

## JOINT REGIONAL PLANNING PANEL (Hunter Central Coast Region)

<b>JRPP No</b>	2011HCC016
<b>DA Number</b>	DA/308/2011
<b>Local Government Area</b>	Wyong Shire Council
<b>Proposed Development</b>	Demolition of an existing dwelling-house and the construction of six (6) residential flat buildings containing a total of forty-two (42) units and associated works under State Environmental Planning Policy (Affordable Rental Housing) 2009
<b>Street Address</b>	No 35-41 Wilfred Barrett Drive, The Entrance North
<b>Applicant/Owner</b>	Celex Pty Ltd Mr H J Clifford and Mr L W Clifford
<b>Number of Submissions</b>	89 plus a petition with 473 signatures
<b>Recommendation</b>	Approval with Conditions
<b>Report by</b>	Jenny Webb, Senior Development Planner

## Assessment Report and Recommendation

### WYONG SHIRE COUNCIL

Environment and Planning  
Services

#### **Proposed Residential Flat Development comprising 42 Units and Ancillary Works (SEPP Affordable Rental Housing) 2009**

DA No 308/2011

Author: Jenny Webb

#### **SUMMARY**

A development application has been received for the demolition of an existing dwelling-house and the construction of six (6) residential flat buildings containing a total of forty-two (42) units and associated works under State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act 1979 (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	Celex Pty Ltd
<b>Owner</b>	Mr H J Clifford and Mr L W Clifford
<b>Application No</b>	DA/308/2011
<b>Description of Land</b>	Lot 1 DP 862588 and Lot 76 DP 227174, No 35-41 Wilfred Barrett Drive, The Entrance North
<b>Proposed Development</b>	Demolition of existing dwelling-house and construction of six (6) residential flat buildings containing a total of 42 units and associated works
<b>Site Area</b>	6,266m <sup>2</sup> (Lot 1 = 4623m <sup>2</sup> Lot 76 = 1643m <sup>2</sup> )
<b>Zoning</b>	2(a) General Residential Zone
<b>Existing Use</b>	Lot 76 – Dwelling-house and ancillary outbuildings Lot 1 - Vacant
<b>Employment Generation</b>	N/A
<b>Estimated Value</b>	\$7,948,784

#### **Referral to Hunter Central Coast Joint Regional Planning Panel**

The proposal is referred to the Hunter Central Coast Joint Regional Planning Panel (JRPP) for determination pursuant to Part 4 of State Environmental Planning Policy (State and Regional Development) 2011 and Schedule 4A, Section 6 of the Environmental Planning and Assessment Act, 1979, given the development is for affordable housing and has a capital investment value (CIV) of over \$5 million.

#### **RECOMMENDATION**

- 1** *That the Joint Regional Planning Panel grant consent to DA/308/2011, subject to the conditions contained in Appendix A.*

- 2     *That those who made written submissions be advised of the decision.***
- 3     *That Wyong Development Control Plan 2005 Chapter 64 – Multiple Dwelling Residential development be varied to permit the development.***
- 4     *That a copy of the determination be forwarded to the NSW Office of Water and the NSW Roads and Maritime Services for information.***

## **INTRODUCTION**

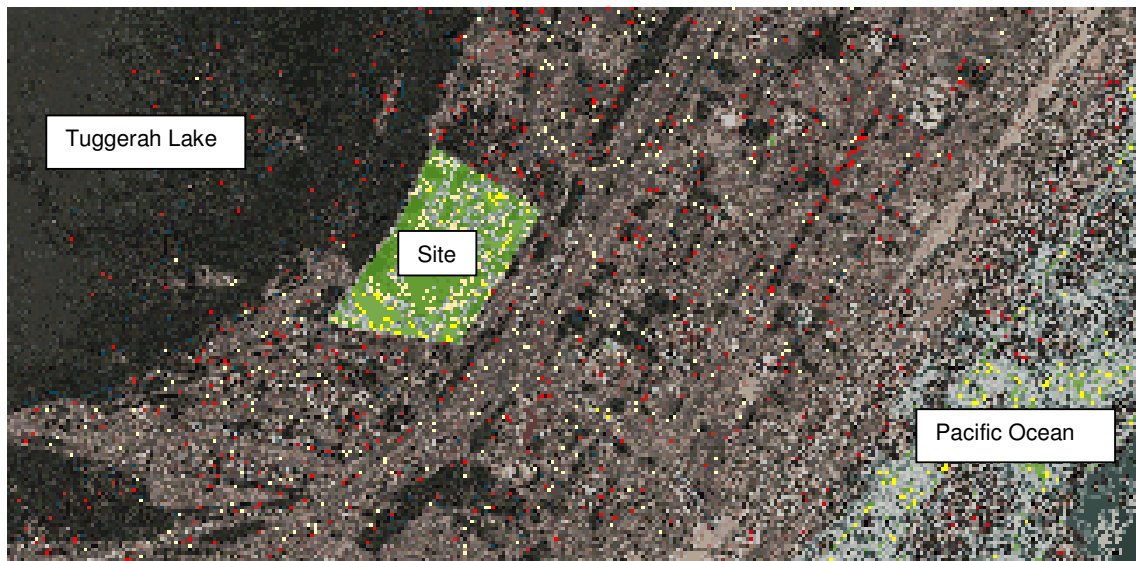
### **Site and Locality**

The subject site comprises two parcels of land, being Lot 1 in DP 862588 and Lot 76 in DP 227174, known as No 35-41 Wilfred Barrett Drive, The Entrance North. The site has an area of 6,266 m<sup>2</sup> with a frontage of approximately 82 m to Wilfred Barrett Drive and a rear boundary of approximately 110 m, which adjoins a Council owned foreshore reserve adjacent to Tuggerah Lake. Lot 76 contains a single storey dwelling-house and detached garage, which are proposed to be demolished. Lot 1 is vacant, although has been partially filled. The 'Two-Shores' Caravan Park is located immediately to the south of the site and a small residential subdivision of 23 lots, each with a dwelling or dual occupancy, is located to the north of the site. Development on the eastern side of Wilfred Barrett Drive is predominately single detached dwelling houses up to two (2) storeys in height, which have been constructed since the 1965 subdivision of 'Ocean Lakes Estate'.

The natural fall of the land has been altered due to the filling that has taken place on Lot 1, although the site still generally falls from the north-eastern corner to the south-eastern corner of the site, ranging from RL 3.15m Australian Height Datum (AHD) to approximately RL 1.0m AHD. The site is identified as being partially flood affected with the 1% Annual Exceedance Probability (AEP) flood level for the property being RL 2.2m AHD.

The site is largely cleared of trees and native vegetation, although there are nine (9) Norfolk Island Pine trees, which are located on the boundary between the subject site and the Council reserve. These trees have an important visual presence and it is proposed that these trees be retained. The Council reserve does not contain any specific recreation facilities and although it connects to Terilbah Place and Crown land further to the north it does not appear to be readily accessible or used by the public. Due to the vegetation within the Council reserve, the site is identified as being partially bushfire prone land.

Vehicular access to the site is from Wilfred Barrett Drive, which is a classified road under the Roads Act 1993. There is an existing cycleway across the entire street frontage and a bus stop and bus turning bay are located adjacent to the south-eastern corner of the site, opposite Wyuna Avenue. A second bus stop is located on the opposite side of Wilfred Barrett Drive, approximately 45 m to the south of the site. Reticulated water and sewer services are also available from Wilfred Barrett Drive.



**Figure 1: Aerial Photograph**

## **Project Description**

The development application seeks consent for the demolition of an existing dwelling-house and ancillary outbuildings and the construction of infill affordable housing under SEPP (Affordable Rental Housing) 2009. The proposed development includes six (6) x two storey buildings with a maximum height of 8.5 metres. The buildings have a gross floor area (GFA) of 3,366 m<sup>2</sup> and comprise a total of forty-two (42) dwellings including:

- 7 x one-bedroom dwellings; and
- 35 x two-bedroom dwellings.

The proposal incorporates five (5) x 1 bedroom adaptable dwellings, which represents 11.9% of the total number of dwellings. Disabled access is provided to the ground floor units only as lifts are not proposed as part of the development.

A total of twenty-two (22) carparking spaces are provided within the proposed basement, with an additional thirty-five (35) carparking spaces proposed at ground level, including five (5) disabled spaces. A combined ingress/egress driveway is proposed from Wilfred Barrett Drive along the northern boundary of the site.

Architectural plans and elevations are included in Appendix B.

## **Referrals**

The development has been referred to the NSW Office of Water (NOW) as integrated development in accordance with Section 91 of the EP&A Act as well as to the Roads and Maritime Services (RMS) as the site is accessed from Wilfred Barrett Drive, which is a classified road.

Following a number of design changes and the submission of additional information in relation to stormwater management, the NOW has granted General Terms of Approval (GTA) for the development.

The RMS initially objected to the proposal, requiring the proposed ingress to be relocated to the north of the site and consolidated with the egress. Following design changes, the RMS has advised that they have no objection to the proposal subject to a number of conditions. A copy of the correspondence from each authority is included in Appendix C.

The application was also referred to the NSW Police under Council's Crime Risk Protocol, and the Rural Fire Service (RFS) for assessment under Section 79BA of the EP&A Act. Comments from these agencies are discussed further in the report.

The issues raised in the referral process are discussed in the report and where relevant, reflected in the conditions of consent.

## Summary

Key issues that were identified as part of the assessment of the subject application included:

- Public opposition to the development and perceived social impacts
- Vehicular access from Wilfred Barrett Drive
- Impact of flooding
- Building design

These issues have now been satisfactorily addressed and approval of the development is recommended, subject to the conditions included in Appendix A.

## VARIATIONS TO POLICIES

Clause	9.1.3
Standard	Minimum 10 m <sup>2</sup> private open space
LEP/DCP	DCP 2005 Chapter 64
Departure basis	Private open space ranges from 9.5 m <sup>2</sup> to 25 m <sup>2</sup> (5% variation)

Clause	5.1.1
Standard	Maximum 10 m unbroken wall
LEP/DCP	DCP 2005 Chapter 64
Departure basis	Walls between buildings up to 13 m, although are not visible from public areas or adjoining properties (30% variation)

## HISTORY

The subject site comprises two allotments, Lot 76 in DP 227174 and Lot 1 in DP 862588. The following history applies to these properties.

Lot 76 in DP 227174 was registered on 3 November 1965 as part of a 76 lot residential subdivision. Also relevant in this registration was lot 75. A dwelling was approved on lot 76 in 1990.

A two (2) lot subdivision of lot 75 was approved on 3 June 1996, which created Lots 1 and 2 in DP 862588. Development consent for a 21 lot subdivision over Lot 2 was granted in 1995, which established the Terilbah Place subdivision immediately north of the subject site.

DA 856/2009 for an eight (8) lot subdivision over Lots 1 and 76 was lodged in August 2009. Following an initial assessment, the design was modified to a three (3) lot subdivision and was granted development consent on 4 August 2010. Issues relating to the eight (8) lot subdivision included flooding, filling, sewer servicing, poor access and inadequate residential amenity due to the design layout.

A preliminary meeting was held with Council staff in February 2011 regarding a proposed affordable housing development. Issues raised included neighbourhood character, flooding, climate change, compliance with RMS requirements, retention of trees adjacent to foreshore land, height and road noise.

The subject development application was lodged in April 2011 for 53 units within three (3) residential flat buildings proposed under SEPP (Affordable Rental Housing) 2009. Following an initial assessment, the applicant was requested to provide additional information, including a social impact assessment and a number of concerns were raised with the design of the buildings. The design was subsequently amended to remove a number of first floor units that spanned the carpark and changes were also made to the vehicular access to satisfy the requirements of the RMS. As a result of the changes, the development now proposes six (6) residential flat buildings containing a total of 42 units.

### **PERMISSIBILITY**

The site is zoned 2(a) General Residential Zone pursuant to Wyong Local Environmental Plan 1991 (WLEP 1991). The proposal is defined under WLEP 1991 as comprising six (6) 'residential flat buildings', which is listed as a prohibited land use within the 2(a) zone. Due to the prohibition under WLEP 1991, the application has been made under the provisions of SEPP (Affordable Rental Housing) 2009. The SEPP is the prevailing environmental planning instrument and takes precedence over Council's local controls where there is an inconsistency.

The development application was lodged on 12 April 2011 and at that time, SEPP (Affordable Rental Housing) 2009 permitted the development, subject to development consent. Since the development application was lodged, SEPP (Affordable Rental Housing) 2009 has been amended and would no longer permit the proposed development of residential flat buildings within the 2(a) General Residential Zone. However, the savings and transitional provisions put in place with the amendments have the effect of maintaining the permissibility of the development and the application may be determined as if the amending SEPP had not been made.

An assessment of the proposal against the provisions of the SEPP has been undertaken and is discussed further in the report.



**Figure 2: WLEP 1991 Zone Extract**

## RELEVANT STATE/COUNCIL POLICIES AND PLANS

The application has been assessed against the relevant provisions of the following environmental planning instruments, plans and policies:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy No 71 – Coastal Protection
- Wyong Local Environmental Plan 1991
- Wyong Development Control Plan 2005
  - Chapter 14 – Tree Management
  - Chapter 64 – Multiple Dwelling Residential Development
  - Chapter 67 – Engineering Requirements for Development
  - Chapter 69 – Waste Management
  - Chapter 70 – Notification of Development Proposals
  - Chapter 99 – Building Lines
- Wyong Council Policy - Landscape Guidelines L1
- Wyong Council Policy – Flood Prone Land F5
- The Entrance Peninsula Planning Strategy
- Promoting Choice: A Local Housing Strategy for Wyong Shire
- The Entrance Contributions Plan and Shire Wide Contributions Plan

## ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

### Climate Change

The potential impacts of climate change on the proposed development have been considered as part of the assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts. In this particular case, the following matters are considered to warrant further discussion, as provided below:

***Sustainable Building Design*** – A BASIX Certificate has been submitted with the application which meets targets for water efficiency, thermal comfort and energy efficiency.

***Reduced Car Dependence*** – The proposed development is within walking distance to a bus stop with hourly services.

***Rising Sea Level*** – The site is located within the coastal zone and is identified as being partly affected, with the 1% Annual Exceedance Probability (AEP) flood level for the property being RL 2.2m AHD. Scientific studies and State Government Policy in relation to climate change, and specifically sea level rise have been published which predict progressively elevated ocean levels over time. Elevated ocean levels have the effect of changing the design flood height proportionally as the water level rises at the lake and ocean interface. In accordance with the recommendations contained within the Flood Risk Management Guide - Incorporating Sea Level Rise Benchmarks in Flood Risk Assessments published by the NSW Department of Environment, Climate Change and Water (DECCW), the upper sea level rise benchmark of 900mm has been added to the flood level applicable to the site. The resulting design flood level for the development is 3.1m AHD (2.2m + 0.9m). As the proposal incorporates a finished floor level of 3.6 m AHD and benefits from a low hazard evacuation path, it is considered that the risk to the development as a result of sea level rise is minimal in this instance.

***Coastal Erosion*** – The site is not identified within the Wyong Shire Coastal Zone Management Plan as being affected by coastal erosion at present or within the 2100 predictions.

## ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues.



## **THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-v):**

### **(a)(i) the provisions of any environmental planning instrument**

#### State Environmental Planning Policy (Major Development) 2005

When the development application was lodged, development for affordable housing that has a capital investment value (CIV) of more than \$5 million fell within Part 3 - Regional Development of SEPP (Major Development) 2005 and was to be determined by the JRPP. However, the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011* commenced on 1 October 2011 and classes of regional development are now set out in Schedule 4A, of the EP&A Act. Schedule 4A replaces the former classes of regional development set out in Part 3 of SEPP (Major Development). Savings and transitional provisions are set out in Schedule 6A clause 15 of the EP&A Act, although do not specifically apply to the subject development application as development for the purpose of affordable housing with a CIV of more than \$5 million continues to be Regional Development under the new provisions. As such, the JRPP remains as the determining authority.

#### State Environmental Planning Policy (State and Regional Development) 2011

Part 4 – Regional Development is applicable to the development as affordable housing with a CIV of more than \$5 million is listed within Schedule 4A of the EP&A Act.

#### State Environmental Planning Policy (Affordable Rental Housing) 2009

The SEPP (Affordable Rental Housing) 2009 was introduced on 31 July 2009 to increase the supply and diversity of affordable rental and social housing in NSW. The SEPP incorporated a number of incentives, including overriding local controls which prohibited certain types of development and providing density bonuses (among other incentives) for affordable housing. On 20 May 2011, changes were made to the SEPP, which included removing certain provisions applying in low density residential areas. The effect of the amendments would result in the prohibition of residential flat buildings for affordable housing, unless they are ordinarily permitted under local controls or another environmental planning instrument.

The subject development application was lodged prior to the May 2011 amendments to SEPP (Affordable Rental Housing) and the savings and transitional provisions in clause 54A of the SEPP maintain the permissibility of the proposed development. In summary, the savings and transitional provisions have the following impacts on the subject application:

- The application may be determined as if the amending SEPP had not been made (i.e. the application may be determined as a permissible land use despite the provisions of WLEP 1991)
- The consent authority must not consent to the development unless it has taken into consideration whether the design of the development is compatible with the character of the local area.
- The floor space ratio provisions of the SEPP (as amended) are applicable.

A full copy of clause 54A is included in Appendix D.

The proposal is for new affordable rental housing, and more specifically 'in-fill affordable housing', which is permitted under Division 1 of Part 2 of the SEPP. A table which summarises the standards contained within SEPP (Affordable Rental Housing) is included in Appendix E. The compliance table in Appendix E relates to the SEPP prior to the May 2011 amendments. While the savings and transitional provisions enable the application to be

determined as if the amending SEPP had not been made, they do require the consent authority to consider the character of the local area and also the amended provisions for floor space ratios. Key aspects of the SEPP are discussed below.

#### *Permissibility and Location Requirements*

The proposed development is permissible with consent by virtue of the savings and transitional provisions as previously discussed. The site is zoned 2(a) General Residential Zone under WLEP 1991, which permits dwelling-houses and dual occupancy development but not residential flat buildings. The 2(a) General Residential Zone is equivalent to the R2 Low Density Residential Zone and as such, the infill affordable housing provisions of the SEPP apply to the site. In addition to the zoning, the site must also be located within 400 metres walking distance of a bus stop used by a regular bus service that has at least one bus per hour servicing the bus stop between 6am and 6pm each day from Monday to Friday (both days inclusive). A bus stop is located on Wilfred Barrett Drive, approximately 45 metres to the south of the site. Bus services are operated by the Red Bus Company with one bus per hour servicing the bus stop between 6am and 6pm Monday to Friday. Bus timetables and maps are included in Appendix F.

#### *Floor Space Ratios and Percentage of Dwellings to be Affordable*

Clause 54A(4) of the savings and transitional provisions specifies that clause 13(2) (as in force before the amendments made by the amending SEPP) does not apply to development the subject of an existing application and any such application is to be determined by applying instead clause 13 (2) and (3) as inserted by the amending SEPP. Clause 13(2) and (3) of the amending SEPP are as follows:

*13 (2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:*

*(a) if the existing maximum floor space ratio is 2.5:1 or less:*

*(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or*

*(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:*

*AH is the percentage of the gross floor area of the development that is used for affordable housing.*

$$Y = AH \div 100$$

*(3) In this clause, gross floor area does not include any car parking (including any area used for car parking).*

It is proposed to use 50% of the dwellings as affordable housing and therefore the applicable FSR would be 1:1, based on the permissible FSR of the 2(a) zone, which is 0.5:1, plus the 0.5:1 permitted under 13(2)(a)(i). The proposal is compliant in terms of FSR, being 0.5:1.

## *Design Requirements*

The SEPP specifies that the consent authority must not consent to infill affordable housing unless it has taken into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources (now Department of Planning and Infrastructure). An assessment against the provisions of the guidelines is included in Appendix G.

### *Character of local area*

Clause 54A(3) of the savings and transitional provisions specifies that a consent authority must not consent to the development unless it has taken into consideration whether the design of the development is compatible with the character of the local area. While the SEPP does not provide any further guidance on assessing whether development is compatible with the character of the local area, the NSW Land and Environment Court has established a Planning Principle relating to the assessment of compatibility in the urban environment (*Project Venture Developments v Pittwater Council* [2005] NSWLEC 191).

Planning Principles are intended to assist in making a planning decision where there is a void in policy; where policies expressed in qualitative terms allow for more than one interpretation; or where policies lack clarity. In relation to ‘compatibility’, the Planning Principle establishes that the most appropriate meaning of compatibility in an urban design context is whether developments are “capable of existing together in harmony”. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve. An extract from the Planning Principle is reproduced below:

*Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.*

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

*The physical impacts, such as noise, overlooking, overshadowing and constraining development potential, can be assessed with relative objectivity. In contrast, to decide whether or not a new building appears to be in harmony with its surroundings is a more subjective task. Analysing the existing context and then testing the proposal against it can, however, reduce the degree of subjectivity.*

*For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. In some areas, planning instruments or urban design studies have already described the urban character. In others (the majority of cases), the character needs to be defined as part of a proposal's assessment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by **building height**,*

***setbacks and landscaping.*** *In special areas, such as conservation areas, **architectural style and materials** are also contributors to character.*

Having regard to the Planning Principle, the height, setbacks, landscaping and architectural style of the proposed development have been considered as well as the physical impacts such as noise, overlooking, overshadowing and constraining development potential.

In terms of physical impacts, overlooking has been reduced through the design and location of balconies and windows. Overshadowing of adjoining properties is minimal, given the two storey nature of the development and future development of adjoining properties is unlikely to be constrained as a result of the proposed development. The design of the carpark and driveway are a potential source of noise for adjoining properties and it is recommended that acoustic fencing and non-slip (low noise) surface treatment of the carpark be incorporated into the design to reduce any impacts.

The height of the buildings, being 2 storey, is consistent with existing development, as is the pitched roof form of the dwellings facing the street. There is no established or characteristic front setback for development on the western side of Wilfred Barrett Drive and landscaping is minimal and does not significantly contribute to the urban character in this locality. However, the dwellings are orientated parallel to the street in keeping with other development and the design has been broken up into a number of buildings to reduce the scale of the development and ensure it does not appear as one large building within the streetscape. Overall, it is considered that the proposed development has been designed in keeping with the existing development in the locality and the design is compatible with the character of the local area.

#### State Environmental Planning Policy (Infrastructure) 2007

Clause 101 relates to development with frontage to a classified road (Wilfred Barrett Drive) and seeks to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) the design of the vehicular access to the land, or*
  - (ii) the emission of smoke or dust from the development, or*
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposed vehicular access is proposed to be from Wilfred Barrett Drive, which is a classified road, as there is no other road frontage to the site. The application has been referred to the RMS, who initially objected to the proposed access arrangements and requested that the design be modified. Modifications have now been made, which included provision of a consolidated entry and exit point to the north of the site away from the existing bus facilities near Wyuna Avenue, as well as provision of a right turn intersection treatment, which the RMS has endorsed. In relation to traffic noise, a Road Traffic Noise Assessment was submitted with the application, which recommends glazing and roof treatment to achieve compliance with the recommended internal noise levels.

Clause 102 includes additional provisions to ensure that noise sensitive development proposed adjacent to road corridors which carry considerable traffic volumes are not adversely affected by road noise or vibration. The clause applies to development adjacent to roads with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS), and that the consent authority considers likely to be adversely affected by road noise or vibration. Where residential development is proposed, appropriate measures must be taken to ensure that the following internal noise levels are met:

- The Equivalent Continuous Level (LAeq noise level) between the hours of 10.00 pm and 7.00 am shall not exceed 35 dBA within a bedroom, and
- The LAeq noise level within any other habitable room (excluding a garage, kitchen, bathroom or hallway) shall not exceed 40 dBA at any time.

Wilfred Barrett Drive is estimated to carry around 16,700 vehicles per day following extrapolation of RMS traffic count data based upon the historical growth rate for the road in this location. The provisions of SEPP (Infrastructure) are therefore not mandatory for this development however the criteria required are considered to be appropriate and are proposed to be implemented by the applicant.

Clause 104 - Traffic Generating Development, requires certain development applications (as referred to in Schedule 3 of the SEPP) to be referred to the RMS. Although the proposed development contains less than 75 dwellings, it does provide parking for more than 50 vehicles with a direct connection to a classified road. As discussed above, the application has been referred to the RMS and subject to the design changes that were made and a number of conditions, the RMS has no objection to the development.

#### State Environmental Planning Policy No 71 – Coastal Protection

SEPP 71 – Coastal Protection applies to the development as the site is located within a coastal protection zone, being approximately 30 metres from a coastal lake and approximately 180 metres from the coastline. In accordance with Clause 7, the proposal has been assessed against the matters for consideration outlined under Clause 8 and found to be satisfactory (see Appendix H). The proposal has also been considered under Part 4 of the SEPP relating to public access, effluent disposal and treatment of stormwater and is consistent with the requirements identified under this part.

It is not proposed to strata subdivide the proposed development and therefore Part 5 of SEPP 71 is not applicable to the subject application.

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

The proposed development is a 'BASIX affected development' and therefore a BASIX Certificate has been submitted with the development application. The BASIX Certificate identifies compliance with water, thermal comfort and energy targets and has been updated to reflect the modified building design.

### State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 specifically relates to the consideration of contamination and remediation prior to a consent authority granting consent to the carrying out of any development. Specifically, subclause (1) states that:

A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Subclauses (2), (3) and (4) are not applicable to the subject development application as it does not propose a change of use (i.e. the previous and proposed uses are both for residential purposes). A contamination assessment has not been undertaken for the subject site given its known use for residential purposes.

### Wyong Local Environmental Plan 1991

#### *Clause 15 – Development of land containing acid sulphate soils*

The LEP requires special assessment to be given to certain development on land being subject to actual or potential acid sulphate soils. The site is identified as Class 2 and 3 on the Acid Sulphate Soils Planning Map. For Class 2 land, any works below the natural ground surface require more detailed assessment and for class 3, any works below 1 metre below ground level. A preliminary assessment report and investigation has been prepared as part of the application which confirmed that neither Actual Acid Sulphate Soils or Potential Acid Sulphate Soils were encountered on the site to the depth of the proposed excavation.

#### *Clause 19 – Development near lakes, rivers and creeks*

As the site is located approximately 30 metres from Tuggerah Lake Council must take the following into consideration:

- (a) the impact of that development on water quality and quantity, existing vegetation, fish, aquatic life and the location of the water body or watercourse, and*
- (b) any effects of the development on water supply, and*
- (c) whether the development is likely to cause detrimental effects on a watercourse or water body through erosion, sedimentation or the emission of pollutants, and*
- (d) whether the development incorporates best practice water sensitive urban design techniques.*

The proposal is considered acceptable in terms of the matters listed in above and if approved, will also require approvals from the NOW.

### *Clause 23 – Flood Prone Lands*

Clause 23 of WLEP states that:

- (1) Notwithstanding any other provision of this plan a person shall not erect a building or carry out a work on land which, in the opinion of the Council is, within a flood prone area, other than on land within Zone No 2 (a), 2 (b), 2 (c), 2 (d) or 2 (g), without the consent of the Council.*
- (2) The Council may, as a condition of its consent to the carrying out of development referred to in subclause (1), require the floor of the building or work to be erected at a height sufficient, in the opinion of the Council, to prevent or reduce the incidence of flooding of that building or work or of adjoining land.*
- (3) The Council shall take into account as a matter for consideration in determining whether to grant consent as referred to in this clause the effect of the proposed development on flooding.*

This clause of the LEP relates to development on land in zones other than the residential zones. As such, this specific clause is not applicable to the proposed development, although the issue of flooding is still a relevant consideration and is addressed further in the report.

### *Clause 28 – Tree Management*

Clause 28 of WLEP 1991 requires development consent for the removal of trees and states that Council shall not grant such consent unless:

- (a) such works are ancillary to or necessary to undertake a use permitted on the land, and*
- (b) the Council has made an assessment of the importance of the vegetation in relation to:*
  - (i) soil stability and prevention of land degradation, and*
  - (ii) water quality and associated ecosystems, such as streams, estuaries and wetlands, and*
  - (iii) scenic or environmental amenity, and*
  - (iv) vegetation systems and natural wildlife habitats.*

The site is mainly cleared, although there are five (5) trees that are proposed to be removed, three (3) of which come under the requirements of DCP 2005 Chapter 14 'Tree Management'. It is recommended to remove the three trees as they will be within the hardstand and building areas and the landscape plan incorporates the planting of a number of suitable tree species within the site. The tree removal is ancillary to the proposed construction of the residential flat building and is therefore permissible with consent. It is unlikely that the removal of these trees would have a significant impact on soil stability, water quality or scenic or environmental amenity. The site does not contain any hollow-bearing trees and the removal of the trees is unlikely to impact on vegetation systems and natural wildlife habitats. As such, consent is able to be granted for the removal of the trees, should the application be supported.

### *Clause 29 - Services*

This clause requires all new development to have an adequate water supply and facilities for the removal or disposal of sewage and drainage. Water and sewer connections are available from Wilfred Barrett Drive and stormwater would discharge to Tuggerah Lake via a water

quality treatment and infiltration system. Underground rainwater re-use tanks are also proposed to reduce the demand on potable water and reduce the volume of water leaving the site.

**(a)(ii) the provisions of any draft environmental planning instrument**

There are no draft environmental planning instruments applicable to the application.

**(a)(iii) any development control plans**

Wyang Development Control Plan 2005

*Chapter 64 – Multiple Dwelling Residential Development*

DCP 2005 Chapter 64 contains both objectives and prescriptive design requirements that apply to all multiple dwelling residential developments within Wyong Shire. A table identifying the level of compliance with this DCP is included as Appendix I. As a result of the assessment, the proposed development has been found to be generally consistent with the DCP. Minor variations are proposed in relation to the area of second storey balconies (9.5 m<sup>2</sup> rather than 10 m<sup>2</sup>) and the elevations between the buildings exceed 10 metres in length. However, this variation is supported as these elevations are not visible from the street or adjoining properties.

*Chapter 69 – Waste Management*

A Waste Management Plan for the construction and ongoing use of the building has been submitted in accordance with the DCP. Ongoing waste collection is proposed to be via bulk bin collection at the kerb.

*Chapter 67 – Engineering Requirements for Development*

Should consent be granted, all necessary civil works would need to be undertaken in accordance with Council's DCP 2005 Chapter 67. Compliance with relevant standards can be addressed through conditions of consent.

**(a)(iiia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into**

There are no planning agreements applicable to the application.

**(a)(iv) any matters prescribed by the Regulations**

The Regulations require consideration of the following:

- The Government Coastal Policy, being *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*; and
- in the case of a development application for the demolition of a building, the provisions of AS 2601.

As included in the Regulations, Wyong LGA is only affected by the seaward part of the Government Coastal Policy, being the area extending 3 nautical miles seaward from the open coast high water mark. As such, it is not applicable to the proposed development.



The development proposes demolition of an existing dwelling house and ancillary outbuildings. Demolition can be addressed through conditions of consent.

**(a)(v) any coastal zone management plan**

Section 79C(1)(a)(v) of the EP&A Act requires consideration of any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979). The Wyong Coastal Management Plan (CMP) has been publically exhibited and adopted by Council and is now awaiting Certification. In accordance with the CMP, the site is not affected by coastal hazards.

**THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b) ):**

**The relationship to the regional and local context and setting**

The site is located approximately 2 km to the north of The Entrance, within the existing residential precinct of The Entrance North. The site has frontage to Wilfred Barrett Drive, which links The Entrance to the northern suburbs of Magenta, Noraville, Norah Head, Canton Beach and Toukley.

Development at The Entrance North is dominated by residential land uses, with other uses including caravan/tourist parks, a school, church, a small local business zone and vast areas of public open space including Terilbah Reserve with frontage to Tuggerah Lake and the North Entrance Beach and Surf Club. Forms of residential development at The Entrance North comprise a range of single dwelling-houses, dual occupancies, residential flat buildings (ranging up to seven (7) storeys) and long term caravan sites.

Immediately adjoining the site to the north is a completed residential subdivision containing approximately 26 one and two storey dwellings. The majority of the existing development comprises detached dwelling-houses, although there are some attached dual occupancy developments. The Two Shores Holiday Village (Caravan Park) is located immediately to the south of the site. The caravan park has approval for 99 sites, including 30 long term sites. Development on the eastern side of Wilfred Barrett Drive typically comprises of two storey dwelling-houses.

The number of units proposed within the development has been reduced from 53 to 42 and the design has been improved to more closely reflect the character of existing development. Changes to the design include the removal of nine (9) second storey units which spanned the open carpark area, modifying the external colours and materials from concrete panels in various shades of green to a face brick, and incorporating a pitched roof into the design of the units fronting Wilfred Barrett Drive to more closely reflect the design of existing residential dwellings in the locality. The design of the buildings has also taken into consideration visual privacy issues, with no windows being proposed on the north-eastern or south western elevations.



**Figure 3: Streetscape Elevation of Proposed Development**

### **The access, transport and traffic management measures**

The site is accessed from Wilfred Barrett Drive, which is a classified road. Works in, on or under classified roads require approval from the RMS. The existing road environment features dual lane carriageway and shared path/cycleway currently in good condition. The access and egress is proposed from the north-eastern corner of the site as requested by the RMS so as to avoid any conflict with traffic movements associated with the existing bus turnaround bay located in Wilfred Barrett Drive and opposite Wyuna Avenue.

The RMS has also requested that the carriageway of Wilfred Barrett Drive is upgraded to provide a basic auxiliary right (BAR) hand turn treatment at the vehicle access and conditions would be required for the completion of road infrastructure including kerb, gutter and transitional pavement works, should consent be granted.

On site carparking has been provided in excess of the minimum requirements of SEPP (Affordable Rental Housing). The basement entry and exits both contain a crest, which is designed as a levy to restrain the ingress of flood waters. The design generally complies with the Australian Standard for Off-street Carparking, and is considered satisfactory subject to minor design amendments detailed in the recommended conditions.

Details regarding access to public transport to and from the site have been previously addressed in the report.

### **The impact on the public domain (recreation, public open space, pedestrian links)**

The proposed development is unlikely to impact the public domain. The development is proposed on privately owned land although stairs from the rear of the site to the adjacent Council-owned foreshore reserve are proposed. The proposal will not restrict any existing public access to the foreshore and would encourage residents to utilise the foreshore reserve.

There is also an existing off-road cycleway along Wilfred Barrett Drive, which links Terilbah Reserve in the South and Crown land to the north, although this would not be impacted by the development.

### **The impact on utilities supply**

The development can be serviced for water from an existing 300 mm water main that is located on the eastern alignment of Wilfred Barrett Drive and the existing system is adequate to provide water supply to the proposed development. As the water main will need to be extended across Wilfred Barrett Drive, approval from the RMS will also be required.

The site can be serviced for sewer via an existing line.

### **The effect on heritage significance**

There are no known Aboriginal or non-Aboriginal heritage items in the vicinity of the proposed development.

### **Any effect on other land resources**

The site is not known to contain any valuable land resources.

## **Any impact on the conservation of water**

### *Water use*

A BASIX Certificate has been submitted with the development application which demonstrates compliance with the appropriate water targets. Five (5) x 4000 litre underground rainwater tanks, which are to be connected to toilets and landscaping are proposed together with water efficient fixtures.

### *Stormwater Management*

The site naturally drains towards Tuggerah Lake and an infiltration system is proposed. The design of the infiltration system is proposed to be complemented by an appropriately sized level spreader, which is to be wholly contained within the development site. Stormwater runoff would be buffered by the provision of rainwater tanks and pre-treated by a proprietary gross pollutant trap prior to discharge into the infiltration system. The proposed system is considered satisfactory to treat stormwater before leaving the site and the final design must be approved by the NOW in accordance with their GTA's.

Basement drainage details have also been submitted which show the conceptual size and location of a pump out system and rising main. Conditions are recommended requiring full design details to be submitted prior to the issue of the Construction Certificate. Additionally, tanking of the basement would be required to prevent the ingress of ground water flows into the basement.

### *Groundwater*

Borehole samples were undertaken as part of the acid sulphate soils assessment, which did not intercept any standing groundwater. However, seepage was experienced at depths of between 1.2 and 1.7 metres. It is acknowledged that subsurface conditions can change depending on recent weather events and therefore any groundwater intercepted during construction would need to be appropriately managed.

## **Any effect on the conservation of soils or acid sulphate soils**

The preliminary assessment did not identify any acid sulphate soils on the site. Erosion and sediment control measures would be required, which can be dealt with as part of the Construction Certificate, should consent be granted.

## **Any effect on quality of air and microclimate conditions**

The proposed residential development is not expected to have a detrimental impact on the existing air quality or microclimatic conditions.

## **Any effect on the flora and fauna**

There is minimal vegetation on the site and it is unlikely to provide significant habitat for native species.

### **The provision of waste facilities**

General waste is proposed to be stored in three x 1.1 m<sup>3</sup> bulk bins and collected from the kerb. Recycling 'wheelie' bins and green waste bins are also proposed. To assist in the movement of the bulk bins to the kerb, kerb ramps would be required as part of the kerb and guttering that is recommended to be conditioned.

### **Whether the development will be energy efficient**

A BASIX Certificate has been submitted with the application, which demonstrates compliance with the energy and thermal comfort requirements.

### **Whether the development will cause noise and vibration**

Being a residential development, the ongoing use of the premises is not expected to cause unreasonable noise and vibration.

As the site is located adjacent to a busy road, there is potential for the development to be affected by road noise. A Road Traffic Noise Assessment has been submitted with the application, which addresses SEPP (Infrastructure) 2007 and Development Near Rail Corridors and Busy Roads – Interim Guideline. The following internal noise levels are to be adopted:

- The LAeq noise level between the hours of 10.00 pm and 7.00 am shall not exceed 35 dBA with a bedroom, and
- The LAeq noise level within any other habitable room (excluding a garage, kitchen, bathroom or hallway) shall not exceed 40 dBA at any time.

In order to achieve the internal noise levels required by SEPP (Infrastructure) 2007, the Road Traffic Noise Assessment recommends that the noise control treatments should be implemented to the units facing the street frontage. This includes minimum requirements for glazing, external materials and insulation. These matters can be addressed as conditions of consent, should the application be approved.

### **Any risks from natural hazards (flooding, tidal inundation, bushfire, subsidence, slip etc)**

#### *Bushfire*

When the development application was lodged, the site was not identified as bushfire prone land. However, Council's Bushfire Mapping was revised in September 2011 and as a result, the site is now identified as being bushfire prone due to the threat from vegetation on the adjoining foreshore reserve. A Bushfire Assessment Report has been submitted and referred to the Rural Fire Service (RFS). The RFS has provided advice and have recommended conditions relating to water and utilities supply, the implementation of an evacuation and emergency management plan, construction requirements and landscaping maintenance.

#### *Flooding*

The site is mapped as being partially flood affected during a 1% Annual Exceedance Probability (AEP) flood event by flood water originating from the Tuggerah Lakes. The total catchment area upstream of The Entrance is 740km<sup>2</sup>, and includes three interconnected lakes and three major rivers.

The Tuggerah Lakes Flood Study identifies that the 1% AEP flood level for this development is RL 2.2m AHD. The development plans indicate existing ground levels generally range between 1.3m AHD and 3.3m AHD. Other flood events up to the Probable Maximum Flood (PMF) were analysed and calculated, which are summarised below in Table 1 – Flood Levels.

Flood	50% AEP	20% AEP	5% AEP	1% AEP	PMF
Existing (m AHD)	0.91	1.36	1.8	2.2	2.7
Year 2100 (m AHD)	1.81	2.26	2.7	3.1	3.6

**Table 1** –Flood Levels

Historical records held by Council indicate that the highest known Tuggerah Lakes flood level occurred in June 1949 (2.1m AHD), with other severe events occurring in April 1946 (1.9m AHD), May 1964 (1.9m AHD) and April 1927 (1.8m AHD). The most recent flooding events occurred in June 2011 (0.91m AHD), February June 2007 (1.65m AHD), February 1992 (1.2m AHD) and February 1990 (1.6m AHD).

The NSW Sea Level Rise Policy Statement published by the NSW Government in 2009 was prepared to support consistent adaptation to projected sea level rise impacts. The policy statement included sea level rise planning benchmarks for use in assessing potential impacts of sea level rise in coastal areas, including use in flood risk assessments. The benchmarks are for a projected rise in sea level, relative to the 1990 mean sea level, of 0.4 metres by 2050 and 0.9 metres by 2100.

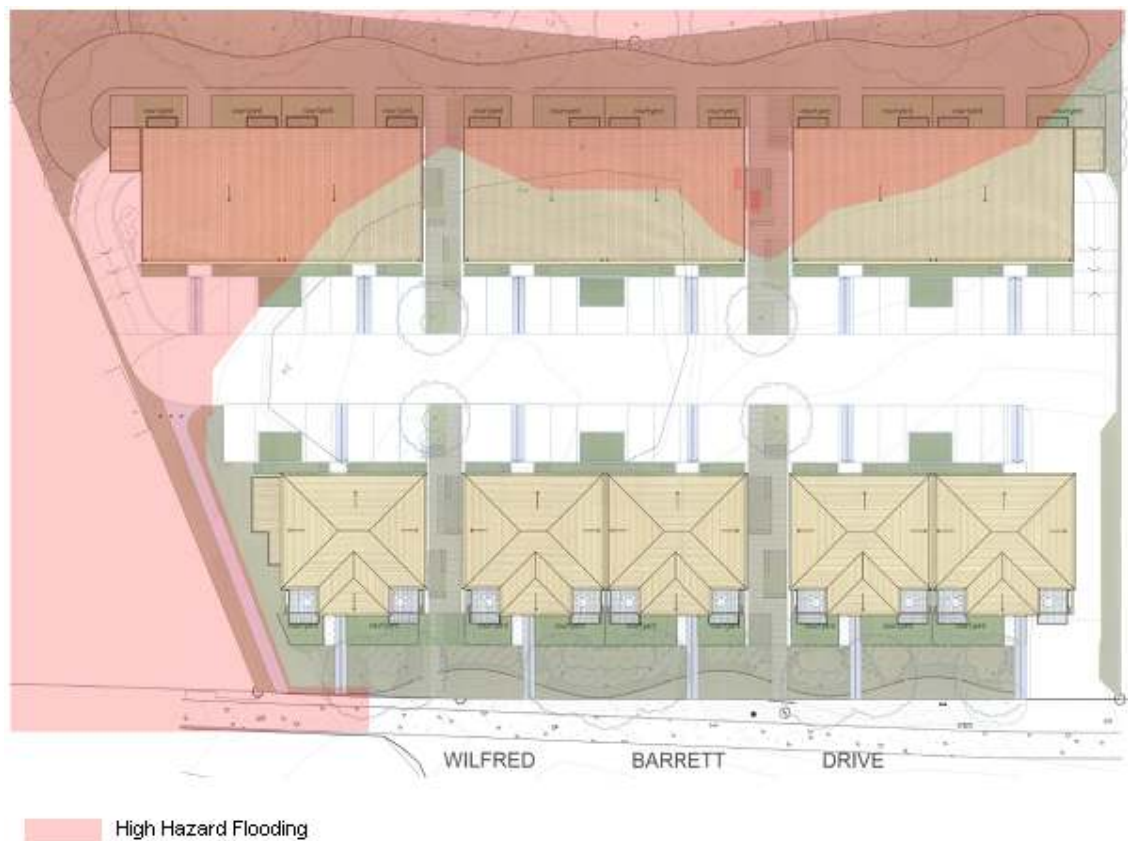
The Flood Risk Management Guide - Incorporating Sea Level Rise Benchmarks in Flood Risk Assessments (the guide) published by the NSW Government in 2009 was prepared to assist stakeholders to incorporate the sea level rise planning benchmarks in floodplain risk management planning and flood risk assessments for new development. The guide updates the sea level rise information in the NSW Floodplain Development Manual published by the NSW Government in 2005.

Considering the significance of the development in terms of population intensification, expected asset life and financial investment proposed by the applicant, it is considered appropriate to apply the higher sea level rise benchmark for the proposed development. The application of this benchmark has the affect of increasing the initial water level of Tuggerah Lake and the Pacific Ocean analysed in the Tuggerah Lakes flood study.

The guide states that “Where the site is below 4 metres AHD, an appropriate conservative assumption to estimate the 1% AEP flood level considering sea level rise is to add the sea level rise planning benchmarks to the 1% AEP flood level relevant to the site”. As stated previously, the development plans indicate existing ground levels generally ranging between 1.3m AHD and 3.3m AHD.

Under the NSW State Government's Flood Policy, the management of flood liable land remains the responsibility of local government. Accordingly, Council has a duty of care to ensure flood liable lands in the Wyong Shire are managed in accordance with their flood hazard and flood risk. Council's Development of Flood Prone Land Policy (the policy) presents Council's current development controls applicable to the development. The application of the policy requires the categorisation of ‘Type of Development’ and ‘Flood Hazard’ to determine suitability of the proposed development. The ‘Type of Development’ for the purpose of this policy meets the category of ‘New Development’ due to the proposed population intensification; however the determination of ‘Flood Hazard’ requires further consideration. A qualitative Flood Hazard Assessment has been undertaken to determine the ‘Flood Hazard’ in accordance with the policy.

The policy requires categorisation of flood hazards in accordance with the NSW Floodplain Development Manual, which details the process to determine flood hazard category. The process involves firstly evaluation of hazard level from pure hydraulic principles, and then refining the hydraulic hazard category in light of other relevant factors affecting the safety of individuals to establish the true flood hazard category. The hazard category from pure hydraulic principles is considered to be a combination of high hazard flood storage and low hazard flood storage. Figure 4 illustrates an interpretation of high hazard flooding overdrawn on the architectural plans.



**Figure 4** – Approximate extent of Provisional High Hazard flooding

As the application of the policy requires determination of true flood hazard category, this was assessed by refining the hydraulic hazard category. A summary of this assessment is provided below:

- **Risk to Life** - Self sufficient low hazard evacuation is available from the development towards the north. If evacuation is not possible, the floor levels are proposed equal to the probable maximum level (including sea level rise) and are likely to provide a safe place of refuge.
- **The Cost** - The proposed development is generally located within an existing residential area with existing public and private infrastructure. The development is not anticipated to generate significant additional servicing costs before or after floods. There may be individual costs relating to insurance and private property damage.

- **Warning and Evacuation** - The Tuggerah Lakes system is closely monitored during flood events, with access to accurate information available and updates regularly provided by the emergency management authorities. Flooding from Tuggerah Lakes generally features a relatively slow rate of rise over a number of days and therefore effective warning time is available. As discussed previously, low hazard self sufficient evacuation is available to the north of the site.
- **Cumulative Effects of the Development** - Minor loss of flood storage associated with the low level carpark and fill is proposed. The loss of flood storage is commensurate with the other development around Tuggerah Lakes, and is not considered to set an undesirable precedent for other development in the floodplain.
- **Ecological Sustainable Development** - In a flooding context, the development adequately considers the principles of ecologically sustainable development. In particular the development meets the principles of intergenerational equity and application of the precautionary principle by acknowledging and addressing predicted sea level rise.
- **Climate Change** - Sea level rise is one predicted element that has been discussed separately in this report, however other effects have the potential to affect peak flood levels such as increased temperatures, changes in rainfall patterns and increased frequency of extreme wind and storm events. The conservative application of the sea level rise benchmarks for 2100 plus a 500mm freeboard to habitable floor levels is considered adequate.

Based on the flood assessment, and property modification measures, the true flood hazard category applicable to the development is considered to be wholly low hazard flooding. The development controls under Council's Flood Prone Land Development policy permit New Development in Low Hazard category flooding, subject to a merits assessment. Having considered flooding hazard, including predicted sea level rise, the application can be supported on floodplain management grounds.

#### **Any risks from technological hazards**

There are overhead power lines within the road reserve across the full frontage of the site, although it is unlikely that this would impact the development.

#### **Whether the development provides safety, security and crime prevention**

The applicant has submitted a report to assess the proposal against the principles of Crime Prevention through Environmental Design (CPTED) and the application has also been referred to the NSW Police Tuggerah Lakes Local Area Command. The response from the Tuggerah Lakes local Area Command included a number of recommendations in relation to the design of the buildings. The response also indicated that The Entrance North has a relatively low crime rate compared to other areas of the Tuggerah Lakes Local Area Command. Specific recommendations that could be applied to the proposed development include:

- Rapid removal of graffiti
- Restricted access to the proposed basement carpark
- Lighting with the carparking areas and main access points
- Maintaining landscaping

Appropriate conditions of consent can be applied, should consent be granted.

### Any social impact in the locality

The proposed development has been submitted under SEPP (Affordable Rental Housing), which forms part of the NSW State Government response to growing community concern about the long term decline of affordable housing. It is proposed that 50 per cent of the accommodation to which the proposed development application relates will be used for the purposes of affordable rental housing.

The benchmark for rental housing to be considered 'affordable' is for the households involved to pay no more than 30% of their gross income in rent. The NSW Government's approach focuses on rental housing for very low, low and moderate income households so that they can appropriately meet the needs of their household and is within their means to pay for it without foregoing other essentials such as food, clothing and education.

Definitions of very low, low and moderate income households are as follows, based on 2010-11 projections:

- Very low-income households – incomes less than 50% of the gross Sydney median income (currently being an income less than \$33,400);
- Low income households – incomes between 50% and 80% of gross median income (currently \$33,400 - \$53,500); and
- Moderate income households - incomes between 80% and 120% of the gross median (currently \$53,500 - \$80,300).

Affordable housing income eligibility limits as of 1 July 2011 are summarised in the table below and demonstrate the range of income and family circumstances that can benefit from affordable housing.

The type of household type	Maximum gross annual income (per week)		
	Single person	Partnered (2 persons)	Family (3 persons)
Single person	< \$20,000	< \$25,000	< \$30,000
Partnered (2 persons)	< \$20,000	< \$25,000	< \$30,000
Family (3 persons)	< \$20,000	< \$25,000	< \$30,000
Family (4 persons)	< \$20,000	< \$25,000	< \$30,000
Family (5 persons)	< \$20,000	< \$25,000	< \$30,000
Family (6 persons)	< \$20,000	< \$25,000	< \$30,000
Family (7 persons)	< \$20,000	< \$25,000	< \$30,000
Family (8 persons)	< \$20,000	< \$25,000	< \$30,000
Family (9 persons)	< \$20,000	< \$25,000	< \$30,000

**Table 2 - Affordable Housing Income Eligibility Limits**

There is often a lack of understanding in local communities of the people likely to be accommodated in affordable rental housing. Local opposition has been high for low rise infill housing in low density residential areas and this is frequently based on a misunderstanding of the nature of the people that qualify to occupy the affordable rental housing. A significant number of the public submissions received for the subject development application raised concerns over "social housing" occupants in the area, because of perceived social issues and potential for impacts on property values. Social housing is subsidised housing, providing a secure, affordable rental option for people on very low and low incomes. Social housing includes properties owned or managed by Housing NSW, community housing providers and



the Aboriginal Housing Office. Affordable rental housing differs from social housing as it targets a range of groups from low to moderate income households; has a different application process; calculates rents differently; may have different tenancy terms; and is managed by a Community Housing Provider rather than by Housing NSW or the Aboriginal Housing Office.

The applicant has submitted a Social Impact Assessment (SIA), which has been prepared by qualified social planning consultants. The SIA includes a demographic analysis, assessment of the existing level of social infrastructure/public transport, details of community engagement and the identification and assessment of social impacts.

#### *Demographic analysis*

A detailed analysis has been provided on the demographic characteristics of The Entrance-North Entrance area based on the latest information available sourced primarily from Council's on-line Community Profile (2006 Census data) and housing analysis sourced from Housing NSW. Key findings included:

- Between 2001 and 2006 there was a minor increase in population of The Entrance-North Entrance.
- The dominant household type is lone persons, followed by couples without dependents and one parent families.
- There has been growth in middle age groups and a larger proportion in the older age groups.
- There is an increasing demand for one and two bedroom dwellings based on changes in family and household types.
- There is a higher share of renters in high density housing in this area of the Shire.
- The area has a larger proportion earning a lower individual income (<\$600 per week) and a smaller proportion earning a higher income (>\$600 per week) compared with Wyong Shire.
- There has been an increase in medium and highest income groups however, compared with Wyong Shire this area has a larger proportion of households earning a lower weekly income and a smaller proportion earning a high weekly income (due to higher unemployment rate and larger proportion of older residents).
- The unemployment rate is higher compared with Wyong Shire.
- It is difficult for lower income households to purchase housing in Wyong Shire due to significant increase in house prices.
- The private rental market in Wyong Shire is not catering adequately for the needs of lower income households, particularly small single person households
- On the ABS Socio-Economic Index of Disadvantage (SEIFA) The Entrance-North Entrance area is ranked second in Wyong Shire indicating residents are significantly disadvantaged and would be experiencing housing stress.

#### *Existing level of social infrastructure/public transport*

Detailed research has been undertaken to document the level of existing infrastructure in the area. The proposed development is considered to have good access to a wide range of retail, commercial, community, recreation and medical services at The Entrance and Bay Village Shopping Centre at Bateau Bay.

A bus stop is located just to the south of subject site on eastern side of Wilfred Barrett Drive with a regular weekly and weekend bus service provided by Red Bus Services to The Entrance, Bay Village, Erina Fair and Gosford. Weekday services operate from 4am to 9pm (last return service 11:55pm). Weekend services operate from 5am to 9pm (last return service 11pm). Red Bus Services also operates a service to Toukley, Lake Haven and

Wyong Hospital. On weekdays there are four morning services and three afternoon services (latest at 6:16pm). On weekdays there are four services between 8am and 4pm.

As previously addressed within the report, the subject site is located within an accessible area as defined by SEPP (Affordable Rental Housing).

### *Community engagement*

The initial SIA that was submitted with the development application did not involve any consultation or engagement with the local community. As part of the revised SIA, the consultant prepared and distributed a letter to all local residents in Curtis Parade, Wyuna Avenue, Terilbah Place and Wilfred Barrett Drive (to the north of Simpson Street), the caravan park and other community stakeholders, to seek comments on the proposed development via telephone, email or in writing. In response to a request by The Entrance Peninsula Community Precinct Committee, the consultant attended a community consultation meeting with residents to hear their social concerns and objections to the proposed development.

It is acknowledged that the consultation for the SIA was undertaken during December and January and that some residents were unavailable to comment during this period. However, local residents have had the opportunity to comment during Council's initial public submission period and the re-notification of the development application.

### *Identification and assessment of Social Impacts*

The revised SIA lists and addresses the social issues raised by each stakeholder. Key issues raised include:

- Increased concentration of people of lower socio-economic status (welfare dependent tenants).
- Increase in anti-social behaviour, vandalism and crime impacting on resident safety.
- Concentration of social housing developments.
- Decline in property values.
- Transformation of the local area.
- Safety concerns along Wilfred Barrett Drive.
- Location not accessible to services and facilities.
- Existing transport service is inadequate/limited.
- Potential to exacerbate unemployment levels.
- Incompatible with plans to revitalise The Entrance.
- Incompatible with the character of the surrounding area (high density and cluster of affordable housing in an area of low density and high quality residential housing).
- Negative impacts of social cohesion and interaction due to strong opposition by residents.
- Overdevelopment of the lakefront/site and impacts on local ecosystem/natural environment (land approved for 3 residential blocks).
- Conflict over public open space and access to the lakefront.
- Traffic congestion due to insufficient car parking provision.
- 2006 Census does not reflect current profile of The Entrance North.

After assessing the proposal and having considered the issues raised by the community, it is considered that the proposed development would have a net social benefit. The proposed development would provide for additional affordable rental housing stock and housing choice. The subject site is located within an accessible area as defined in SEPP (Affordable Rental Housing) and residents would have access to a range of social infrastructure and a regular transport service.

It is acknowledged that there is significant opposition to the proposal from local residents and stakeholders groups. This may have partially arisen due to a misunderstanding of the nature of the proposed development, which is for affordable housing rather than social housing. Nevertheless, residents have perceived a number of negative social impacts associated with the concentration of people of low socio-economic status including a decline in property values, increased anti-social behaviour, crime and reduced public safety, exacerbation of unemployment levels etc.

A number of mitigation measures have been proposed to reduce the potential negative impacts of the development on social interaction and integration due to the strong level of opposition by residents. Such measures include the Community Housing Provider consulting on a regular basis with the owners of adjoining properties to ensure any negative impact is temporary; the use of tenancy agreements; rigorous screening of applicants; and controls during the construction phase. These measures should form conditions of consent, should the application be approved.

### **Any economic impact in the locality**

The proposed development is unlikely to have an economic impact in the locality.

### **Any impact of site design and internal design**

The proposed development, as originally submitted, incorporated 53 units within three (3) residential flat buildings. However, the design has been amended to address a number of design issues that were raised during the assessment of the application. The more significant design changes include:

- Deletion of eleven (11) units, to improve the overall design of the buildings and improve internal amenity to a number of the units; and
- Addition of pitched roofs to the buildings fronting Wilfred Barrett Drive to more closely reflect existing development in the locality;

The design was also modified to avoid any buildings being located within an existing 5 metre wide easement along the southern boundary, which benefits Council. The current design incorporated pathways and the driveway within this easement, although no objection is raised in relation to this.

### **Any impacts of construction activities (construction site management, protection measures)**

All construction access would be from Wilfred Barrett Drive and a traffic management plan would be required to demonstrate how construction traffic would be managed to minimise delays and interference with the road network. Conditions have also been recommended in relation to the protection of adjoining properties during the excavation for the basement carpark and the construction of the buildings.

### **Any cumulative impacts**

The impact of additional traffic, population and affordable housing in the locality has been addressed previously throughout the report and it is considered that the cumulative impacts would be negligible.

### **THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):**

The design of the proposed development has satisfactorily addressed potential site constraints including the flood affectation of the site, vehicular access onto a classified road and the proximity of the site to Tuggerah Lake. The site is located within a residential area, close to public transport, is relatively level and contains minimal vegetation that is required to be removed. Overall, the site is considered suitable for the proposed development.

### **ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):**

#### **Any submission from the public**

The application was advertised in accordance with the Environmental Planning and Assessment Regulations 2000 in relation to Nominated Integrated Development. Approximately 72 submissions and a petition with 473 signatures were received. There were no letters of support. Following the submission of amended plans, the application was again placed on public notification with 17 new objections being received. A number of revised/updated submissions were also received from members of the community who lodged submissions during the initial exhibition period.

The issues raised in the submissions have been addressed in the assessment of the application. A summary of each submission is included in Appendix J, with the main issues that were raised listed below:

#### *Flooding*

A number of submissions have been received in relation to the suitability of the site for multi unit development given the flood prone nature of The Entrance North. However, as previously discussed in the report, the site is considered to be affected by low hazard flooding, has a low hazard evacuation path and proposed floor levels in excess of the flooding planning level, including sea level rise predictions. The development is therefore subject to a merits assessment under the Council's adopted flood policy and the proposed development is considered satisfactory in terms of flooding.

A number of the submissions raised concerns that a previous development application for an eight (8) lot subdivision was reduced to three (3) lots based on the unsuitability of the site for development. However, a review of the file for the previous subdivision application indicates that other issues including access arrangements from Wilfred Barrett Drive and sewer servicing were limiting factors in the assessment of the previous application.

#### *Lack of Public Transport*

A bus stop is located to the south of subject site on eastern side of Wilfred Barrett Drive with a regular weekly and weekend bus service provided by Red Bus Services to The Entrance, Bay Village, Erina Fair and Gosford. Weekday services operate from 4am to 9pm (last return service 11:55pm). Weekend services operate from 5am to 9pm (last return service 11pm). Red Bus Services also operates a service to Toukley, Lake Haven and Wyong Hospital. On weekdays there are four morning services and three afternoon services (latest at 6:16pm). On weekends there are four services between 8am and 4pm. As previously addressed within the report, the subject site is located within an accessible area as defined by SEPP (Affordable Rental Housing) and meets the requirements set by the state government for access to public transport.

### *Increase in Traffic*

The application was referred to the RMS as the development proposed direct vehicular access to Wilfred Barrett Drive, which is a classified road. The RMS initially objected to the development due to concerns that the proposed access driveway, which was proposed at the southern boundary of the site, would conflict with traffic movements associated with the existing bus turnaround bay located in Wilfred Barrett Drive and opposite Wyuna Avenue. The RMS suggested that a combined access and egress be provided at the northern boundary of the site to avoid this conflict and the plans have been modified to reflect these requirements. The RMS has also requested that the carriageway of Wilfred Barrett Drive be upgraded to provide a basic auxiliary right (BAR) hand turn treatment at the vehicle access to assist vehicles turning right across Wilfred Barrett Drive.

### *Impact on Tuggerah Lake and Coastal Ecosystems*

The site does not have direct frontage to Tuggerah Lake and suitable stormwater treatment and management would be required as part of the development. The NOW has also provided general terms of approval, which include measures for protecting waterfront land (defined as land within 40 metres of a natural water body).

### *Lack of Employment Opportunities*

The community has raised concerns that the proposed development would exacerbate unemployment levels. It is likely that employed persons will occupy units within the affordable housing component of the development as per eligibility levels within NSW Government's Affordable Housing Guidelines. Additional population will also provide direct economic benefits to the local community via demand for goods and services which in turn provides increased local employment opportunities.

### *Lack of Community Facilities/Services and Health Services*

The proposed development would result in a modest increase in population, estimated to be a net increase of approximately 100 people. As identified in the adopted The Entrance Peninsula Planning Strategy, The Entrance-North Entrance area has been identified as an area of projected population growth with adequate services and facilities in place to cater for this increase. The proposed development would also be required to pay Section 94 developer contributions, which contribute to the provision of public open spaces and community facilities.

Wyong Shire is characterised by many households on very low, low and moderate incomes in housing stress and the level of housing affordability has steadily decreased. There have also been changes in the age structure of the population and household and family composition which has created demand for a range of dwelling types, including one and two bedroom dwellings. The proposed development will provide housing choice and an affordable rental housing option to suit the existing demographic characteristics. Housing NSW also indicate there is a need to increase the supply of affordable rental in Wyong LGA.

### *Impact on Property Values*

The proposed development will replace an existing vacant and overgrown site. It comprises 42 units, includes a component of affordable housing and provides for housing choice in the area. There is a general misunderstanding in the community in relation to the difference between affordable rental housing and social housing, which has increased concern over the perceived impact on property values.

### *Lack of Open Space*

The proposed development complies with the required landscaped areas and exceeds the required amount of communal open space provided within the site. Public open space is also provided directly in front of the site and additional public open space is located at North Entrance Beach, North Entrance Foreshore Reserve and Terilbah Reserve.

### *Concerns over Community Safety and Police Resources*

The community raised concerns in relation to increased anti-social behaviour and lower resident safety from the perceived nature of residents intended to occupy the affordable housing component of the development, and conflict over public space areas, access to the lakefront and privacy/security.

The proposed development has been designed to ensure increased level of passive surveillance from living areas and open space areas over the public domain areas of the lakefront, Wilfred Barrett Drive and the carpark areas.

Current crime statistics show that The Entrance North has a limited number of reported crimes including a low incidence of anti-social behaviour. The NSW Police were consulted in relation to the proposed development and have not raised any specific concerns or objection.

### **Any submission from public authorities**

A copy of the GTA's issued by the NSW Office of Water are included in Appendix C.

The RMS has confirmed that it has no current proposals affecting or requiring any part the property. The RMS also confirmed that its concurrence is required for works, structures, and disturbances to, in, on, under or over classified roads under section 138 of the Roads Act 1993 and recommended a number of conditions of consent as detailed in Appendix A and C.

The RFS has reviewed the proposed development and recommended a number of conditions of consent relating to compliance with the publication '*Planning for Bushfire Protection*'. In assessing the application, the RFS also acknowledged that the Council owned foreshore land to the west of the site is included in Council's Plan of Management for Natural Areas.

### **THE PUBLIC INTEREST (s79C(1)(e)):**

#### **Any Federal, State and Local Government interests and Community Interests**

##### *The Entrance Peninsula Planning Strategy*

The Entrance Peninsula Planning Strategy (TEPPS) was adopted by Council in July 2009. The site is identified as being within Precinct 1, which is described as having the following desired future character:

*Precinct 1 will be the northern gateway to The Entrance Peninsula. It will be a generally low density residential coastal village providing convenient and attractive living for its residents through its landscaped streets and neighbourhood parks. The gateway will also provide links to a small neighbourhood centre in the adjoining Precinct 2, as well as community and open space facilities.*

In terms of building controls, TEPPS includes the following strategies and recommendations that are relevant to building and development control:

- *Restrict building heights to be a maximum two storeys [i.e. generally 6 metres, to the topmost ceiling, for residential and 7.5 metres for mixed use (retail, commercial and/or residential) developments] and encourage coastal architectural design styles in new and redeveloped buildings.*
- *New or renovated residential buildings are to be low scale to maximum height of 6 metres (approximately two storeys) and provide an attractive facade to the street, designed to reflect the coastal character of the area and integrate with existing built forms. Residential flat buildings are to be designed to appear as a number of individual buildings or modules, rather than as a single unit block.*

The proposed development is not inconsistent with the intentions of the TEPPS.

#### *Promoting Choice: A Local Housing Strategy for Wyong Shire*

Promoting Choice: A Local Housing Strategy for Wyong Shire, was adopted by Council in January 2008. The purpose of the Local Housing Strategy is to provide a framework to address the housing choice issues affecting the Shire population. It identifies Council's commitment and role in working towards minimising the level of housing stress in the Shire by retaining and expanding the provision of diverse housing forms. Following on from this, Council is currently undertaking an Affordable Housing Study, although this is only in the initial stages and has not progressed to a point where it can be considered as part of the assessment of the development application.

## **OTHER MATTERS FOR CONSIDERATION**

#### *The Entrance Section 94 Contributions Plan and Shire Wide Contributions Plan*

The site falls within the area for Section 94 Contributions Plan No 3 - The Entrance District and the Shire Wide Contributions Plan. Contributions under Section 94 of the EP&A Act are applicable to development under SEPP (Affordable Rental Housing) and therefore would need to be paid prior to the issue of a Construction Certificate, should consent be granted.

## **CONCLUSION**

Despite the extent of public objection to the proposed development, the information provided with the application demonstrates compliance with the requirements of SEPP (Affordable Rental Housing), has received favourable comment from the external approval bodies (RMS, NOW and RFS) and has satisfactorily addressed social impact concerns through the Social Impact Assessment and referral to the NSW Police Tuggerah Lakes Local Area Command. The site is considered suitable for residential development and approval is recommended.

<b>Appendix A</b>	<b><i>Draft Conditions of Consent</i></b>
<b>Appendix B</b>	<b><i>Architectural Plans, Stormwater Plans and Landscape Plans</i></b>
<b>Appendix C</b>	<b><i>External Referral Comments and General Terms of Approval</i></b>
<b>Appendix D</b>	<b><i>SEPP (Affordable Rental Housing) 2009 Savings and Transitional Provisions</i></b>
<b>Appendix E</b>	<b><i>SEPP (Affordable Rental Housing) 2009 Assessment Table</i></b>
<b>Appendix F</b>	<b><i>Bus Timetables and Maps</i></b>
<b>Appendix G</b>	<b><i>Urban Design Guidelines Assessment Table</i></b>

***Appendix H***  
***Appendix I***  
***Appendix J***

***SEPP 71 – Coastal Protection Assessment Table***  
***Wyong DCP 2005 Chapter 64 Assessment Table***  
***Summary of Public Submissions***