required)
CL77 Landfill	YES	The plans indicate that a small amount of cut will be required toward the front of the dwelling. Notwithstanding this, a condition will be placed on the consent ensuring that if off-site fill is required that it is clean and in accordance with this clause.	YES (condition required)
CL78 Erosion & Sedimentation	YES	Erosion and sediment shall be managed in accordance with an appropriate condition.	YES (condition required)
CL79 Heritage Control	NO		N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO		N/A
CL81 Notice to Heritage Council	NO		N/A
CL82 Development in the Vicinity of Heritage Items	NO		N/A
CL83 Development of	NO		N/A



General Principles	Applies	Comments	Complies
Known or Potential Archaeological Sites			

SCHEDULES

Schedule 8 - Site analysis

Adequate site analysis documentation was provided for this application.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Nil.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan (adopted 14 November 2006)

Section 94 contributions have already been levied under the recent approval for subdivision (Development Consent No. DA 40-7-2006) which created the subject lot.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, the provisions relevant environmental planning instruments, including Warringah Local Environment Plan 2000, SEPP (BASIX) 2004, SEPP (Infrastructure) 2007, and the relevant codes and policies of Council.

The proposed development has been found to be consistent with the desired future character statement for the B1 Frenchs Forest East locality and is compliant, subject to a special condition in relation to the alfresco area and the exception of an acceptable minor breach to the side boundary envelope, with all of the Built Form Controls and consistent with the relevant General Principles of Development Control.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

Therefore, it is recommended that Council as the consent authority grant approval to the application.

RECOMMENDATION (APPROVAL)

- A. That Development Application No. DA2008/1764 for construction of a two storey dwelling house including a driveway at Lot 1, DP 1128779, No. 28 Tristram Road, Beacon Hill be approved subject to the attached conditions.
- B. That pursuant to Section 95(2) of the Environmental Planning Assessment Act 1979, the Council vary the provisions of Section 95(1) so this consent will lapse three (3) years from the date in which it operates, and the applicant be advised accordingly.



Signed:

Date:

Julian Lyons
Development Assessment Officer

Signed:

Date:

Steven Findlay
Team Leader Development Assessment