

## JOINT REGIONAL PLANNING PANEL (Hunter Central Coast)

JRPP No	2014HCC018
DA Number	DA/545/2014
Local Government Area	Wyong Shire Council
Proposed Development	Mixed use shop top housing development comprising 126 apartments, shops and a restaurant with parking and ancillary (public domain) works
Street Address	14 The Entrance Road and 2 Ocean Parade Lot 2 DP536168 and Lot 1 DP513519, The Entrance
Applicant/Owner	Mr B Brown (Ingham Planning) - Applicant Pelican Horizons P/L - Owner
Number of Submissions	Seven (7)
Regional Development Criteria (Schedule 4A of the Act)	Capital investment value of \$40 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings</i></li> <li>• <i>State Environmental Planning Policy No. 71 – Coastal Protection</i></li> <li>• <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i></li> <li>• <i>State Environmental Planning Policy 55 – Remediation of Land</i></li> <li>• <i>State Environmental Planning Policy (Infrastructure) 2007</i></li> <li>• <i>Wyong Local Environmental Plan 2013</i></li> <li>• <i>Wyong Shire Development Control Plan 2013</i> <ul style="list-style-type: none"> <li>- <i>Chapter 2.11 – Parking and Access</i></li> <li>- <i>Chapter 2.4 – Multiple Dwelling Residential Development</i></li> <li>- <i>Chapter 2.15 – Public Art</i></li> <li>- <i>Chapter 5.1 Retail Centres</i></li> <li>- <i>Chapter 5.3 The Entrance Peninsula</i></li> <li>- <i>Chapter 3.7 Heritage and Conservation</i></li> <li>- <i>Chapter 6.1 – Key Sites</i></li> <li>- <i>Chapter 6.21 The Entrance - Key Site</i></li> </ul> </li> <li>• In principle agreement for revised terms for a Voluntary Planning Agreement</li> </ul>

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List all documents submitted with this report for the panel's consideration	<b>Officer's Assessment Report Recommended conditions Plans</b>
Recommendation	<b>Deferred Commencement Consent.</b>
Report by	<b>Salli Pendergast – Senior Development Planner</b>

## **Assessment Report and Recommendation Cover Sheet**

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## Assessment Report and Recommendation

### WYONG SHIRE COUNCIL

#### Hunter and Central Coast Joint Regional Planning Panel

#### **DA 545/2014 - Mixed Use Shop Top Housing Development Including 126 Apartments and shops and a restaurant with parking and ancillary works**

##### **Summary**

An application has been received for a mixed use shop top housing development including 126 apartments and retail premises with parking and ancillary works relating to the public domain. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A) 1979 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	Mr Brett Brown (Ingham Planning P/L)
<b>Owner</b>	Pelican Horizons P/L
<b>Application No</b>	DA/545/2014
<b>Description of Land</b>	14 The Entrance Road and 2 Ocean Parade Lot 2 DP536168 and Lot 1 DP513519, The Entrance
<b>Proposed Development</b>	Mixed use shop top housing development including 126 apartments shops and a restaurant with parking and ancillary works
<b>Site Area</b>	3762m <sup>2</sup>
<b>Zoning</b>	B2 – Local Centre
<b>Existing Use</b>	Two vacant lots
<b>Estimated Value</b>	\$40,500,000

##### **RECOMMENDATION**

- 1 That the Joint Regional Planning Panel grant consent to DA/545/2014 at 14 The Entrance Road and 2 Ocean Parade, The Entrance for a mixed use shop top housing development including 126 apartments and retail premises with parking and ancillary works subject to the conditions provided in Attachment 1.***
- 2 That Council advise those who made written submissions of its decision.***

## PRECIS

<b>Proposed Development</b>	Construction of a twenty storey (70 metres high) mixed use development comprising a 3 storey podium containing a restaurant and shops and a tower style building containing 126 residential dwellings including parking and ancillary works.
<b>Permissibility and Zoning</b>	The proposal is permissible as 'shop top housing' under Wyong Local Environmental Plan (WLEP) 2013
<b>Relevant Legislation</b>	Environmental Planning and Assessment Act 1979
<b>Current Use</b>	Vacant land
<b>Integrated Development</b>	No – The approval required from NSW Office of Environment and Water (OEI) under the Water Management Act 2000 will be obtained separately.
<b>Submissions</b>	Seven (7)

## VARIATIONS TO POLICIES

Clause	Clause 4.4 – Floor Space Ratio
Standard	Maximum floor space ratio (FSR) for a building on any land
LEP/DCP	WLEP 2013
Departure basis	The variation equates to under 2% or 300m <sup>2</sup> . Variation sought under Clause 4.6.

Clause	3.2 - Land Use Parking Requirements Table
Standard	On-site parking for the retail tenancies/units
DCP	2.11 – Parking and Access
Departure basis	84% variation but Section 94 contributions to be paid for shortfall and 50% reduction as a key site under DCP Chapter 6.21

Clause	2.11 – Other Public Benefits
Standard	S94 x (1.5 =Public Benefit Ratio) (PB)
DCP	Chapter 6.1 – Key Sites
Departure basis	1.33 proposed (11%variation). A lower PBR of 1.425 was applied as development negotiated prior to adoption of the DCP calculation formula for PBR (ie. 1.5)

Clauses	Clause 1.4 and 2 – Active retail frontage
Standard	Proposed retail uses and restaurant uses are to address all three street frontages for the development to provide active frontages at street level.
DCP	Chapter 6.21 – The Entrance – Key Site
Departure basis	33% variation. Active retail frontages provided for The Entrance Road and Marine Parade street frontages but not for Ocean Parade frontage.

Clause	12.1 – Housing Choice
Standard	10% of units be designed as suitable for adaption for aged persons or persons with a disability
DCP	Chapter 2.4 – Multiple Dwelling Residential Development
Departure basis	Plans do not demonstrate achievable adaptability for any dwellings.

Clause	6.2 – Communal Open Space
Standard	20m <sup>2</sup> /dwelling.
LEP/DCP	Chapter 2.4 – Multiple Dwelling Residential Development
Departure basis	53% variation to area. Complies with SEPP 65. Less than 75% solar access.

Clause	6.2 –Amenity
Standard	75% min 3 hours solar access
LEP/DCP	Chapter 2.4 – Multiple Dwelling Residential Development
Departure basis	Less than 75% solar access.

## THE SITE AND SURROUNDING DEVELOPMENT

The site is 3762m<sup>2</sup> in area and comprises two vacant lots that form an 'L shape' having three street frontages, Ocean Parade (facing south-west), The Entrance Road (facing north-west) and Marine Parade (facing north-east). There is a fall of 6 metres across the site towards the Marine Parade frontage.

The site is located at the northern end of the Entrance town centre mall and opposite Memorial Park which borders The Entrance channel and is a highly used public recreational area. Adjoining the site immediately to the south and west is a small lot on the corner of The Entrance Road and Marine Parade which contains a takeaway food, drive-through business (known as KFC). On the eastern side boundary of the site fronting Marine Parade, there is an existing residential flat development adjoining the site built along the shared boundary. On the eastern side boundary of the site fronting Ocean Parade is a small single storey dwelling house. Beyond this, the site is surrounded by retail land uses and residential development of varying form and densities.



Above: Aerial views of the site showing immediate context and broader context.



Above: Photo of eastern boundary from Marine Parade (left) and from Ocean Parade (right)



Above: Photo looking east from KFC site and from The Entrance Road frontage

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## THE PROPOSED DEVELOPMENT

The development application seeks approval for a mixed use, shop top housing development comprising the following.

- Construction of a podium and tower style building, 70 metres (20 storeys) in height that includes:
  - 1382.8m<sup>2</sup> of retail space (10 tenancies) comprising shops (9 tenancies totalling 813m<sup>2</sup>) at the lower level and a large restaurant tenancy (food and drink premises) at the upper level (570m<sup>2</sup> in area)
  - 126 apartments (35 x 1 bedrooms, 57 x 2 bedrooms, 34 x 3 bedrooms)
- 209 parking spaces (including 10 retail/restaurant and the remainder residential)
- Loading areas and waste storage facilities.
- Landscaping
- Communal open space and facilities (pool, pergola shade structures, BBQ facilities, bench seating and decking)
- Excavation for the basement parking
- Ancillary works

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The site is identified as a 'key site' under Wyong LEP 2013 key site maps.

The proposal comprises a 2-3 storey podium containing shops to the street level and an upstairs restaurant, and above the podium, the construction of a tower style building containing 126 residential dwellings up to twenty storeys (70 metres) in height. The parking takes place over 5 levels of the building with only 1 level at basement level. Vehicular access is proposed from Ocean Parade to service the loading and waste collection area and vehicular access is proposed from Marine Parade for the parking area. The service area has been separated from the car park and the public face of the tower with access via Ocean Parade. The loading dock services deliveries and waste arrangements for both the retail tenancies and the residential apartments. The visual impact of the service area frontage has been minimized by inclusion of stone cladding and timber blades and a feature 'green' wall.

The communal open space for the residential component is located on top of the podium and includes a pool, gardens, seating and a BBQ area. The top level of the building accommodates two large penthouses, one of which has a large rooftop terrace and plunge pool. All apartments have balconies and internal storage areas. The retail component is proposed to operate 7am to 10pm, seven days a week. The development will be connected to the existing public storm water system in Marine Parade.

The development is a high quality contemporary design which is broken into two distinct forms with differing façade treatments. The dominant feature is the curved treatment of the façade that responds to the seaside location. The building bulk is also addressed with two other treatments, including the 2-3 level podium at the building base and the rectilinear form of the eastern part of the tower. The tower has a centralized core around which there are a maximum of 8 units per level. The south eastern façade of the tower contains long rectilinear balconies which are articulated using sliding aluminium shutters which change according to climatic conditions. The north and north eastern aspects of the tower contain curved balconies creating a soft undulating building form. The balcony edge steps at each level to provide a form that is not static but grows out of the public space. The proposal provides for a high level of sustainability including commitments to provide the green building initiatives.



Above: Artist impression of the building from the corner of Marine Parade and The Entrance Road (left) and the loading area from Ocean Parade (right).





Above: 3D view of the development from the south (left) and from the north (right)



Above: Photomontage of the proposal looking north along The Entrance Road (left); looking west along Marine Parade (middle) and artist impression of the same view west along Marine Parade.

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Above: Photomontage of building looking south from The Entrance channel

## HISTORY

### *Relevant Background:*

- Council resolved to endorse the identification of a number of “Key Sites” within Wyong Shire. Council recognized an opportunity to stimulate the economy and create employment opportunities by offering incentives for the short term development of these sites. The development of these key sites shall demonstrate significant net community benefit.



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- RZ/1/2012 was lodged seeking to amend Council's previous Local Environmental Plan (Wyong Local Environmental Plan 1991) by introducing planning controls which support Council's Key (Iconic) development sites program and facilitate a mixed use development on the site. Council's new Local Environmental Plan, Wyong Local Environmental Plan 2013, was gazetted by the Minister prior to adoption of draft Wyong Local Environmental Plan 1991 – Amendment No.190. The site specific development control plan in relation to the planning proposal was adopted by Council on 9 April 2014.
  - A VPA has been executed for the development of the site that is intended to provide for contributions in excess of the S94 amount generated by the development in order to demonstrate significant public benefit under Council's LEP (Clause 7.11) and DCP Chapter 6.1 (cl.2.11)
  - In relation to the current proposal, correspondence was forwarded to the applicant 11 September 2014 raising a number of issues related to the proposal. On 21 November 2014, the applicant responded with amended plans and information seeking to address the issues raised. Included in this information is a deed of variation to the original VPA.

The site has a history of development proposals but to date remains vacant including;

- Development Consent No. DA/2789/2001 dated 19 July 2004 for a commercial development on the site containing shops, commercial premises and residential suite.
- Deferred Commencement Development Consent No.2086/2004 dated 25 May 2005 for mixed use commercial and residential development comprising 85 units, retail precinct and convention centre on the site. (Amendment to this application was approved on 12.12.05).
- Pre-lodgement PL/2/2007 (included the two lots comprising the site *and* the KFC site) for a mixed use retail and residential development with a 3 level retail arcade (cafes, shops and restaurants), a tavern, a large function centre and residential and serviced apartments above the podium (12 storey).
- Pre-lodgement PL/8/2012 reflected the current proposal but with additional floor area proposed for the site.

## **SUBMISSIONS**

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

The application was notified in accordance with Wyong DCP 2013 Chapter 1.2 -Notification of Development Proposals (11 July – 30 August) and 7 submissions were received. The key issues raised in relation to the proposal are identified below.

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- Building height excessive; building out of character; unsuitable for site; excessive bulk and scale

Comment

The building height complies with Council's 'Key Site' controls under Wyong LEP 2013. The relationship of the proposed built form to the surrounding space has been considered as part of the longer term planning for the site and is included under Council's adopted Masterplan for the Entrance. Wyong LEP encourages higher buildings on certain iconic sites than presently exist in The Entrance and this change has been part of long and detailed community consultation through the LEP and DCP adoption process and The Entrance Town Centre Masterplan. The proposal represents an iconic form that will be a benchmark for building quality in the Entrance.

- Overshadowing and solar access

Comment

Shadow diagrams have been prepared for the development at intervals of 9:00am, midday and 3:00pm, on 21 June and 21 December. The diagrams indicate the scenario mid-winter on the shortest day of the year as well as mid-summer on the longest day of the year in order to ascertain shadowing impacts from the development throughout the year.

The building extends across the site from boundary to boundary in an 'L' shape to a height of 70 metres for the tower element. The orientation of the tower component of the building on the site is in an east-west axis and to a certain extent this is dictated by the configuration and location of the site. This results in mid-winter shadows being cast towards the southern side of the development across The Entrance Mall, The Entrance Road and KFC site during the morning period. By midday and into the afternoon mid-winter, the shadowing has receded away from The Entrance Road, Mall and KFC site towards the areas to the east and south east of the site.

There are no unreasonable amenity impacts resulting from solar access loss to any existing surrounding residential development or public areas as a consequence of the development. However, the future potential residential development of the KFC site located adjoining the site to the south is potentially impacted by the proposal. To an extent, proposed shadowing of this site mid-winter is an unavoidable scenario given its orientation, size and location directly south of the subject site. The design and positioning of the tower is setback from the north-western corner of the site allowing for midday and afternoon solar access to the adjoining KFC site. The most significant overshadowing impact resulting from the development is experienced in the communal open space area for the subject proposal. A variation to the DCP Chapter 2.4 (6.3.2) requirement for a minimum of 3 hours of unobstructed solar access mid-winter is sought under the application as a minimum of 75% of the area does not achieve this under the proposal. However, the communal open space is located in two areas (which is permitted under the DCP) and the other area achieves the required solar access and has a high level of amenity containing the pool, landscaping and views across the foreshore.

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The overall extent of shadowing impact resulting from the proposal is not excessive or unreasonable given the nature of the development being high rise and the configuration and location of the site within an established area. The building design has responded to this site attribute by minimising the extent of potential overshadowing. It is acknowledged that shadowing mid-winter is the worst case scenario and at all other times of the year, solar access is greater and shadowing is reduced. Overall, considering the site constraints and the desired increased density of development on the site under Council's latest adopted planning controls, the proposed development is considered to be satisfactory in terms of impacts on the built environment.

- Loss of privacy and residential amenity

Comment

To the east of the site on Marine Parade is a mixed use development that is built to the boundary of the site with no openings. The existing building is orientated to the north to take advantage of views towards the water. This building is 4 storeys stepping back at each level from the street front. The proposal provides for a podium directly adjoining this site and generally consistent with its height. This relationship ensures that the proposal minimises privacy impacts towards this property.

The potential for overlooking of properties along the eastern boundary has been minimised by providing planting along the eastern side boundary elevated communal open space area. Landscape planting along this boundary is proposed to a height of 1.5 – 1.8 metres at maturity. Landscape planting is also proposed on the eastern side of the communal pool area (at the L2 level as shown on plan A-06.04 – DA-4) and conditions will be recommended to ensure this planting achieves privacy for the adjoining property. Physical distance and separation will address potential visual privacy issues. There appears to be some potential for overlooking between units (05 & 06 level 11-19) and this has been addressed by the provision of planter boxes. Overlooking from living areas is addressed by the generous balcony areas included for the eastern and western facing dwellings.

- Permissibility and characterization of use

Comment

The proposal is permissible as shop top housing and concern was raised regarding the definition of shop top housing and the characterization of the development. 'Shop top housing' means one or more dwellings located above ground floor retail premises or business premises. A recent Land and Environment Court judgment (Sheahan 14.8.14) regarding this issue concluded that *to qualify as shop top housing the relevant part of the building must be truly above the relevant retail or commercial parts*. The judgment found that apartments do not need to be 'directly above' only 'above the level of the topmost part' of retail premises. In this instance, there are no dwellings proposed on the ground floor that would not be above ground floor retail activities. A portion of the residential tower is located above the 'shops' and 'restaurant' and a portion is located above the proposed 10 parking spaces associated with the retail land uses (and so appropriately characterized as retail land uses).

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The dwellings are all located at a height greater than the retail activities and as such would be property categorized as being shop top housing (even where some of the dwellings are not directly over the top of the ground floor retail premises). This development should not be restricted more than other restaurants/shops in the mall and within the Town Centre.

- Noise during and after construction

Comment

During construction, the hours for construction work will be limited between 7.00 am and 5.00 pm Monday to Saturday with no construction or works on a Sunday or a public holiday. Likewise the operating hours for the retail component of the development will also be limited under recommended conditions. The hours of operation of the shops and restaurant are limited to between 7.00am and 10.00pm Monday to Saturday, and 8.00am and 8.00pm Sundays. As the location of the loading dock has some potential for noise impacts, times will be restricted for the use of the dock under the recommended conditions. It is acknowledged that the loading activities will be internal to the site. Conditions will be included to operating equipment so to minimise noise and identifying quieter work practices and alternatives. Information and liaison with surrounding residents

- Parking insufficient and unacceptable traffic congestion

Comment

The parking provided for the residential component is in excess of Council's requirements and although there is insufficient parking provided on site for the shops and restaurant, A Section 94 contribution will be required under the recommended conditions to address the parking shortfall. The shortfall in parking spaces will then be provided within Council's existing public multilevel car park. In relation to traffic congestion the applicant's traffic engineer provided a traffic impact assessment for the proposal which was reviewed by Council's Traffic Transport Engineer. The amount of traffic generation associated with the proposal is acceptable and the surrounding roads are considered to have excess capacity to accommodate the expected increase in traffic generated.

- View loss

Comment

The proposal would have an adverse impact on view from a number of properties and to varying degrees. The greatest impact would be on the building to the south of the site across Ocean Parade and also on any redevelopment on the KFC site. Being at the northern part of the town centre, buildings in this area would have views of The Entrance channel and Tuggerah Lakes and also of the ocean and beach. It is arguable whether such views would be considered 'iconic' however they are certainly high quality views.

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The proposal will result in loss of views immediately to the north of the properties referred to above. These views would include part of The Entrance channel and foreshore and possibly the beach and ocean to the northeast. However, there would still be expansive views to the northwest to west and east, including ocean and Tuggerah Lake views. It is acknowledged that the impact on views would range between minor to severe.

The development of the subject site has been part of a very long and detailed process of planning and community consultation during the rezoning phase and masterplan creation. This process culminated in the creation of 'iconic' sites which are embodied in the recently gazetted Wyong LEP and DCP 2013. These planning instruments include height, FSR and setback controls that dictate the nature of building form on the site to a very specific degree. Therefore there has been ample opportunity for the public to make submission regarding the built form on the site and the potential impacts of that built form including view loss. Under the *Tenacity Consulting* planning principle, it is important to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable.

The proposal is generally consistent with these planning controls, with the exception of FSR which is slightly exceeded but does not have any direct impact on view loss. In relation to the main built form controls of height and setbacks, the proposal only achieves the permitted height in a small area of the building and of the site with the whole southern part of the land containing only a podium. This means that views will be retained to a greater degree than would result from a lower, more bulky building spread out over more of the site. The higher, more slender design not only creates 'iconic' form that is so desired but also reduces view impacts. The proposal is also generally setback from the boundaries more than required by the DCP controls.

In order to consider the impact of the view loss it is also important to consider how reasonable it is to expect to retain the views. The properties to the south currently benefit from overlooking a vacant undeveloped site. Therefore the views are a result of an adjoining site being undeveloped and to a level far below its potential. Any development of this site to the height permitted under the LEP, not using the key site height bonus provisions, would impact on views across and through this site from adjoining properties.

The proposal is considered to be reasonable, not only complying with the relevant planning controls, but generally providing a building form which has less view impact that could otherwise occur. Whilst the impact on views may be considerable in some cases, the impact arises from a very long process of planning and community consultation which determined the appropriate planning controls for the subject site. The proposal is consistent with these controls and further has been designed to provide a form which is iconic and allows views to be preserved where they would otherwise be lost.



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- Request condition of noise and dust requirements, dilapidation reports, hours restricting the use of the pool area, construction hours and request for a noise suppressing screen be installed between the pool area and the adjoining property along the edge of the podium.

Comment

Conditions have been recommended to address these matters.

- Proposed variations to DCP

Comment

A number of variations are proposed to Council's DCP and these are outlined above and discussed within the report. The variations are considered reasonable and acceptable in consideration of the complexity and long term planning for the development proposed. The proposal is considered to be consistent with the objectives for each of the controls to which a variation is being sought.

- State Environmental Planning Policy (SEPP) 65 -Design Quality of Residential Flat Buildings considerations

Comment

The proposal is generally consistent with the principles under SEPP 65 (Design Quality of Residential Flat Buildings) and this is discussed in greater detail below and in the compliance table attached to the report.

- Restricts development potential of KFC site. Overshadowing, building separation and privacy. Fundamental error in preparation of site specific DCP

Comment

It is noted that the KFC site is identified as an Iconic Site on the relevant WLEP maps, however, the KFC site is not included under DCP Chapter 6.21 (The Entrance – Key Site). The applicant has provided a concept plan indicating under a future scenario how the proposal will continue to allow for the adjoining KFC site to be developed to achieve its potential FSR. As the KFC site is located directly to the south of a large scale redevelopment site (ie. the subject site), it is difficult to ensure unhindered solar access to this site is retained under the adjoining development of the subject site. However, the applicant's concept plan indicates that around 70% of units would achieve the required solar access (ie those facing west and also those at the upper levels facing east). The proposal is built up to the northern boundary of the KFC site, with openings facing east and west and a blank wall to the northern boundary of the KFC site.

This will allow the potential for an integrated development outcome between the two sites. Also, the southern part of the subject site has only a podium with no tower above which will allow future development on the KFC site to be built close to the boundary without adverse impacts. These aspects provide the KFC site with maximum flexibility in configuration of its built form.

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Additionally, the applicant has argued that reasonable attempts have been made to ascertain that the two sites cannot be developed together. The new owners have not been able to reach satisfactory terms with the owners of this property and as such it does not form part of the subject site for the purpose of the development. Further, the applicant has argued that the building is already large in size and it would be inappropriate in urban design terms and in regard to apartment amenity to artificially force amalgamation of development on these sites.

- Impact of the proposed service area along Ocean Parade (ie. inactive frontage).

Comment

Ocean Parade is not designated as a specific 'active frontage' in the LEP or DCP. A development such as this requires a loading facility and due to the nature of the site which is sloping and affected by groundwater, it is not reasonable or feasible to provide loading within a basement. The proposed location has been selected as it has the least potential for impact on the streetscape and functioning of the town centre. It has been sensitively designed and sleeved in a green wall to ensure a positive contribution to the streetscape of Ocean Parade. Loading times can be limited to ensure noise impacts are minimized.

- Impact of trading hours of 'food and drink premises' on adjoining residential (4 Marine Pde)

Comment

To minimise amenity impacts of neighbouring occupants and residents, a restriction on operating hours will apply to the future use of the shops and restaurant which will include: 7.00am and 10.00pm Monday to Saturday, and 8.00am and 8.00pm Sundays.

- Clarification regarding exhaust ventilation arrangements

Comment

The car park exhaust stack is positioned adjacent to the loading dock driveway and entrance. It will be separated by the driveway (minimum 6m) from the adjacent building boundary on the other side of the road. Each of the shop tenancies are allocated with a kitchen exhaust connection to a central system provision for future food tenant fitout should that be required. However, as discussed elsewhere in the report additional contributions will be required for parking in relation to a change of land use from a shop to a food and drink premises. Fresh air for the kitchen is to be drawn through façade intake grille locally.

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## **Submissions from Public Authorities**

### *NSW Office of Water (Department of Primary Industries)*

The application was referred to the NSW Office of Water (NOW) and a ground water assessment was requested to be provided for the development. A ground water report was provided and NOW advised that based on the information provided by the applicant in the Groundwater Investigation Report (November 2014), which adequately addressed the requests in the Office of Water's letter dated 12 August 2014, there are no groundwater approvals/licences required for the development. No GTA's are therefore issued for the development.

Current NOW policy provides an exemption from licensing requirements for "minor temporary dewatering activities". These are generally classified as activities lasting less than 12 months and where less than 3 megalitres is required to be dewatered. Where these limits are exceeded a licence under Part 5 of the Water Act 1912 is required. The Investigation Report acknowledges the requirement to monitor extraction volumes and apply for necessary licences where required, stating on p 5 "the amount of collected water will be monitored during construction and if the 12 month or 3 megalitre limit is approached a licence application will be made in good time". The Office of Water would support a condition in any consent for the proposal reflecting this process, should the application be approved.

### *NSW Police Force*

The application was referred to the NSW Police Tuggerah Lakes Local Area Command Crime Prevention Officer for comment in relation to Crime Prevention Through Environmental Design (CPTED). In accordance with Council's Protocol, no comment was received within the specified 28 days nominated for comments, therefore Council can not assume that the NSW Police raise no objection to the proposal.

### *NSW Roads and Maritime Authority*

The application has been referred to NSW RMS for comment and no objection was raised and no conditions were recommended.

## **Internal consultation**

The application was referred within Council to the following officers and the issues raised in the referral process are discussed below and in other relevant areas of the report.

### Senior Development Assessment Engineer

Council's Senior Development Assessment Engineer has provided the following advice regarding the proposal.

### *Flooding*

The site is located within the Tuggerah Lakes catchment area and has surface ground levels varying between 2.7m - 9.0m AHD. Council's current Flood Study "The Tuggerah Lakes Floodplain Management Plan" indicates that the 1%AEP flood level within the Tuggerah Lake system is 2.2m AHD and an additional flood freeboard of 0.5m is applied above the adopted flood level.

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It is noted that “The Tuggerah Lakes Floodplain Management Plan” also contains allowances for the predicted sea level rise for the 2050 & 2100. The proposed development is considered a substantial development with large strata subdivision potential and a long term asset life. The car parking basements are accessed via the Marine Parade carriageway where the ramp design can be raised to the 3.1m AHD level to include the current flood level with an allowance for sea level rise. This design requirement is considered necessary to protect against any future risk of flooding inundation due to sea level rise for the asset life of the development. It is noted that the applicant has supported this basement ramp design requirement.

#### *Vehicle and Pedestrian Access*

##### *Basement Access Ramp*

Vehicle access to the proposed basement car parking area is via the basement ramp connecting to the Marine Parade carriageway. The ramp shall be a minimum 6.1m wide and comply with the queuing lengths and grades in accordance with AS 28901.2004. To comply with the above standards and the flooding requirements some minor amendments to the ramp grades as detailed on the architectural plans will be required.

##### *Loading Dock*

The loading dock shall comply with the requirements of AS 2890.2-2002 Part 2: Off-Street Commercial Vehicle Facilities to accommodate a MRV and a smaller delivery vehicle. A Traffic Management Plan shall be prepared to control all loading dock movements from the Ocean Parade carriageway incorporating safe traffic control measures. Forward ingress and egress movements are recommended unless a RMS Traffic Controller certified staff member from the development is present when delivery trucks arrive. The certified person shall supervise any reversing manoeuvres by the delivery vehicles on the Ocean Parade carriageway and place adequate barriers to prevent pedestrians entering the loading dock area.

##### *Pedestrian Access and the Shared Zone*

To provide adequate pedestrian access to the retail and residential areas of the development it is recommended that the Marine Parade footway and carriageway is reconstructed as a “Shared Zone” in accordance with “The Entrance Town Centre Master Plan” and “The Memorial Park Redevelopment Stage 2 Design”. The required works shall include the construction of the footway area in ‘granite setts’ and the trafficable section of the “Shared Zone” in a two coloured ‘granite sett’ pattern to a equivalent half road carriageway width adjacent the site within Marine Parade.

#### *Water and Sewer Servicing*

##### *Water Supply*

Water supply is available to the site however the scale of the proposed development will trigger the requirement for an upgrade of the existing 150mm water main to 200mm diameter from the connection to the existing 375mm trunk main located in The Entrance Road for the width of the development frontage along Marine Parade. These works will be included in the Section 306 requirements.

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### Sewer Main adjustments

The site is currently serviced for sewer via existing sewer lines "A9" and "A10" that gravitate to the Sewerage Pump Station (SPS) BB09 catchment area. Sufficient capacity exists in Council's sewerage network to service the proposed development. Both Sewer Mains will require re-alignment and reconstruction to maintain service to the No.16 The Entrance Road (KFC site) and the upstream catchment area of Ocean Parade. Several sewer alignment options have been prepared by the applicant's Hydraulic Consultant however they will create major encumbrances over the adjoining properties (No.16 The Entrance Road and No.4 Ocean Parade) and are not acceptable to Council. A recent meeting held on 2 December between Council's Engineers and the applicant's Hydraulic Consultant have identified a solution by the provision of new manholes within the building with an acceptable maintenance access arrangement for Council in accordance with Council's Policy for Building over or adjacent Sewer Mains. A revised design plan was submitted to Council on 4 December which shows the proposed alterations to Sewer Lines A/10 & A/9 which are consistent with Council's requirements.

### Water and Sewer Planning

The application was referred to Council's Water and Sewer Planning section for assessment and no objection has been raised subject to satisfactory resolution of the servicing issues associated with the sewer main.

### Urban Designer (Architect)

The application was referred to Council's Urban Designer (Architect) who advised that the proposal generally complies with the 10 principles outlined in SEPP 65 (Design Quality of Residential Flat Buildings). Concern was raised regarding the internal design of Unit #06 (levels 11-19) due to its poor internal design quality with a long narrow shaped living room. More functionality and a better design outcome would be achieved by combining Unit #7 with the western half of Unit #06 to create a two bedroom unit and the remainder of unit #06 (eastern half) as a 1 bedroom unit. This arrangement was suggested in correspondence to the applicant however, was not adopted under the plans.

### Trade Waste

The application was referred to Council's Trade Waste Section who advised that the application will warrant the lodgement of a Liquid Trade Waste (LTW) Application and subsequent approval by Council prior to the issue of a Construction Certificate. The proposed grease arrestor shall be appropriately sized to accommodate not only the T10 retail space (Restaurant) but also any other future retail food outlets likely to operate at these premises in the future. Conditions are recommended to address this matter.

### Traffic Transportation Engineer

The application was referred to Council's Traffic and Transportation Engineer who advised that while this is a large development it is not a significant traffic generator given the high residential component. The uses will attract a high percentage of dual-purpose trips. There is no longer any proposal to close Marine Parade as part of The Entrance Masterplan so access to the carparking via Marine Parade is not opposed. The proposed shared zone on Marine parade will assist in reducing traffic speeds around the access.



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The shortfall in carparking required in the DCP is manageable due to the nature of patronage of the town centre and likely pedestrian travel to the site from the surrounding residential precinct. It is important that the residential component of the parking is adequate.

Senior Health and Building Surveyor (Building Certification)

Council's Senior Environmental Health Officer has reviewed the application and raised no objection to the proposal subject to recommended conditions.

Senior Environmental Health Officer (compliance)

Council's Senior Environmental Health Officer has reviewed the preliminary contamination assessment and raised no objection subject to conditions.

Manager Property Management

The revised terms for the VPA for the application was referred to Council's Property Management Section for comment who advised that the revised figure contained in the deed of variation is acceptable.

Arborist and Landscape Design Assessment Officer

The application was referred to Council's Arborist and Landscape Design Assessment Officer for comment who advised that the Norfolk Island Pine remaining on the site is in poor condition and not suitable for retention. The proposed landscaping of the site addresses the appearance from street level by the inclusion of numerous Tuckeroos which will grow to form a canopy. To address the scale of the development the inclusion of planting of an advanced Norfolk Island Pines in the Northern forecourt is proposed. Planting of the Norfolk Island Pine will require special provision to ensure that the tree remains viable into the future and conditions have been recommended to this effect.

## **ECOLOGICALLY SUSTAINABLE DEVELOPMENT 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 by Council as part of its 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:

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*Sustainable building design* – A BASIX Certificate has been submitted for the residential component of the development, which demonstrates compliance with the water, energy efficiency and thermal comfort targets.

*Reduced Car Dependence* – The site is located within a town centre in close proximity to bus stops to encourage the use of public transport.

## 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, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

## PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/POLICIES:

### Wyong Local Environmental Plan 2013

#### *Zoning and permissibility*

The site is currently zoned B2 Local Centre under Wyong LEP 2013. The current proposal is defined as 'shops', a 'restaurant' and 'shop top housing' and each of these land uses are permissible with consent within the B2 zone. The following definitions are relevant:

**restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

**Note.** Restaurants or cafes are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

**Note.** Food and drink premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**shop** means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises.

**Note.** Shops are a type of **retail premises**—see the definition of that term in this Dictionary.

**retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,

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- (f) kiosks,  
(g) landscaping material supplies,  
(h) markets,  
(i) plant nurseries,  
(j) roadside stalls,  
(k) rural supplies,  
(l) shops,  
(m) timber yards,  
(n) vehicle sales or hire premises,  
but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

**Note.** Retail premises are a type of commercial premises—see the definition of that term in this Dictionary.

**shop top housing** means one or more dwellings located above ground floor retail premises or business premises.

**Note.** Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

The objectives for the B2 zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To permit residential accommodation while maintaining active retail, business and other non-residential uses at street level.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.

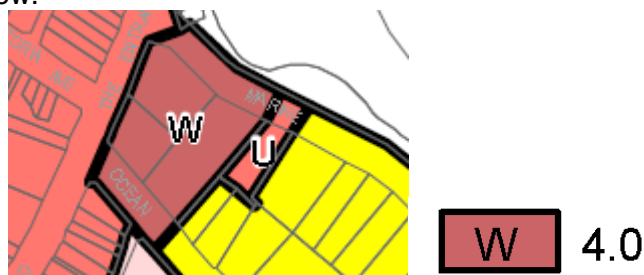
The proposal is considered to be consistent with the B2 zone objectives for the purposes of Clause 2.3(2). The proposal includes the opportunity for a range of retail uses that serve the needs of visitors to and residents of the local area and residential accommodation is provided in a form that maintains the active retail uses at street level.

#### *Height of Buildings (Clause 4.3)*

Under Council's height maps the site is ordinarily permitted a maximum building height of 28 metres. However, the site is identified as a key site whereby the maximum building height is not to exceed the height shown on the Key Sites map of 70 metres.

#### *Floor Space Ratio (Clause 4.4)*

The maximum floor space ratio (FSR) for a building on any land is not to exceed the FSR shown for the land on the FSR map which for this site is 4:1. The proposal exceeds the FSR maximum of 4:1 that applies to the site by 300m<sup>2</sup> which equates to an FSR of 4.08:1 and brings the proposed gross floor area of the proposal up to 15,363m<sup>2</sup>. A variation to this development standard is sought under Clause 4.6 (Exception to development standards) as outlined in detail below.



Above: WLEP -FSR map

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### *Exception to Development Standards (Clause 4.6)*

As outlined above the proposal includes an exception under Clause 4.6 to the required FSR development standard (under Clause 4.4). The intention of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards to particular development, and in doing so, to achieve better outcomes for and from development by allowing flexibility in particular circumstances. Clause 4.4 is not a development standard that is expressly excluded from the operation of this clause under subclause 8. The standard must not be varied unless it can be demonstrated under subclause 3 that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant provided justification in writing and in this instance the exception proposed is considered reasonable.

The objectives for the maximum FSR for the site under Clause 4.4 are:

- (a) to ensure that the density, bulk and scale of development is appropriate for a site,*
- (b) to ensure that the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located,*
- (c) to facilitate development in certain areas that contributes to economic growth.*

The applicant has argued that enforcing compliance would be unreasonable and unnecessary in this case, for the following reasons:

- *The proposal achieves the objectives of the FSR control.*  
*The proposal achieves these objectives as discussed below.*

*a) to ensure that the density, bulk and scale of development is appropriate for a site*

*Comment - The proposal provides for a built form which is less than is permitted by the height and setback controls. The built form is in accordance with the vision for this iconic site which has been the subject of a long and detailed planning and public consultation process.*

*(b) to ensure that the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located,*

*Comment – being an iconic site, the controls are intended to encourage development that is of a scale that exceeds that of surrounding development. However there are specific controls such as limiting the height of the street front building form to 2-3 storeys. The proposal generally complies with this control and provides for treatment that will ensure an appropriate degree of integration with the streetscape.*

*(c) to facilitate development in certain areas that contributes to economic growth.*

*Comment – the controls for the site are specifically targeted at allowing development that will assist in the revitalization and transformation of The Entrance town centre. The proposed FSR will enhance the prospects of the development proceeding and being able to achieve this objective.*

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- Compliance would result in poorer planning outcomes

*One of the objectives of Clause 4.6 is to allow better outcomes to be achieved. In this case, as discussed above, compliance would not result in any significant change to the building form which is already significantly smaller than is permitted by the height and setback controls. Additionally it would reduce the viability of the proposal which is contrary to the objectives of the FSR standard as detailed above.*

- Lack of impact

*As noted in the above discussion, despite the non-compliance, the amenity of surrounding properties will be maintained as the manner in which the built form is configured (ie a higher slender building) will have less impact than a shorter, more 'squat' building. Also the extent of non-compliance is very minor (only 300sqm in a total GFA of 15,363sqm) and therefore enforcing compliance would be unlikely to result in any tangible reduction in impact.*

*The proposed FSR is not only consistent with the main controls that dictate building form (height and setbacks), it appropriately ensures that this highly accessible site is utilised to maximum degree without having any unreasonable impacts, consistent with the objects of the EP&A Act.*

In this instance, and on these grounds, the exception is supported and strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. The extent of variation is considered minor representing less than 2% of the total FSR proposed on the site. This variation will not be discernable and there are no unreasonable impacts associated with the exception.

*Development requiring preparation of a development control plan (key sites) (Clause 7.11)*

Clause 7.11 relates to the development of land identified as a 'key site' on the Key Sites Map. The clause requires the preparation of a site specific development control plan for the development of those key sites in return for bonus development potential being a greater height than ordinarily permitted. The clause reads:

- (1) *The objectives of this clause are as follows:*
  - (a) *to deliver a high standard of design excellence for certain key sites in Wyong,*
  - (b) *to encourage the amalgamation of those key sites to provide opportunities for the expansion of, and improvements to, the public domain,*
  - (c) *to provide a catalyst for the social and economic development of centres within Wyong,*
  - (d) *to deliver significant public benefit to the community.*
- (2) *This clause applies to land identified as "Key Site" on the Key Sites Map.*
- (3) *Despite clause 4.3, the maximum height for a building on land to which this clause applies is the height shown on the Key Sites Map in relation to that land if the consent authority is satisfied that a development control plan that provides for the following matters has been prepared for the land that is the subject of the development application:*
  - (a) *the application of the principles of ecologically sustainable development,*
  - (b) *green building solutions,*
  - (c) *design excellence, including a high standard of expertise in urban and landscape design, interior design, construction and historic preservation,*



- (d) a high standard of architectural design, materials, unique facade treatment and detailing appropriate to the type and location of the development,
  - (e) encouraging sustainable transport, including increased use of public transport, walking and cycling,
  - (f) road access, including the circulation network and the provision of car parking,
  - (g) the impact on, and improvements to, the public domain,
  - (h) environmental constraints, including acid sulfate soils, flooding, contamination and remediation,
  - (i) the relationship between the development and neighbouring sites, including urban and natural environments,
  - (j) the relationship between the development and any other development that is, or may be, located on or near the site in relation to overshadowing, privacy, setbacks and visual amenity.
- (4) This clause does not apply to a development application made 5 years after the commencement of this Plan.
- (5) In this clause, green building solution means a design, construction or operational solution that significantly reduces or eliminates the negative impact of the building to which it relates on the environment and includes strategies for addressing the following matters:
- (a) energy efficiency,
  - (b) greenhouse gas emission abatement,
  - (c) water conservation,
  - (d) waste avoidance, reuse and recycling,
  - (e) pollution prevention,
  - (f) enhanced biodiversity,
  - (g) reduced natural resource consumption,
  - (h) productive and healthier environments,
  - (i) flexible and adaptable spaces.

In accordance with subclause 3, Wyong DCP Chapter 6.21 (The Entrance – Key Site) was adopted for the site. This DCP Chapter provides for the nominated matters under WLEP Clause 7.11 for the future envisaged development of the site to the maximum height permitted on the key sites map. The key sites map allows for a maximum building height on the site of 70 metres and the proposal has been designed to comply with this maximum height.



Above: WLEP -Key sites map of height

#### *Acid Sulphate Soils (Clause 7.1)*

Clause 7.1 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 3 which requires that for any works more than 1 metre below the natural ground surface or for any works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface, an acid sulfate soils management plan is to be prepared for the proposed works in accordance with the Acid Sulfate Soils Manual .

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In accordance with subclause 4a, a preliminary assessment regarding the risk of acid sulphate soils within the proposed excavation works was included under the geotechnical report submitted for the proposal. The assessment report identified some acidic soil bands at a depth ranging between 4 – 10 metres and recommended that given the uncertainty as to whether the acid trial results constitute Actual Acid Sulphate Soils or otherwise, retesting of soils using a chromium reducible test method should be undertaken during construction activities. It was suggested that excavation of these soils be undertaken under a management plan which should address the pH levels of the soil at the time of excavation.

#### *Essential Services (Clause 7.9)*

Clause 7.9 requires that services that are essential for the development are available or that adequate arrangements have been made to make them available when required prior to consent being granted. These services include water supply, electricity supply, sewage management and disposal, stormwater drainage or on site conservation and suitable road access. The proposal complies with the requirements of the clause.

#### **State Environmental Planning Policies (SEPP)**

##### *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings*

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings applies to the development and requires the design quality of the residential flat development to be taken into consideration and evaluated against the ten design quality principle, and the Residential Flat Design Code. The proposal is accompanied by a Design Verification Statement prepared by the architect of the building addressing the SEPP 65 design principles as follows.

Principles	Proposal
Context	The proposed development responds to its context and the desired future character of the area as reflected in Council's current controls for the site. The north-western corner is an important civic focus and efforts have been made to minimise the visual impacts of the development to the Ocean Parade frontage. The site book ends the commercial precinct and acts as an iconic element at the northern end of The Entrance. The fall across the site allows for the development to activate two levels from the ground. The proposal preserves the future development potential of the adjoining KFC site both at the basement car park levels and the ground and podium levels. The proposal overlooks Memorial Park which is the primary open space in the town centre. The surrounding development exhibits no particular architectural style and new built form on the 'key sites' should exhibit a high order design aesthetic in order to establish a benchmark architectural style for the area.

Scale	The development achieves strict compliance with the height and setback controls for the site. The proposal demonstrates an appropriate scale in terms of bulk, height and building separation to contribute positively to the desired future character of the area. The scale enables the delivery of an iconic building form that can be acknowledged from North Entrance and can have a dialogue with built forms envisaged for other key sites. The building forms an iconic reference point and urban node for the northern end of The Entrance. The building bulk has been broken down through the use of balcony fenestration and a reduction in the tower footprint through an increase in height. The proposal includes a stepping in of the built form through a curved balcony design.
Built Form	The proposed development achieves an appropriate built form in terms of building alignment, setbacks, proportions and articulation of building elements. The building form defines the public domain, making a positive contribution to the streetscape and open space areas. The building form is defined by the use of balcony fenestration and articulation of tower versus podium. The proposal includes curvilinear forms that compliment the seaside location.
Density	There is a minor variation sought to the FSR and the development has a density appropriate for its location and context in terms of FSR and physical form.
Resource, Energy and Water Efficiency	The proposal makes efficient use of natural resources and water, including the harvesting, storage and reuse of rainwater, and the use of energy efficient building materials and appliances. The proposal looks to embrace ecologically sustainable design principles. The overall orientation of the building
Landscape	A landscape scheme has been designed for the site including screen planting, podium and rooftop garden. The landscape design achieves a high quality landscaped environment for future residents.
Amenity	<p>Amenity is optimised through appropriate room dimensions and configurations, sunlight access and natural cross ventilation. Room shapes enable easy furnishing and habitable rooms have been designed with good access to sunlight and natural ventilation (ensuites/WIR's etc positioned away from the building perimeter). No kitchen is more than 8m from a window and there is a maximum of 8 units per floor. The depth of the building is generally 15-18 metres.</p> <p>The built form capitalises on the building's location and orientation and good distance views in all apartments. Large balconies, courtyards and terraces have been provided to reflect the lifestyle of using these as external rooms. The proposal includes generous communal open space including a pool covered area and other facilities. The internal layout enables a full use of available space including good storage and reduces unnecessary corridors. The concept of a centralised core enables easy access to units and a reduced lobby area. All units can be accessed by mobility impaired persons.</p>
Safety and Security	The proposed development optimises safety and security by activating both northern and western frontage, surveillance of open space/ communal areas and providing clearly identifiable building entrances. The residential above overlooks the surrounding streets and park, giving passive surveillance to the area. A defined security lobby provides access to each unit with no ground floor units proposed. Where the development abuts the street, surveillance systems (including CCTV) will be installed in public areas and in and around the loading dock area. Access control measures will be included within the car park area

Social Dimensions	The proposal optimises the provision of housing to suit the social mix and needs of the desired future community. The proposal provides a range of affordable unit types to meet market and lifestyle needs. In particular, the proposal provides a mix of apartment types to complement the mix of accommodation contemplated in the wider locality. The built form seeks to give definition to surrounding public spaces and to activate the street edges. It aims to book-end the northern end of The Entrance Road and to create a new civic node. Together with adjacent cafes the proposal could provide a new communal meeting place and reinforce the relationship to the adjacent war memorial.
Aesthetics	The proposed development provides an appropriate composition of building and open space elements, textures, materials and colours to reflect the uses, internal design, structure and relationship. The aesthetic approach seeks to reflect the natural character of the surrounding environment using flowing and curving forms. While the building will be predominantly white, accent colour and texture will be used to reinforce the building form. The design aims to knit together the urban gap that currently exists through an active edge and a building that delivers a dynamic iconic form that will set a new architectural benchmark for The Entrance. The western façade of the building engages with this important corner and creates a recognisable urban node.

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

State Environmental Planning Policy No.71 – Coastal Protection applies to the development. The site is located wholly within a coastal protection zone under the SEPP. In accordance with Clause 7, the proposal has been assessed within the context of the matters for consideration outlined under Clause 8 and found to be satisfactory (as outlined in the attached table Appendix A). In relation to Clause 18, it is noted that the proposal does not involve any land subdivision of the site and therefore a masterplan is not required to be adopted by the Minister for the proposal.

The proposal has also been considered under Part 4 of the SEPP and is generally consistent with this part. The proposal will not impact on foreshore access and will improve the amenity of the foreshore through a financial contribution (through a VPA) to future public domain upgrading works. The site is not located in a highly prominent location such as a headland, however it is locally prominent and the implications of the visibility of the building from a range of locations has been considered in the long term and detailed planning for the proposal in the adoption of Councils recent planning controls to allow for this form and scale of development on the site. The site is not directly affected by coastal processes and the proposal will not affect natural environments.

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

The proposed development is a 'BASIX affected development' as defined within the Regulations and consequently, a BASIX Certificate has been submitted with the development application. The BASIX Certificate identifies compliance with water, thermal comfort and energy targets.

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## *State Environmental Planning Policy 55 – Remediation of Land*

Clause 7(1) of State Environmental Planning Policy No. 55 requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and if contaminated that the land is suitable in its contaminated state (or will be suitable, after remediation) for the development proposed to be carried out. Clause 7(2) requires where there has been a change of use on any of the land (as specified under subclause 7(4)), that Council consider a report specifying the findings of a preliminary investigation of the land in accordance with the contaminated land planning guidelines. In this regard, a preliminary contamination assessment prepared by Douglas Partners was carried out. The soils adjacent to the Marine Parade site boundary were identified as containing bonded asbestos fragments that should be excavated and disposed of separately by an asbestos removal contractor. The report provides a number of recommended management practices for the site prior to building works commencing.

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

Development applications with an estimated capital investment value exceeding \$20 million are to be determined by a Joint Regional Planning Panel under the provisions of Schedule 4A of the Environmental Planning and Assessment Act 1979 and State Environmental Planning Policy (State and Regional Development) 2011. The proposal has a capital investment value of \$40 million and is therefore referred to the Hunter and Central Coast Joint Regional Planning Panel for determination.

## **Wyong Development Control Plan 2013**

### *DCP 2013 Chapter 6.21 – The Entrance - Key Site*

DCP 2013 Chapter 6.21 – The Entrance - Key Site was prepared as a site specific DCP for the site in accordance with Clause 7.11 of WLEP. The DCP contains the information outlined within Clause 7.11 for the development of the site.

- *Design and layout*

The development provides active frontages with retail activities at street level. However, the DCP (under Clause 1.4 and 2) requires that a mix of residential, commercial, retail uses and restaurants 'address all three street frontages' for the development in order to achieve an active frontage at street level for all three frontages. However, the proposal seeks to vary this requirement. Whilst the frontages to Marine Parade and The Entrance Road both contain active retail frontages, the Ocean Parade frontage has been designed to accommodate the servicing arrangements for the development. This arrangement includes the delivery/loading docks and waste collection point.

The applicant has argued that this arrangement is necessary as the servicing arrangements are positioned along the frontage with the least interaction with existing prominent public areas (ie. the mall and the foreshore reserve areas). In this site context, the Ocean Road frontage is the least visually and functionally prominent and the variation is considered necessary and reasonable. To minimize the visual impacts of this service area, the design includes a feature 'green wall' facing the street frontage. The idea of this wall is to sleeve the building and soften the appearance with this façade within the streetscape. Additionally, the Ocean Parade façade also includes a variety of external materials including timber look aluminium aimed at minimizing any potential visual impact this area may create within the streetscape. The development also proposes a street tree be planted along the Ocean Parade street frontage to further soften the appearance of the front of the building.

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DCP Chapter 6.21 (C1.2) requires the building design to demonstrate the potential to amalgamate or link with any future development on KFC site. The applicant has advised that the proposed building is already large and it would be inappropriate in urban design terms and in regard to apartment amenity to artificially 'force' amalgamation of development on these sites. As indicated in the submitted ~~SEE~~, the proposal maximizes the flexibility in developing the KFC site to the relevant height and FSR by allowing the building to be built up to (or close to) the northern and western boundaries.

Clause 1.7 of the DCP permits variations where the proposed development satisfies the DCP Chapter 6.21 aims and objectives. The development is considered to be consistent with the majority of DCP aims and objectives. In this regard, the development is considered to have an appropriate scale, texture and materiality that is sympathetic to the character of The Entrance' and 'incorporate high quality coastal design. Additionally, *'the site provides an opportunity to improve the public domain function and amenity, and continue the use of the pavement for outdoor dining/activities, theme paving, appropriate street plantings and decorative lighting'*. However, the proposal does not comply with the first aim which is the same as the second requirement under Clause 2 of the DCP, the requirement for all three street frontages to be activated by the development. Despite this, the proposal is considered to be satisfactory as discussed above, and in this instance the DCP variation is considered reasonable.

The DCP also states that vehicular access arrangements are to be from Marine Parade and Ocean Parade only and the proposal complies with this requirement. Tree planting is proposed along both of the frontages and all internal parking and loading areas are well screened from surrounding streets and other public places.

- *Parking*

Clause 2.7 of the DCP requires that parking for the development be provided in accordance with the rates under Chapter 2.11, however, parking for cafes, restaurants, shops shall be reduced by 50% to encourage the provision of such uses in acknowledgement of:

- the residential density of the surrounding area,
- the use of these facilities by the residents of the development and
- the shared and multi-purpose nature of trips by tourists and visitors in general to this part of The Entrance.

The parking for the development is discussed in detail within the context of compliance with DCP Chapter 2.11 (Parking and Access).

- *Other aspects and compliance*

The other aspects of the DCP and the proposal are outlined in the table attached to this report and are considered to have been achieved.

#### *DCP 2013 Chapter 6.1 Key Sites*

The site is identified as a key site under DCP Chapter 6.1 - Key Sites to which Clause 3.2 (Vacant Key Site – 14 The Entrance Road and 2 Ocean Parade) and Clause 3 (Generic Development Controls) apply. The proposal is considered consistent with the DCP objectives and the following generic development controls:

Controls	Proposal
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• Design Excellence	The proposal includes an innovative design that achieves a high quality building with an imaginative use of space, form and materials.
• Design Quality	As previously discussed the design achieves the ten (10) SEPP 65 principles.
• Green Building Design	The proposal achieves a better than complying outcome in relation to BASIX and Section J of the Building Code of Australia.
• Livability	The proposal is in a podium and tower configuration and contains a substantial communal open space area that includes a pool and active recreation space. These areas are provided with landscape screen planting and facilities for the occupants.
• Employment Generation	The provision of retail floor space will create increased local employment opportunities available in the longer term and during construction the proposal will create temporary local employment opportunities.
• Pedestrian Access	The proposal will encourage increased levels of pedestrian activity along the surrounding streets and adjacent open space areas and is designed to enhance pedestrian desire lines. The proposal integrates well with the streetscape and will contribute to an improved public domain outcome. The proposal maximizes active space to the street.
• Traffic/Public Transport/Vehicular Access	The proposal is within an existing town centre location where some public transport is available. The potential traffic impacts associated with the proposal have been assessed and are considered minimal. The access arrangements for the development are satisfactory with parking access from Marine Parade and service truck access via Ocean Parade.
• Carparking	The residential component of the development complies with the required on-site parking provision, however, only 10 spaces have been provided on site for the retail activities and restaurant. A contribution for carparking under Council's Section 94 plan for the area will be levied for the remaining required spaces. These monetary contributions will go towards payment of the Council owned public car park within close proximity to the site.
• Natural Hazards	The proposal is not subject to any natural hazards that would constrain the development of the site as proposed.
• Public Domain	The proposal will improve the amenity and civic quality of the public domain and existing street frontages through its integrated design, its financial contribution to public domain improvement works and its iconic form providing a high urban design quality.
• Other Public Benefits	An amended VPA is proposed which is intended to address the requirement for significant public benefit in order to warrant the key site provisions of the LEP. Although the public benefit will not strictly satisfy the DCP calculation ( $PB = S94 \times (1.5 = \text{Public Benefit Ratio})$ ) it is noted that the negotiations for the proposal pre-date the DCP control.

The proposal is generally consistent with the objectives and requirements that specifically apply to the subject site under Clause 3.2.

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Clause 2.11 of Chapter 6.1 requires significant public benefits to be provided to the community in return for bonus development potential and to stimulate further development, vitality and viability of town centres. This clause specifies that the site specific DCP must provide a detailed proposal for significant public benefit in addition to any development contributions levied in accordance with an adopted S94 contribution plan. It requires the following criteria to be satisfied prior to the granting of development consent.

A     *The following criteria must be satisfied prior to the granting of development consent:*

- i     *A contributions plan must apply to the land, or an appropriate Voluntary Planning Agreement has been entered into in respect to the development of the land; and*
- ii    *Any consent granted must be subject to a condition that requires developer contributions having a value no less than the public benefit value ("PB") calculated in accordance with the following formula:                 **PB = (s.94 x PBR)**, where:*

***s.94** is the value of s.94 contributions generated, excluding any contribution for carparking; and*

***PBR** is the Public Benefit Ratio, which is:*

- *2.0, where the maximum height of the development exceeds 70 metres or the ratio of the height of the development to the maximum height that would be permitted under cl. 4.3 of the WLEP, 2013, is equal to or greater than 3.0; or*
- *1.5 in all other circumstances.*

In accordance with Clause 2.11 a Public Benefit of 1.5 (PBR) x S94 is ordinarily applicable to the development of the site. However, a lesser PBR of 1.425 was negotiated for the development of the site prior to the DCP being adopted during the planning proposal stage.

The proposal is required to demonstrate that significant public benefit will be delivered by the proposal and accordingly that the additional building height permitted under Clause 7.11 is acceptable. As such, a Voluntary Planning Agreement (VPA) was executed for the development of the site by the applicant and Council based on the PBR of 1.425. However, the VPA amount was based upon a different set of plans to the set that was lodged with the development application and the earlier proposal generated a lower Section 94 contribution than the proposal being assessed.

As such, the public benefit contribution (over and above the required Section 94 contribution) had been reduced and compliance with the required public benefit ratio (PBR) under DCP Chapter 6.1 (Key Sites) has been further reduced, therefore justification for the additional height of the development permitted under WLEP Clause 7.11 was raised as a concern.

In response to Council's concerns, the applicant tabled a revised offer for the VPA that would see the full amount of the additional Section 94 Contributions generated by the revised proposal paid for, however, the applicant has advised that the net amount over and above the Section 94 contributions would remain unchanged from the original VPA. DCP Chapter 6.1 requires that in accordance with the PBR calculation the net amount would necessarily increase with the increase in the Section 94 amount. Although the revised proposal represents a reduction in the PBR (from 1.425 to 1.33) Council's General Manager and Mayor have utilized their business continuity delegations and have considered the revised VPA offer. This revised VPA offer has been determined to be sufficient and in line with the public interest.

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The revised VPA from the applicant is required to be placed on public exhibition and executed by Council. A deferred commencement condition has been included to this effect.

#### *DCP 2013 Chapter 5.1 - Retail Centres*

Under DCP Chapter 5.1, the site is located within a 'town centre' (ie. The Entrance Town centre) under the retail network plan. The proposal includes 1382.8m<sup>2</sup> of new retail floor space within the centre and in accordance with Clause 5.1 the additional floor space will not detrimentally affect existing centres identified within the Wyong retail network.

The design of the development is consistent with the design criteria outlined under Clause 6. The building defines and creates the street and public spaces. Retail activities are on the street level and shop fronts will create visual interest and safety for pedestrians. Awnings extend over the footpath and corner elements are expressed in the building design and façade. The architectural character and articulation of the building provides visual interest, legibility and human scale. Public domain works are planned for along the street front of the development site which will be provided from the contributions payable by the development.

#### *DCP 2013 Chapter 5.3 - The Entrance Peninsula*

The proposal is consistent with the relevant aims and requirements of DCP Chapter 5.3 that are not already addressed under the site specific DCP Chapter adopted for the site. The architectural design of the building is consistent with the coastal character considerations for mixed development in The Entrance under Clause 2.7. In this regard the proposal:

- promotes an outdoor lifestyle and encourages increased levels of pedestrian activity,
- stimulates high levels of pedestrian and business activity, and
- protects scenic quality.

The proposal is also consistent with the relevant design considerations under Section 4 including transport and access infrastructure, public open spaces, active frontages and the Key Sites requirements under Section 5.

#### *DCP 2013 Chapter 3.1 – Site Waste Management*

In accordance with DCP Chapter 3.1, the applicant submitted a comprehensive Waste Management Plan for the development outlining the waste disposal, re-use and recycling (on and off site) for the construction and operational stages of the development. A condition has been included requiring the development to be carried out in accordance with the submitted management plan.

#### *DCP 2013 Chapter 3.7 Heritage and Conservation*

The site is located opposite Memorial Park which is identified as containing two local heritage items under WLEP 2013 including:

- Carnival including carousel and Alfred Bruder Organ (Item 181)
- WW1 monument in Memorial Park (Item 197)

The proposal will not have any direct impact on these heritage items. The proposal will generate more pedestrians and allow for greater exposure and enjoyment of the historic items.

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#### *DCP 2013 Chapter 2.4 – Multiple Dwelling Residential Development*

DCP Chapter 2.4 clause 6.1.6 requires that for development above shops each dwelling shall have a private balcony, terrace or ground level courtyard comprising at least 10m<sup>2</sup> in area with a minimum dimension of 2 metres directly accessible from a living area of a dwelling. Additionally, under the DCP communal open space is required to be provided on site in up to 2 locations at a minimum rate of 20m<sup>2</sup> per dwelling with a minimum dimension of 5 metres.

The proposal does not comply with the minimum area requirements for the required communal open space (proposing 9m<sup>2</sup>/dwelling) under the DCP additionally, some of the balconies proposed under the amended plan appear very close to the minimum required area for private open space (ie. units 06 & 07 floors 5-10). The proposal therefore seeks a 53% variation to the DCP required communal open space provision. In this instance it is acknowledged that the proposal does comply with the SEPP 65 requirements which includes a minimum required area of 9m<sup>2</sup>/dwelling. Additionally, the site has a high level of surrounding amenity and is located adjacent to existing public foreshore open space. The development will directly benefit from the close proximity of this public open space to the site. The variation to the DCP requirement for communal open space is considered warranted.

DCP Chapter 2.4 Clause 6.3.2 requires a minimum of 3 hours of unobstructed solar access mid-winter to a minimum of 75% of the communal open space area. The proposal does not achieve this due to the orientation of the communal open space relative to the tower building. A variation is therefore sought under the application to the control as it does not achieve a minimum of 75% solar access to the area.

The applicant has argued that although the proposal does not comply with both of the above requirements in relation to communal open space provision, the communal open space is located in two areas (which is permitted under the DCP) and the other area achieves the required solar access and has a high level of amenity containing the pool, landscaping and views across the foreshore. The variation is considered satisfactory.

Clause 12.1b of the DCP requires the provision of 10% of units be designed as suitable for adaption for occupation by aged persons or a person with a disability. The proposal does not comply with the requirement and conditions will be recommended to ensure compliance is achieved.

#### *DCP 2013 Chapter 2.15 – Public Art*

DCP Chapter 2.15 requires major development to implement public art as part of the development. The DCP defines 'major development' as referring to commercial, public administration, and retail (shops) development valued at \$5 million or greater in terms of total development cost. The estimated value of the non-residential component does not exceed \$5 million.

#### *DCP 2013 Chapter 2.11 – Parking and Access*

The development generates on-site parking on the following basis under Chapter 2.11 of the DCP.

The residential component comprises 126 apartments which includes 35 x 1 bedrooms (generating 35 spaces); 57 x 2 bedrooms (generating 68.4 spaces); and 34 x 3 bedrooms (generating 51 parking spaces). The parking demand generated by the residential units under the DCP totals 155 spaces plus 31 visitor parking spaces are required.

Proposal	Required	Provided
Multi Dwelling Housing and Residential Flat Buildings	<p>1 space per 1 bedroom dwelling</p> <p>1.2 spaces per 2 bedroom dwelling</p> <p>1.5 spaces per 3 (or more) bedroom dwelling</p> <p><i>Note: The above requirements may be reduced to 1 space per dwelling if development is in the Regional Centre or a District Centre, subject to submission of a Transport Management Plan and approval by Council.</i></p> <p>In addition, 1 space per 5 units for visitor parking with a minimum of 1 visitor space per development</p> <p>1 visitor space is to be available for car washing</p> <p>On average, only one space per unit is to be allocated as resident parking. The remaining spaces are to be provided as separate parking and available for common use at all times</p>	186
Take Away Food & Drink Premises:		0
<ul style="list-style-type: none"> <li>With No Seating and No Drive Through</li> </ul>	<p>12 spaces per 100m<sup>2</sup> GFA.</p> <p>Service Requirements: 1 space</p>	
Restaurant and Function Centre	<p>15 spaces per 100m<sup>2</sup> GFA or 1 space per 3 seats, whichever is the greater</p> <p>Service Requirements: 1 space per 400m<sup>2</sup> GFA up to 2,000m<sup>2</sup> GFA then 1 space per 1,000m<sup>2</sup> thereafter.</p>	8
Shops in District Centre	<p>For GFA (m<sup>2</sup>)                      Spaces/100m<sup>2</sup> (GFA) #</p> <p>Up to 13,000m<sup>2</sup>                      4.7</p> <p># Parking rates may be reduced subject to approval of a TMP by Council</p> <p>Service Requirements: 1 space per 500m<sup>2</sup> GFA</p>	2

There are 209 parking spaces proposed over five levels of the building with direct access from Marine Parade. The proposed parking for the development includes:

There are only 10 parking spaces proposed to be allocated for the retail/restaurant floor area within the building. One of these is required to be an accessible parking space and one space is required to be a delivery/service space. The shortfall in onsite parking only applies to the retail/restaurant component of the development as the residential component provides on-site parking in excess of the DCP requirements. Additionally, a 50% reduction in parking demand applies to the development of key sites (under DCP Chapter 6.21 Clause 2.7). The parking demand for the retail and restaurant uses proposed within the development are outlined as follows in the tables below.

Land Use	Floor Area	DCP 2.11 Parking rate	DCP Required spaces	Required parking (after 50% reduction)	Proposed
Retail	813m <sup>2</sup>	4.7 /100m <sup>2</sup> (GFA)	38	19	-
Restaurant	570m <sup>2</sup>	15/100m <sup>2</sup> GFA	85.5	43	-
<b>TOTAL</b>			123	62	10
<b>Shortfall</b>	52 (after 50% reduction and credit for 10 on site spaces)				

In the event that the ground floor retail units were assessed at the 'take away food and drink premises' rate, the parking would be as follows:

Land Use	Floor Area	DCP 2.11 Parking rate	DCP Required spaces	Required parking (after 50% reduction)	Proposed
Take Away Food and Drink	813m <sup>2</sup>	12/100m <sup>2</sup> GFA	97.6	49	-
Restaurant	570m <sup>2</sup>	15/100m <sup>2</sup> GFA	85.5	43	-
<b>TOTAL</b>			183	92	10
<b>Shortfall</b>	82 (after 50% reduction and credit for 10 on site spaces)				

The shortfall in 52 spaces for the retail/restaurant component is to be paid under a Section 94 contribution plan that applies to the site for any car parking shortfall. The applicant has argued that the ground floor tenancy units be assessed under the DCP as 'shops' rather than 'take away food and drink premises' so as to reduce the car parking contribution rate. Any future use of these units as 'take away food and drink premises' would generate an additional parking contribution at the higher parking rate under the DCP. The large upper level tenancy (L2) is to continue to be assessed as a restaurant for the purposes of parking generation. The applicant has argued in support of the variation to parking as follows:

- *The retail tenancies will be predominantly patronised by people who are already in the locality and will walk to the site. This includes day visitors whose parking needs have already been met elsewhere within the town centre; as well as people who live or work in the area, including residents within the subject development itself;*
- *The restaurant premises will similarly draw on people who are already in the area for other reasons;*

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- *As a mixed use development, there is an element of sharing of parking, so that the simple addition of parking for individual uses does not account for the fact that peak demands will not overlap in some cases, so that sharing can occur. Peak retail demands, for example, will occur throughout the day, while the restaurant and residential visitor demands will peak during the evenings*

Clause 3.11 of Chapter 2.11 also contains a provision for a reduction in the cumulative parking allowances within large scale multiple use developments where there are dual and complimentary uses of parking areas which is expected to reduce the total parking demand. However, no numerical figure is provided. The DCP states that the reduction should be identified in the Traffic Impact Study/Traffic Management Plan with specific details for justification for any discount in parking numbers for consideration by Council.

A Traffic and Transport Management Plan (TMP) accompanied the proposal in accordance with Appendix B of the DCP Chapter. However, the applicant's traffic report does not identify any methodology or justification for any further discount in parking numbers within their TMP. The TMP examines the likely traffic generation from the development and identifies a shortfall of 52 spaces. The applicant argues for a further reduction in parking under the traffic report as being reasonable and warranted however no figure or calculation is provided for this further reduction being sought. The traffic report simply states:

*Having regard for these factors, a further concession to the 'nominal' shortfall of 52 parking spaces is considered reasonable and warranted. Nevertheless, this can be the subject of further detailed discussions in the context of Section 94 parking contributions. The 10 retail spaces are also considered sufficient to accommodate all staff parking demands.*

Clause 3.8 of the DCP outlines the bicycle parking requirements for the development which includes bicycle parking facilities at a rate of one per three dwellings for residential flat development and one bicycle space per ten car spaces for any other type of development. Bicycle parking racks to accommodate 50 bicycles have been provided within the basement car park level. Whilst this number complies with the DCP, it is noted that these spaces do not appear to be able to be accessed by the users of the retail tenancies.

Clause 3.9 outlines parking for motorcycles and motor scooters and requires that parking is to be provided at a ratio of at least 1 motorcycle space per 50 car spaces. Seven (7) motorcycle parking spaces are proposed for the development and are located on the lower ground floor level. It noted that four of these spaces are available to the retail tenancies. Visitor parking is required to be provided for multiple dwelling residential development at a rate of 1 space per 5 units and the proposal complies. Parking for visitors is to be accessible at all times and any security arrangements will need to account for this.

Clause 3.14 relates to the application of development contributions for those developments that do not provide the required amount of on-site parking. The clause states that:

*"Parking required to meet demand is expected to be provided on site. However, where an appropriate Section 94 Contributions Plan for carparking is in place and the required amount of carparking for a development is not able to be provided on site, Council may permit the payment of a contribution for the number of parking spaces that are deficient. This will depend on the availability of other parking options as determined by the relevant Section 94 Contributions Plan and a satisfactory proportion of spaces being provided on-site..."*



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A total of ten spaces are proposed on site for the retail units and of these ten spaces one space is required to be designated for delivery and service operations (including emergency vehicles) and one space is to be designated as an accessible space. This results in only eight on site general spaces for staff/visitors. As there is not sufficient spaces to allocate one space per unit (being 10 units in total), a condition will be included that the spaces remain common to all the retail units to ensure their use is maximised. The shortfall is considered satisfactory in the local context of the site within the town centre having regard for the following;

- the nature of the development as a key site catalyst for other development within the area;
- and the payment of a contribution under Council's Section 94 plan for the area of a minimum of 52 parking spaces to satisfy the future parking demand generated by the use of the nine lower ground floor retail units (T01-T09) as 'shops',
- and the use of the upper level tenancy on L2 (known as T10) as a restaurant.

Loading and unloading for the development has been designed to cater for two medium rigid vehicles with access from Ocean Parade. Garbage collection vehicles for both residential and non residential uses will occur within this delivery dock and are considered satisfactory.

## **LIKELY IMPACTS OF THE DEVELOPMENT:**

### *Locality and Streetscape*

Although the design is modern in form and appearance, the architectural character of the development is acceptable within the locality and streetscape.

The development will increase the pedestrian activity in and around the site and incorporates treatments along the Marine Parade frontage

The proposal has been designed to minimise any potential to adversely impact on the character and amenity of the locality and streetscape and will not detract from the scenic qualities of the area.

### *Privacy, overlooking and boundary treatments*

The adjoining dwellings located along the eastern side boundary are potentially affected by overlooking and privacy impacts from the future occupants of the development. The applicant has included considerations to address privacy impacts through the design of the building, particularly the balconies and communal open space areas.

Overlooking potential is minimised by providing planting along the eastern side boundary elevated communal open space area. Landscape planting along this boundary is proposed to a height of 1.5 – 1.8 metres at maturity. Landscape planting is also proposed on the eastern side of the communal pool area (at the L2 level as shown on plan A-06.04 – DA-3) and conditions will be recommended to ensure this planting achieves privacy for the adjoining property.

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### *Traffic generation*

The traffic report estimates the likely traffic generation for the residential component of the development to be in the order of 67 vehicles per hour during the peak periods. Of these trips 80% will be out in the morning and returning in the afternoon. The traffic report estimates the likely traffic generation for the shops and restaurant land uses within the development to be in the order of 6 vehicles per hour during the peak periods. The balance of the required customer spaces will generate an additional 20-30 vehicles per hour trips, however these will be provided off site by way of a contribution for the parking shortfall to be located within Council's existing carpark.

The PM period will be associated with a total combined traffic generation of 103 vehicles per hour. The traffic report regards this as a low traffic generating development with minimal impacts. Key intersections (Marine Parade/The Entrance Road, Marine Parade/Central Coast Highway, site access) will continue to operate satisfactorily post development with no expected change to the existing levels of service. In this regard, the surrounding road network has sufficient spare capacity to accommodate the additional traffic flows proposed.

### *Air quality*

A condition is recommended in relation to dust control during demolition, earthworks and construction requiring adoption of appropriate measures to minimise emissions into the surrounding environment. There is minimal potential for any air pollution, odour, fumes or other air quality impacts associated with the development on the site.

### *Noise and vibration*

There will be construction noise for a limited duration as a consequence of the development. A condition has been recommended imposing standard operating hours for the construction of the development. It is not anticipated that the development will cause ongoing excessive or unreasonable noise or vibration and conditions are recommended in relation to the operating hours for the shops and restaurant.

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

The principles of Crime Prevention Through Environmental Design (CPTED) have been considered under the design of the proposed new development. The applicant prepared and submitted a detailed CPTED Assessment Report which has identified a number of design considerations to discourage anti-social behaviour and minimise the opportunities for criminal activities.

A condition has been recommended to ensure that the development is consistent with the CPTED principles and requirements for safety, security and crime prevention and the submitted report.

## SUITABILITY OF THE SITE FOR THE DEVELOPMENT:

### *Whether the proposal fits in the locality.*

Wyong LEP 2013 encourages higher buildings on certain iconic sites than presently exist in The Entrance and this change has been part of long and detailed community consultation through the LEP and DCP adoption process and The Entrance Town Centre Masterplan. The site is identified as a “Key Site” and the proposal represents an iconic form that will be a benchmark for building quality in The Entrance. The site is situated within an established town centre location which is well serviced with a high level of amenity. The design of the proposed development is of a high quality and is in an appropriate form, layout and scale that suitably balances the opportunities and constraints of the site and has been a long time in the planning. There are no significant site constraints or hazards that would render the location of the development as unsuitable.

## ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS

The submissions have been addressed previously in the report.

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

*Any Federal, State and Local Government interests and community interests.*

There are no matters associated with the proposal that would be considered contrary to the local or community interest. The proposal will create additional employment and retail opportunities for the Central Coast Region.

### *The Entrance Town Centre Masterplan*

Under the Masterplan, the site is identified as a ‘key iconic development site’. The proposal is consistent with the key principles outlined in the masterplan.

- ⑨ The Entrance Surf Life Saving Club
- ⑩ Cultural Mixed Use:
  - Pop Up Galleries/ Studios for Art & Other Installations
  - Cafes & Restaurants
  - Music Venues
- ⑪ Bus Interchange
- ⑫ Key Site - Iconic Development Site
- ⑬ Tourist Information Centre
- ⑭ Cafes & Restaurant
- ⑮ Anzac Square
- ⑯ Market Place
- ⑰ Memorial Park Multi-Use Site A
- ⑱ Waterfront Playground
- ⑲ Bandstand & Forecourt
- ⑳ The Entrance ‘Bottom Pub’
- ㉑ Fishermans Wharf and roof top observation point

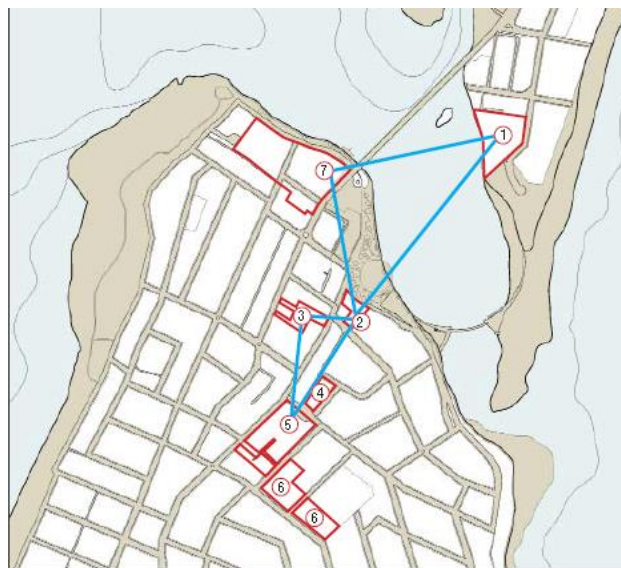


Above: Extract from the Masterplan showing the site as No.12

Under the Masterplan, seven key sites within The Entrance Town Centre are identified. The Masterplan recognizes the relationships between the identified key sites as anchors in the urban framework that encourage pedestrian activity through The Entrance. The location of the key sites will influence the formation of precincts as the key sites will become hot spots and destinations within the pedestrian framework and allow for the construction of related public spaces, promenades and forecourts. The Civic Hub of The Entrance will be significantly altered by the design of the key iconic development sites

The Masterplan states:

*The heights of the key iconic development buildings will be greater than the surrounding development to assist in the creation of public spaces such as plazas, parks and other facilities for community benefit. To ensure a quality urban realm, the Key Iconic Development Sites will be required to deliver sustainable developments and high quality architectural forms which respect the street and its users.*



#### KEY ICONIC DEVELOPMENT SITES

- |                         |                           |
|-------------------------|---------------------------|
| ① Dunleith Tourist Park | ⑤ Lakeside Plaza          |
| ② Key Site              | ⑥ The Greens Bowling Club |
| ③ Ebbtide Mall          | ⑦ Klumper Water Park      |
| ④ Short Street Carpark  | Key Site Relationships    |

Above: Extract from the Masterplan showing the relationships between the identified key sites



Above: Extract from the Masterplan showing view of iconic sites looking east with the subject site circled in red

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Above: Extract from the Masterplan showing view of iconic sites within The Entrance looking west with the subject site circled in red

The design of the development as proposed is consistent with the adopted Masterplan for The Entrance.

#### *The Entrance Peninsula Planning Strategy*

The proposal is consistent with the recommendations of The Entrance Peninsula Planning Strategy. The recommendations of the strategy informed the current controls that apply to the site. The proposal facilitates 'catalyst development' and utilizes the adopted changes to building height under the strategy. The proposal represents a high quality coastal design that reflects the coastal character of The Entrance Peninsula. Under the Strategy, the site is located within Precinct 6 known as 'The Entrance Town Centre' precinct. The desired future character of this precinct is to be the retail core and commercial heart of The Entrance, and a significant tourist destination. The subject site is identified under the Strategy as a specific site '*important to the evolution of The Entrance Town Centre as a key destination for shopping, business and entertainment*'. In this regard, the development includes high quality active frontages addressing the street, and a building design that is attractive and interesting when viewed from all perspectives.

### **OTHER MATTERS FOR CONSIDERATION:**

#### *Voluntary Planning Agreement*

A VPA containing a PBR of 1.425 was executed for the development of the site by the applicant and Council. The VPA was to provide for contributions in excess of the S94 amount generated by the development in order to demonstrate significant public benefit under Council's LEP (Clause 7.11) and DCP Chapter 6.1 (cl.2.11). However, the VPA was based upon an earlier proposal that generated a lower Section 94 contribution than the proposal before Council for assessment. Concern was raised that the public benefit contribution over and above the required Section 94 contribution had been reduced and therefore as a consequence, the proposal reduced the previously agreed PBR figure negotiated as part of the planning proposal further.

The applicant has tabled a revised offer for the VPA that would see the additional Section 94 Contributions generated by the proposal fully paid for, however, the applicant has advised that the net amount over and above the Section 94 contributions would remain unchanged from the original VPA.

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### *Section 94A Contributions for car parking*

The proposal includes a shortfall in parking provision for the retail and restaurant land uses of 52 spaces. This calculation is based on the 'shop' parking rate for the tenancies located on the lower ground floor and the 'restaurant' rate for the L2 restaurant tenancy as requested by the applicant. The 'shop' parking rate is lower than the parking rate applicable for a 'restaurant' or 'take away food and drink premises' under DCP Chapter 2.11 The Entrance District Contributions Plan applies to the site and includes a contribution rate for car parking required on site but not provided. The Section 94 contribution towards carparking under The Entrance District Contributions Plan is \$22,741.51 (indexed) per space for any additional carparking required on site but not provided. The contribution for carparking will be levied accordingly.

### *Water and Sewer Contributions*

Water and sewer contributions are payable for the proposal under the *Water Management Act 2000* and will be included under the Section 306 Notice of Requirements for the proposal.

### **CONCLUSION:**

The application seeks approval for construction of a twenty storey (70 metres high) mixed use development comprising a 3 storey podium containing shops and a restaurant with a tower style building containing 126 residential dwellings including parking and ancillary works. Wyong LEP encourages higher buildings on certain iconic sites than presently exist in The Entrance and this change has been part of a long and detailed community consultation through the LEP and DCP adoption process and the Entrance Town Centre Masterplan. The proposal represents an iconic form that will be a benchmark for building quality in The Entrance.

There is a minor variation proposed (under Clause 4.6) to the maximum permitted FSR for the site under Clause 4.4 of WLEP 2013. Additionally, there are other variations to DCP controls sought which are considered reasonable in the context of the proposal. The height bonus provisions under Clause 7.11 have been maximized as a result of the proposal being able to demonstrate significant public benefits for The Entrance town centre and local community.

Aside from the proposed variations, the development is considered to be consistent with the objectives of the controls for the site and generally consistent with Council's LEP and other DCP requirements. The proposal is considered to deliver a high standard of design excellence for the town centre and is intended to provide a catalyst for the social and economic development within the area. The proposal will deliver significant public benefit to the community with intended improvements to the public domain resulting from the required financial contribution tabled as part of the proposal. It is generally considered the proposed development is suitable for the site and will represent a positive opportunity to provide additional services and employment opportunities within the local area.

The proposal is recommended for approval subject to conditions.

<b>Numerical Compliance Table (Relevant controls under related DCP LEP SEPP)</b>			
<b>Control</b>	<b>Proposed</b>	<b>Required</b>	<b>Compliance</b>
<b>Site Area</b>	3,762m <sup>2</sup>	-	-
<b>Height (WLEP 2013)</b> - Tower	70 metres 20 storeys	70m 21 storeys	Yes Yes
<b>Height</b> - Street front podiums (6.21)	3 storeys	2-3 storeys (12 metres)	Yes
<b>FSR (WLEP 2013)</b>	4:08:1	4:1	No, variation under Clause 4.6 is sought
<b>Gross Floor Area</b> - Residential - Shops (retail) - Restaurant	15,363m <sup>2</sup> 13980m <sup>2</sup> 813m <sup>2</sup> 570m <sup>2</sup>	15,048m <sup>2</sup>	No, variation to FSR sought under Clause 4.6 is
<b>Building setbacks – (Chapter 6.21)</b>			
<b>Podium setbacks</b>	Nil	Nil	Yes
<b>Tower setback -The Entrance Road</b>	10m to wall & 7m min to balconies	10m to building wall/glazing & 7m to balconies	Yes
<b>Tower setback- Marine Parade</b>	12m to wall and 8m min to balconies	Min 12 m to building/wall glazing and 8m to balconies	Yes
<b>Tower setback - Ocean Parade</b>	Over 12 metres	8m min to any part of building (subject to shadowing)	Yes
<b>Tower - To KFC site</b>	Nil to southern KFC boundary	Minimal or nil to ensure the existing development potential of KFC site is not compromised.	Yes
<b>Tower - Eastern side boundary</b>	Over 6 metres	6 metres	Yes
<b>Street front elements</b>	3 storeys but views as 4 storeys	3 storeys (around 12m) to maintain appropriate scale to streetscape	Yes
<b>Separation distances</b> - Between habitable rooms  - Between habitable and non-habitable rooms - Between non habitable rooms. (DCP Ch2.4 -Cl.6.4.1)	7m (podium only)  7m  7m	12m (podium) 24m (tower)  18m  12m	No  No  No
<b>Building depth (SEPP 65)</b>	15m-20m with the maximum 20m depth only applicable for a 5 metre section of the building and an average depth of less than 18 metres.	10-18 metres if wider than 18 metres must demonstrate how satisfactory daylighting and natural ventilation are to be achieved.	No but satisfactory light and ventilation.
<b>Solar access (Ch 2.4)</b>	70% (88 out of 126 units) receive min 2hrs sunlight mid-winter.	70% of apartments receive 3 hours direct sunlight between 9am - 3pm mid-winter. In dense urban areas a minimum of 2 hours. • Limit single aspect apartments with a southerly aspect to a maximum of 10% of	Yes

		total units.	
<b>Cross Ventilation (SEPP 65)</b>	60% (75 out of 126 units) are naturally cross ventilated  Over 25% of kitchens comply	60% of units to be naturally cross ventilated. • 25% of kitchens to have access to natural ventilation	Yes  Yes
<b>Private open space</b> <b>Balconies:</b> - Min area - Min dimension - Directly accessible from living area <b>Courtyards (U401-407):</b> - Min Area - Min dimension - Directly accessible from living area - Grade 1:14 (DCP Ch 2.4) Solar access	12m <sup>2</sup> /dwelling 2m Adjoining living area	10m <sup>2</sup> /each dwelling 2m Adjoining living area  10m <sup>2</sup> /each dwelling 2m Adjoining living area  1:14  75% receive 3 hrs btm 9am-3pm mid-winter 70%SEPP 65 2/3hrs	Yes Yes Yes
<b>Communal Open Space</b> Min 20m/dwelling Min 2m dimension Min 3hrs solar access (DCP Ch 2.4)	1172m <sup>2</sup> 9.3m <sup>2</sup> /dwelling Complies Less than 75%	2520m <sup>2</sup> 20m <sup>2</sup> /dwelling Min 2m 75% of area	No No Yes No
<b>Parking (2.11 &amp; 6.21)</b> - Retail/Restaurant - Residential - Visitor	204 10 155 31	- 52 162 31	No No Yes Yes
<b>Adaptable Units</b> DCP Ch2.4)	25% (31 units 1 & 2 bedroom units levels 4-19)	10% (	No
<b>Laundries (Ch 2.4)</b>	Internal laundry for each dwelling	1/dwelling	Yes
<b>Landscaping (Ch 2.4)</b> - Podium - Level 20 - Deep soil	27% 748m <sup>2</sup> 257m <sup>2</sup> Nil	25% ground level N/A N/A 50% of required 25%	Yes Satisfactory Satisfactory N/A
<b>Units accessible from a single core (SEPP 65)</b>	8 units	Max 8 units	Yes
<b>Mailboxes (Ch 2.4)</b>	Appropriately located and designed	Building Entrance in wall At 90 degrees to street	Yes
<b>Meeting place (COS) or room</b> DCP 2.4 - C12.2.1	A suitable meeting place for residents in the form of communal open space including covered areas.	Satisfactory communal open space provided	Yes
<b>Storage (Ch 2.4)</b> <b>1-2 bedrooms</b> <b>3 or more bedrooms</b>	Exceeds requirements complying with SEPP 65	3m <sup>2</sup> 6m <sup>2</sup>	Yes
<b>Transportation (Ch 2.11) Management Plan (TMP)</b>	TMP provided	Encouraging alternative modes of travel other than private car	Yes
<b>Green Building Design (Ch 6.21)</b>	Satisfactory	Exceeds BASIX/ BCA Section J	Yes
<b>Basix Certificate</b> <b>Nathers (SEPP BASIX)</b>	Provided Provided	BASIX Certificate/s	Yes
<b>Public benefits (Cl.2.11) (Ch 6.1)</b>	Revised VPA offer provided with PBR of 1.33 for PB calculation	DCP calculation of PB= (S94x 1.5 (PBR))	No



<b>DCP Chapter 6.21 – The Entrance Key Site requirements</b>		Y/N
<b>Requirements</b>	<b>Compliance</b>	
<b>Clause 2 – Iconic Development of the Key Site</b>		
<b>Orientation and shape</b>	The building rakes back from The Entrance Road frontage to maintain vistas from The Entrance Road and to minimise overshadowing.	Y
<b>Active frontage on frontages</b>	Active retail frontage on The Entrance Road and Marine Parade but not on Ocean Parade. The reason for this is that the site requires vehicular access and service areas and these have been located so as to minimise the impact on the main pedestrian frontage near the corner of Marine Parade and The Entrance Road.	Y
<b>All parking screened from view</b>	Parking not readily visible from primary street frontages. The ability to provide parking onsite is limited by the high cost of excavation.	Y
<b>Access from Marine Parade and Ocean Parade only</b>	Access from Marine Parade and Ocean Parade only.	Y
<b>Appropriate, adequate communal open space or landscaped areas</b>	The proposal provides for 1172sqm of communal open space and over 1000sqm of landscaped area.	Y
<b>Overshadowing, building separation, view loss and amenity issues addressed</b>	Any proposed high rise development on this site is likely to have a overshadowing impact, however, this has been minimised in the design of the development to allow for afternoon solar access to the sites located to the south.	Y
<b>Pedestrian movement within/around site catered for</b>	The focal point at the corner of Marine Parade and The Entrance Road where the public domain is brought through the site will enhance pedestrian movement. Improvements to the public domain and the creation of a shared space in Marine Parade will facilitate access to and from Memorial Park.	Y
<b>Visual impact addressed from important viewpoints</b>	The impact on views from surrounding areas was considered in detail in the Planning Proposal/Site Specific DCP process. The proposal is consistent with the LEP and DCP and will have an iconic appearance from surrounding areas which is the intention of these controls.	Y
<b>Design has potential to effectively link/amalgamate with any future development KFC site</b>	Concept plans have been provided to demonstrate that the proposal will not inhibit a future development scenario for the KFC site that would with the relevant controls. However, the proposal does not how the design has the potential to effectively link/amalgamate with any future development of the KFC site.	Y
<b>SEPP 65 and SEPP 71 adequately addressed</b>	The proposal complies with these State Government policies	Y
<b>2.1 Building form</b>	The development is a high quality contemporary design. The dominant feature is the curved treatment of the façade that responds to the seaside location. The building bulk is also addressed with two other treatments, including the 2-3 level podium at the building base and the rectilinear form of the eastern part of the tower. The design of the tower is narrow (25 metres wall to wall) resulting in a slender appearance from some vantage points.	Y
<b>Building Material and Finishes</b>	A high standard of architectural design, external materials, a unique facade treatment and detailing appropriate to the type and location of the development has been proposed. The materials include granite tiles, stone cladding, glass balustrades, timber look screens, brushed stainless steel balustrade framing, feature metal elements including perforated metal artwork and screens.	Y
<b>Design of Building Elements</b>	The design of the building has a high quality appearance which has regard for the coastal character of the area.	Y
<b>Public Domain</b>	The proposal will improve the civic quality of the existing street frontages through its integrated design with the public domain and through its iconic form. The proposal will encourage increased levels of pedestrian activity along the surrounding streets and open spaces. The proposal will promote an outdoor	Y

	lifestyle by being well integrated with the public domain and encourage outdoor dining adjacent to the foreshore open space.	
<b>Landscaping</b>	Satisfactory and appropriate landscaping is proposed for the development to address internal and external amenity of the development.	Y
<b>Amenity</b>	The podium is provided with substantial communal space with a pool area and an active recreation space to the south. Privacy screen planting is proposed to the eastern side boundary. Adjacent to the site are existing large open space areas. Internal amenity is maximised within the design of each units.	Y
<b>Access and Parking</b>	The proposed shops will be predominantly patronised by people already in the locality who can walk to the site. A contribution for parking will be levied for the shortfall in the provision of parking for the retail uses. Adequate loading facilities have been included with access from Ocean Parade.	Y
<b>Sustainability and Green building solutions</b>	The applicant provided a statement of sustainability commitments. Additionally, a feature 'green wall' is proposed to the Ocean Parade frontage to sleeve the development and minimise visual impacts to the streetscape. Approximately 350m <sup>2</sup> of roof area will drain into a 70m <sup>3</sup> rainwater tank. Harvested rainwater will be reticulated to all irrigation systems throughout the development.	Y

# State Environmental Planning Policy No. 65 (Design Quality of Residential Flat Buildings) & Residential Flat Design Code – Compliance Table

	Guideline	Comment	Compliance
Part 1 Local Context			
Context	Local Context <ul style="list-style-type: none"> <li>Undertake a local context analysis.</li> </ul>	The site has been identified as a key site within the local context. A site specific DCP has been adopted for the site.	Satisfactory
	Residential Flat Building Types <ul style="list-style-type: none"> <li>Tower apartments are best used where higher densities are desired; provide for strong urban forms and precincts; and mixed uses at lower levels.</li> </ul>	A strong urban form is desired, reinforcing the importance of the immediate precinct.	Satisfactory
	Amalgamation <ul style="list-style-type: none"> <li>Consideration of streetscape and existing lot pattern.</li> </ul>	The two lots comprising the site will be amalgamated.	Satisfactory
	Building Envelopes <ul style="list-style-type: none"> <li>Establish the allowable bulk, height and location of a development on a site.</li> </ul>	The envelope and primary development controls have been determined under the site specific DCP	Satisfactory
	Building Height <ul style="list-style-type: none"> <li>Test height controls against the FSR and the proposed number of storeys and minimum ceiling heights.</li> </ul>	A site specific DCP has been adopted for the site that identifies allowable height and FSR for the site.	Satisfactory
	Building Depth <ul style="list-style-type: none"> <li>An apartment building depth of 10-18 metres is appropriate.</li> </ul> Developments that propose wider than 18 metres must demonstrate how satisfactory daylighting and natural ventilation are to be achieved.	Building depth ranges between 15m-20m with the maximum 20m depth only applicable for a 5 metre section of the building and an average depth of less than 18 metres.	Satisfactory
	Building Separation <p>Increase building separation distances as building height increases as follows:</p> <p>Up to four storeys:</p> <ul style="list-style-type: none"> <li>12m between habitable rooms/balconies.</li> <li>9m between habitable rooms/balconies and non-habitable rooms.</li> <li>6m between non-habitable rooms.</li> </ul> <p>Up to five to eight storeys:</p> <ul style="list-style-type: none"> <li>18m between habitable rooms/balconies.</li> <li>13m between habitable rooms/balconies and non-habitable rooms.</li> <li>9m between non-habitable rooms.</li> </ul> <p>Nine storeys and above:</p> <ul style="list-style-type: none"> <li>24m between habitable rooms/balconies.</li> <li>18m between habitable rooms/balconies and non-habitable rooms.</li> <li>12m between non-habitable rooms.</li> </ul>	The development does not comply with the required separation distances. The building has a 7 metre setback to the room adjoining the balcony of the adjoining property of 4 Marine Parade). There is a non-compliant setback to the adjoining property at 4 Ocean Parade. The development will not comply with the building separation required for likely future development scenarios on the adjoining KFC site.	Unsatisfactory
	Street Setbacks <ul style="list-style-type: none"> <li>Identify desired streetscape character.</li> <li>Minimise overshadowing of street and buildings.</li> <li>Consider secondary upper level setbacks to reinforce desired scale of buildings on the street.</li> <li>Underground parking structures, awnings and balconies may encroach on the setback.</li> </ul>	The street setbacks are identified under the site specific DCP and the proposal complies.	Satisfactory
	Side and Rear Setbacks <ul style="list-style-type: none"> <li>To retain or create rhythm or pattern of development that positively defines the streetscape so that space is not just what is left over around the building form.</li> <li>Consider building separation, open space and soil zones.</li> <li>Relate setbacks to existing streetscape pattern.</li> </ul>	The street setbacks are identified under the site specific DCP and the proposal complies.	Satisfactory

	<p>Floor Space Ratio</p> <ul style="list-style-type: none"> <li>Height, setbacks and FSR are to be consistent.</li> </ul>	<p>Height, setbacks and FSR are appropriate for the site and identified under the site specific DCP. There is a minor variation (of 2%) sought to the maximum FSR and this is supported within setback variation the context and scale of the development.</p>	Satisfactory
<b>Part 2 Site Design</b>			
Site Analysis	Site analysis to include plans and sections of the existing	Appropriate consideration of the opportunities and constraints of the site has been undertaken as part of the overall site analysis.	Satisfactory
Site Configuration	<p>Deep Soil Zones</p> <ul style="list-style-type: none"> <li>Optimise provision of deep soil zones.</li> <li>Support a rich variety of vegetation type and size.</li> <li>Increase permeability of paved areas.</li> <li>25% of open space to be deep soil zone.</li> </ul>	No deep soil zones proposed as part of the development as not appropriate in urban context	N/A
	Fences and Walls	The proposed design does not include courtyards or ground level open space areas facing the public domain requiring fencing or wall treatments.	N/A
	<p>Open Space</p> <ul style="list-style-type: none"> <li>Area of communal open space at least 20-30 % of site area. Alternatively in smaller sites increased private open space (POS) be provided or a contribution to open space.</li> <li>Minimum area of ground/podium level POS per dwelling (ie.courtyards) is 25m<sup>2</sup> &amp; min dimension 4 m. Where communal open space (COS) may be provided on podium. Where COS inadequate consideration be made of adequacy of public open space provision in locality.</li> <li>Contribute to streetscape character and the amenity of the public domain.</li> </ul>	<p>Communal open space area of 1172m<sup>2</sup> is proposed in 2 locations which is 30% of the site area and is at a rate of 8.7m<sup>2</sup>/dwelling. BBQ, facilities, pergola, pool and bench seating provided.</p> <p>Private open space at podium level (courtyard) is proposed at between 31-144m<sup>2</sup> which complies.</p> <p>Balconies with a minimum of 12m<sup>2</sup>/dwelling with a minimum dimension of 2m.</p>	Satisfactory
	<p>Orientation</p> <ul style="list-style-type: none"> <li>Optimise solar access (maximise north facing walls)</li> <li>Provide adequate building separation</li> <li>Align buildings to the street on east-west streets</li> <li>L shape configurations</li> </ul>	The proposal optimises solar access to living spaces and POS with 5 out of 8 units on each floor generally complying (units 5, 6 & 7 south facing and limited solar access). The orientation has been optimised within the confines of the site.	
	<p>Planting on Structures</p> <ul style="list-style-type: none"> <li>Optimum conditions for tree planting and plant growth including soil conditions, soil depth and irrigation.</li> </ul>	The proposal includes tree planting on the podium level and appropriate soil depths will be included.	Satisfactory
	<p>Stormwater Management</p> <ul style="list-style-type: none"> <li>Retaining and reuse of rainwater run off</li> <li>Use of grey water</li> <li>Contribute to water and stormwater efficiency.</li> </ul>	Approximately 350m <sup>2</sup> of roof area will drain into a 70m <sup>3</sup> rainwater tank. Harvested rainwater will be reticulated to all irrigation systems throughout the development.	Satisfactory
Site Amenity	<p>Safety</p> <ul style="list-style-type: none"> <li>Delineate private and public space.</li> <li>Optimise visibility, functionality, and safety of building entrances.</li> <li>Improve opportunities for casual surveillance.</li> <li>Minimise opportunities for concealment.</li> <li>Control access to the development.</li> </ul>	The principles of Crime Prevention Through Environmental Design (CPTED) have been addressed under the proposal.	Satisfactory
	<p>Visual Privacy</p> <ul style="list-style-type: none"> <li>Maximise visual privacy between adjoining buildings by separation, setbacks and site layout.</li> <li>Design layouts to minimise direct overlooking of rooms and private open spaces.</li> <li>Use site and building design elements to increase privacy without compromising light and air access.</li> </ul>	<p>Visual privacy has been addressed through:</p> <ul style="list-style-type: none"> <li>Landscape screening along the communal open space site boundaries.</li> <li>The design and outlook of units</li> </ul>	Satisfactory

Site Access	<p>Building Entry</p> <ul style="list-style-type: none"> <li>• Improve presentation to street by entry treatment.</li> <li>• Direct connection and clear transition between street and entry.</li> <li>• Ensure equal access for all.</li> <li>• Provide safe and secure access.</li> <li>• Separate building entry from car parks.</li> <li>• Design entries/circulation to allow furniture movement.</li> </ul> <p>Provide mailboxes to be convenient, but not clutter the appearance of the development from the street.</p>	Good legibility and design with safe and easy access for mobility impaired persons.	Satisfactory
	<p>Parking</p> <ul style="list-style-type: none"> <li>• Determine car spaces by access to public transport, density and ability to accommodate on site.</li> <li>• Limit visitor spaces, where impact on landscape and open space is significant.</li> <li>• Give preference to underground parking.</li> <li>• Provide bicycle parking which is easily accessible.</li> </ul>	This matter has been assessed under Council's relevant DCP controls.	Satisfactory
	<p>Pedestrian Access</p> <ul style="list-style-type: none"> <li>• Accessible routes to public and semi-public areas.</li> <li>• Promote equity by entry location and ramps.</li> <li>• Ground floor apartments to be accessible from the street and associated open space.</li> <li>• Maximise number of accessible, visitable and adaptable apartments in a building.</li> <li>• Barrier free access to at least 20% of dwellings.</li> </ul>	Barrier free access provided to a minimum of 20% of dwellings. The area in front of the development between the site and the existing foreshore open space is to be made a shared zone by Council.	Satisfactory
	<p>Vehicle Access</p> <ul style="list-style-type: none"> <li>• Ensure adequate separation between vehicle entries and street intersections.</li> <li>• Optimise opportunities for active street frontages and streetscape design.</li> <li>• Improve appearance of car parking entries.</li> <li>• Limit width of driveways to 6 metres.</li> <li>• Locate vehicle entries away from pedestrian entries and on secondary frontages.</li> </ul>	Access to the development for smaller vehicles is by Marine Parade and access for larger service vehicles is by Ocean Parade. The separation of the access points is considered appropriate.	Satisfactory
<b>Part 3 Building Design</b>			
Building Configuration	<p>Apartment Layout</p> <ul style="list-style-type: none"> <li>• Determine apartment sizes in relation to location, market, spatial configuration and affordability.</li> <li>• Ensure apartment layouts are resilient over time.</li> <li>• Design layouts to respond to natural and built environments and optimise site opportunities.</li> <li>• Avoid locating kitchen in circulation space.</li> <li>• Include adequate storage in the apartment.</li> <li>• Ensure apartments facilitate furniture removal and placement.</li> <li>• Single aspect apartments to have maximum depth of 8m from a window.</li> <li>• Kitchen to be maximum of 8m from window.</li> </ul>	<p>The proposed apartment sizes complies with the minimum apartment sizes outlined under the SEPP as affordable housing.</p> <p>1 bed 54-58m<sup>2</sup> (50m<sup>2</sup> min)  2 bed 90-109m<sup>2</sup> (70m<sup>2</sup> min)  3 bed 125-258m<sup>2</sup> (95m<sup>2</sup> min)</p> <p>Adequate internal storage has been included.</p> <p>The single aspect apartments within the proposal have a depth of slightly more than 8m, but no kitchen is more than 8 metres from the window.</p>	Satisfactory
	<p>Apartment Mix</p> <ul style="list-style-type: none"> <li>• Provide variety of apartments in larger buildings.</li> <li>• Refine appropriate mix by considering population trends and proximity to transport, employment and services.</li> <li>• Locate mix of 1 and 3 bed units on ground floor to enable access by disabled, elderly and families.</li> <li>• Optimise accessible and adaptable apartments.</li> </ul>	<p>The development provides for an appropriate mix of 1, 2, and 3 bedroom units.</p> <p>There are no adaptable units located at the podium level.</p> <p>Adaptable units are not optimised and conditions are to be recommended to comply.</p>	<p>Satisfactory</p> <p>Unsatisfactory</p>
	<p>Balconies</p> <ul style="list-style-type: none"> <li>• Provide at least one primary balcony.</li> <li>• Primary balconies to be adjacent to living area.</li> <li>• Consider secondary balconies in larger apartments, adjacent to bedrooms and for clothes drying.</li> <li>• Balconies to respond to local climate and context, solar access, wind and privacy.</li> <li>• Design balustrades to allow views and casual surveillance, while providing safety and privacy.</li> <li>• Coordinate and integrate building services with façade and balcony design.</li> <li>• Primary balcony to have minimum depth of 2m.</li> </ul>	Balconies with a minimum of 12m <sup>2</sup> /dwelling with a minimum dimension of 2m adjacent to living areas. The majority of units have a northerly foreshore outlook.	Satisfactory

Building Configuration	<p>Ceiling Heights</p> <ul style="list-style-type: none"> <li>• Coordinate internal ceiling heights and slab levels with external height requirements.</li> <li>• Minimum floor to ceiling height of 2.7m.</li> <li>• Variations to demonstrate satisfactory daylight.</li> </ul>	Ceiling heights are reasonable. There are some generous ceiling height in the units formerly designed for commercial activities .	Satisfactory
	<p>Flexibility</p> <ul style="list-style-type: none"> <li>• Provide robust building configurations which utilise multiple building entries and circulation cores.</li> <li>• Promote accessibility and adaptability by accessible and visitable apartments and pedestrian access.</li> </ul>	Adaptable apartments are to be included under the recommended conditions.	Unsatisfactory
	<p>Internal Circulation</p> <ul style="list-style-type: none"> <li>• Increase amenity and safety by generous widths, lighting, minimising lengths, avoiding tight corners, legible signage and adequate ventilation.</li> <li>• Maximum of 8 units accessible from a single core. Support better apartment layouts by designing buildings with multiple cores.</li> <li>• Articulate longer corridors by using series of foyer areas and windows along or at end of window.</li> <li>• Minimise maintenance and maintain durability by using robust materials in common circulation areas</li> </ul>	A maximum of 8 units accessed from a single core/corridor. No tight corners or log corridors.	Satisfactory
	Mixed Uses	Retail activities are proposed on the ground floor street level and are integrated into the overall development. The retail uses activate the street frontage of the development.	Satisfactory
	<p>Storage</p> <ul style="list-style-type: none"> <li>• 50% of storage to be within apartment and accessible from hall or living area, and dedicated storage rooms on each floor and car parks.</li> <li>• Storage to be suitable for local area and able to accommodate larger items (e.g. bicycles).</li> <li>• Ensure storage is secure for individual use.</li> </ul> <p>1 bed 6m<sup>3</sup> min; 2 bed 8m<sup>3</sup> min; 3 bed 10m<sup>3</sup> min</p>	All apartments achieve the minimum storage areas with 50% storage located within the apartments and 50% in the basement levels.	Satisfactory
Building Amenity	<p>Acoustic Privacy</p> <ul style="list-style-type: none"> <li>• Maximise acoustic privacy by adequate separation.</li> <li>• Internal layout to separate noise from quiet areas by grouping bedrooms and service areas.</li> <li>• Resolve conflicts between noise, outlook and views by design measures, such as double glazing.</li> <li>• Reduce noise transmission from common corridors</li> <li>• Provide seals to entry doors.</li> </ul>	Satisfactory	Satisfactory
	<p>Daylight Access</p> <ul style="list-style-type: none"> <li>• Orient building to optimise northern aspect.</li> <li>• Ensure daylight access to communal open space March- September and shade in summer.</li> <li>• Optimise apartments receiving daylight access to habitable rooms and principal windows.</li> <li>• Design for shading and glare control.</li> <li>• Living rooms and private open space of at least 70% of apartments should receive 3 hours direct sunlight between 9am and 3pm in mid-winter. In dense urban areas a minimum of 2 hours may be acceptable.</li> </ul>	70% dwellings comply having a minimum of 2hrs solar access mid-winter	Satisfactory
	<ul style="list-style-type: none"> <li>• Limit single aspect apartments with a southerly aspect to a maximum of 10% of total units.</li> </ul>	Single aspect apartments with a southerly aspect do not exceed 10 % of total units	Satisfactory
	<p>Natural Ventilation</p> <ul style="list-style-type: none"> <li>• Promote and guide natural breezes.</li> <li>• Utilise building layout and section to increase potential for natural ventilation.</li> <li>• Internal layout to minimise disruptions and group rooms with similar usage together.</li> <li>• Select doors and operable windows to utilise air pressure or windows to funnel breezes.</li> <li>• Coordinate design with passive solar design.</li> <li>• Explore innovative technologies to ventilate rooms.</li> <li>• 10-18m building depth recommended for natural ventilation.</li> <li>• 60% of units to be naturally cross ventilated.</li> </ul>	<p>60% (75 out of 126 units comply)</p> <p>Proposal includes 15m-20m depth with the maximum 20m depth only applicable for a 5 metre section of the building and an average depth of less than 18 metres. Min 25% kitchens within dwellings have access to natural ventilation.</p>	Satisfactory

	<ul style="list-style-type: none"> <li>• 25% of kitchens to have access to natural ventilation.</li> </ul>		
Building Form	<p>Awnings and Signage</p> <ul style="list-style-type: none"> <li>• Locate awnings over building entries.</li> <li>• Enhance safety by providing lighting.</li> </ul>	No details provided	N/A
	<p>Facades</p> <ul style="list-style-type: none"> <li>• Consider relationship between building form and façade or building elements.</li> <li>• Facades to have appropriate scale, rhythm and proportion responding to use and desired character.</li> <li>• Facades to reflect orientation of site using sun shading devices. Coordinate and integrate building services and utility items.</li> <li>• Express important corners by giving visual prominence to parts of the façade.</li> </ul>	Façade design is satisfactory	Satisfactory
	<p>Roof Design</p> <ul style="list-style-type: none"> <li>• Relate roof design to desired built form.</li> <li>• Relate to size and scale of building, elevations, building form.</li> <li>• Respond to orientation of site.</li> <li>• Minimise visual intrusiveness of service elements.</li> <li>• Facilitate use of roof for sustainable functions.</li> </ul>	Proposal includes a flat roof design accommodating a penthouse dwelling and plant and equipment. The building roof has been designed to minimise visual intrusion.	Satisfactory
Building Performance	<p>Energy Efficiency</p> <ul style="list-style-type: none"> <li>• Incorporate passive solar design to optimise heat storage in winter and heat transfer in summer.</li> <li>• Improve control of mechanical heating and cooling.</li> <li>• Plan for photovoltaic panels.</li> <li>• Improve hot water system efficiency.</li> <li>• Reduce reliance on artificial lighting.</li> <li>• Maximise efficiency of household appliances.</li> </ul>	The BASIX assessment and design verification statement demonstrate that the proposed building has been designed for optimal energy efficiency.	Satisfactory
	<p>Maintenance</p> <ul style="list-style-type: none"> <li>• Design windows to enable internal cleaning.</li> <li>• Select manually operated systems, such as blinds.</li> <li>• Incorporate and integrate building maintenance systems into the design of the building form, roof and façade.</li> <li>• Select durable materials which are easily cleaned.</li> <li>• Select appropriate landscape elements and vegetation and provide appropriate irrigation systems.</li> <li>• Provide garden maintenance and storage area.</li> </ul>	Satisfactory	Satisfactory
	<p>Waste Management</p> <ul style="list-style-type: none"> <li>• Incorporate existing built elements where possible.</li> <li>• Specify building materials that can be reused or recycled. Recycle and reuse demolished materials.</li> <li>• Integrate waste management into all stages of project. Support waste management by specifying project needs and reducing waste by using standard product sizes.</li> <li>• Prepare waste management plan.</li> <li>• Locate storage areas for bins away from street frontage.</li> <li>• Provide waste cupboards or temporary storage area.</li> <li>• Incorporate on-site composting where possible.</li> </ul>	A comprehensive waste management plan has been provided for each stage of the development. Waste storage arrangements are considered satisfactory	Satisfactory
	<p>Water Conservation</p> <ul style="list-style-type: none"> <li>• Use AAA rated appliances.</li> <li>• Encourage use of rainwater tanks.</li> <li>• Collect, store and use rainwater on site.</li> <li>• Incorporate local native vegetation in landscape.</li> <li>• Consider grey water recycling.</li> </ul>	The BASIX assessment and design verification statement demonstrate that the proposed building has been designed for optimal water conservation A 70m <sup>3</sup> rainwater tank is proposed and harvested rainwater will be reticulated to all irrigation systems throughout the development.	Satisfactory

**“Deferred Commencement” consent is granted in accordance with Section 80(3) of the Environmental Planning and Assessment Act 1979. The consent does not operate until the following deferred commencement condition has been satisfied:**

In accordance with Section 80(3) of the Environmental Assessment Act 1979 this consent does not operate until the applicant has provided information to the satisfaction of the Consent Authority to address the matters specified in the conditions of Schedule A. Upon receipt of written information from the applicant in relation to the conditions in Schedule A, the Consent Authority will advise in writing whether the information is satisfactory and, if so, will nominate the effective date for the commencement of this consent.

In accordance with Clause 95(3) of the Regulation:

- a. A twelve (12) month period is given from the determination date of the 'deferred commencement' notice to satisfactorily address the required Schedule A condition, otherwise the 'deferred commencement' consent will lapse.

#### **Schedule A**

1. Execution of a further Voluntary Planning Agreement that has the effect of amending the Voluntary Planning Agreement between Wyong Shire Council and Pelican Horizons Pty Ltd dated 9 December 2013, so as to alter the developer contributions and description of development in accordance with the letter to Wyong Shire Council from Ingham Planning Pty Ltd dated 20 November 2014.

Upon compliance with the conditions of deferred commencement and written confirmation by the Consent Authority, the consent shall become operative subject to the following conditions of Schedule B.



## **Schedule B - Proposed Conditions Approved Plans**

### **Approved Plans**

- 1 The development is to be undertaken in accordance with the approved development plans and specifications listed below and supporting documentation except as modified by any conditions of consent and any amendments in red made to the approved plans:

<b>Title</b>	<b>Drawing No.</b>	<b>Revision</b>	<b>Date</b>	<b>Drawn By</b>
Coversheet	A-00.01	DA-1	23.06.14	BN Group
General Information	A-00.02	DA-1	23.06.14	BN Group
Site Analysis	A-00.03	DA-2	28.10.14	BN Group
Proposed Materials and Finishes	A-00.04	DA-2	7.11.14	BN Group
Setback Analysis	A-00.21	DA-2	29.10.14	BN Group
Proposed Site Plan L2	A-02.01	DA-2	28.10.14	BN Group
Proposed Site Plan - Roof	A-02.02	DA-2	28.10.14	BN Group
B1 Basement Carpark	A-06.01	DA-3	03.12.14	BN Group
Lower Ground	A-06.02	DA-4	03.12.14	BN Group
Upper Ground /L1	A-06.03	DA-4	03.12.14	BN Group
Floor Plan L2	A-06.04	DA-4	03.12.14	BN Group
Floor Plan L3	A-06.05	DA-2	20.11.14	BN Group
Typical Low Rise L4	A-06.06	DA-3	20.11.14	BN Group
Floor Plan – Level 5-10 (Typical)	A-06.07	DA-3	20.11.14	BN Group
Floor Plan – Level 11-19 (Typical)	A-06.07	DA-3	20.11.14	BN Group
Typical Penthouse Floor Plan – Level 20	A-06.10	DA-2	28.10.14	BN Group
Roof Level	A-06.20	DA-1	23.06.14	BN Group
North Elevation	A-10.01	DA-2	20.11.14	BN Group
West Elevation	A-10.02	DA-2	20.11.14	BN Group
South Elevation	A-10.03	DA-2	21.11.14	BN Group
Eastern Section View	A-11.01	DA-2	28.10.14	BN Group
Southern Section View	A-11.02	DA-1	23.06.14	BN Group
Residential Core Section	A-11.03	DA-2	28.10.14	BN Group
Eastern Section View 2	A-11.04	DA-1	28.10.14	BN Group
Landscape Plan – Lower Ground Floor Plan & Public Domain	LP01	A	22.06.14	Site Design & Studios
Landscape Plan – Level 2 Floor Plan & Public Domain	LP02	A	22.06.14	Site Design & Studios
Landscape Plan- Level 4	LP03	A	22.06.14	Site Design & Studios
Landscape Plan – Level 20	LP04	A	22.06.14	Site Design & Studios

- The public domain works shown on the landscape plans are subject to final endorsement by Council and subject to conditions of this consent.
- The loading zone shown along The Entrance Road is to be deleted from the plans.

## **Certificates – Application and Approval**

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- 3 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.
- 4 Where conditions of this consent require approval from Council under the Roads Act 1993, Local Government Act 1993 or Water Management Act 2000, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

## **PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE**

### **Acid Sulphate Soils – Investigation and Reporting Requirements**

- 5 Prior to the issue of a Construction Certificate, an Acid Sulphate Soils Assessment Report and Management Plan prepared by a suitably qualified person, must to be provided for the approval of the Accredited Certifier.

### **Contribution Payment Requirements**

- 6 Prior to the issue of a Construction Certificate, the payment to Council of contributions for parking (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.
- 7 Prior to the issue of a Construction Certificate, the payment to Council of contributions as agreed upon in the executed VPA for the site.

### **Dust Control Requirements**

- 8 Prior to the issue of a Construction Certificate, suitable details must be provided for the approval of the Accredited Certifier of an appropriate system to control dust emissions from the site during construction works. The approved method of controlling dust emissions from the site is to be implemented and be maintained for the duration of construction works on the site.

## **Flooding Design Requirements**

- 9 Prior to the issue of a Construction Certificate, design drawings must be provided for the approval of the Accredited Certifier detailing the following requirements: -
- The minimum floor level of the lower ground floor areas (retail areas) within the building must be 0.5m above the 1% AEP flood level including an allowance for sea level rise. The retail areas at proposed floor level of 3.6m AHD comply with this requirement.
  - All building materials used or located below the 1% AEP flood level must be flood compatible and the internal areas of lower basement level appropriately waterproofed. Plans and specifications detailing the building materials are to be submitted to the Principal Certifying Authority.
  - The basement entry ramp shall be designed to the 1% AEP flood level including an allowance for sea level rise to achieve RL 3.1m AHD.

## **Groundwater Management Plan (GMP)**

10. A Groundwater Management Plan (GMP) is to be prepared by a suitably experienced and qualified Engineer (specialising in groundwater with NPER registration or equivalent demonstrated experience) and approved by Wyong Shire Council. The GMP is to incorporate and consider the following targets and issues.
- The GMP is to demonstrate that no impacts on groundwater levels, gradients and seasonal fluctuations will occur within adjacent properties and infrastructure as a result of the development.
  - The methodology, modelling and justifications will need to demonstrate that upstream and adjacent building basement levels will not have any additional groundwater impacts as a result of the development.
  - If groundwater dewatering extends beyond a 12 month period and or exceeds 3 megalitres (5.7 litres/sec) mitigating measures are to be introduced as part of the GMP, justification and approvals from the relevant government agencies are required. The mitigation works shall not impact on Tuggerah Lake, adjacent properties and infrastructure or the surrounding environment, (ie. water quality extractions and subsequent discharges into Tuggerah Lake, logistics of the dewatering process including odour, hours of operation and noise of equipment).
  - Relevant approvals are to be obtained from NSW Office of Water or other NSW government agencies for the implementation of the GMP. Documentation of approvals and/or permits are to be presented to Wyong Shire Council.

## **Structural Design Requirements**

- 11 Prior to the issue of a Construction Certificate, satisfactory structural plans prepared by a suitably qualified Registered Structural Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements:
- All structural aspects of the development.

- 12 Any excavation below the adjoining land level requires the retaining of that land and the preservation and protection of any improvements or buildings upon that land including public roads and utilities from damage. If necessary, the improvements or buildings are to be supported in a manner designed by a suitably qualified Registered Structural Engineer. Any design proposals prepared in order to comply with this condition are to include geotechnical investigations and are to be submitted for the approval of the Accredited Certifier and in the case where excavation impacts upon public infrastructure, Council, prior to issue of the Construction Certificate.

## **BASIX**

- 13 Pursuant to the requirements of the Environmental Planning and Assessment Regulation 2000, all BASIX commitments required for the release of the construction certificate are to be shown on the plans and specifications for the development.

## **SEPP 65**

- 14 The certifying authority must not issue a construction certificate for residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer certifies that the plans and specifications achieve or improve the design quality of the development for which the development consent was granted, having regard to the Design Quality Principles set out in Part 2 of State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development.

## **Privacy Planting**

- 15 The selected plant species for the landscape planting in the north-eastern corner of the site along the eastern boundary (above the Marine Parade entry), as shown on Landscape Plan LP02 dated 22 June 2014, shall be amended to incorporate species that, once mature, will achieve visual screening between the communal pool area of the development and the open space areas on the adjoining site (at 4 Marine Parade).

## **Roadworks - Design Requirements**

- 16 Where conditions of this consent require approval from Council as the Roads Authority, a Subdivision Construction Certificate application must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.
- 17 The submission to Council of Civil Works design drawings and specifications detailing the following design requirements:
- The reconstruction of the kerb and gutter within Ocean Parade to provide a commercial standard access crossing to accommodate a turning MRV service vehicle when accessing the loading dock. The works shall include the provision of a commercial gutter & footpath crossing, removable bollards and adequate signage to delineate the "Loading Zone".

- All loading and servicing of the development shall be undertaken from the Ocean Parade Loading Dock. The proposed "Loading Zone" located within The Entrance Road shall be deleted from the plans.
- The construction of a 6.0 metre wide commercial standard vehicle access crossing within Marine Parade to connect to the basement car park ramp.  
Note: The pavement shall utilize the materials and pavement specification designed as part of the "Memorial Park Redevelopment Stage 2 "Shared Zone".
- Any associated works to ensure satisfactory transitions to existing infrastructure

Required design drawings are to be prepared in accordance with Council's *Civil Works Design Guidelines* and must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate.

- 18 The reconstruction of the Marine Parade footway and carriageway as a "Shared Zone" in accordance with "The Entrance Town Centre Master Plan" and "The Memorial Park Redevelopment Stage 2" design plans and specifications. The required works shall include the construction of the footway area in granite setts and the trafficable section of the "Shared Zone" in a two coloured granite setts pattern to an equivalent half road carriageway width adjacent the site within Marine Parade. The required works shall include utility service adjustments, signage, traffic delineation and street tree planting in accordance with the final plans for the "The Memorial Park Redevelopment Stage 2".
- 19 The submission to Council as the Roads Authority of street lighting and reticulation design drawings. The design shall be prepared in accordance with AS/NZS 1158 and AS 4282-1997, including the provision of current best practice energy efficient lighting, documentation confirming a minimum of twenty (20) year design life and be approved by the Council as the Roads Authority prior to issue of a Construction Certificate.
- 20 The submission to the Council as the Roads Authority of Road Safety Audit for all works within the Marine Parade carriageway prepared by a Level 3 Road Safety Auditor recognised on the NSW Register of Road Safety Auditors. Any deficiencies identified within the audit must be resolved in consultation with Council prior to the approval of design drawings.

### **Water and Sewer Services - Design Requirements**

- 21 The submission to Council as the Water Supply Authority of detailed structural design drawings and supporting information for the proposed new Man Hole structures and new sewer mains within the development. The design shall indicate the proposed "Work Method Statements" for the continued operation during construction of the sewer main in accordance with Council's *Requirements for Building Over or Adjacent to Sewer Mains* policy. **Note:** An acceptable maintenance access arrangement for Council in accordance with Council's Policy Design details must be approved by Council as the Water Supply Authority prior to the issue of any Construction Certificate.

### **Vehicle Access and Parking - Design Requirements**

- 22 The submission to the Accredited Certifier of a detailed car parking design. The design shall include:

- Pavement marking, appropriate signage and physical controls detailed for the basement carpark ramp, car parking spaces and circulation roads.
- The entry basement carpark ramp shall be a minimum of 6.1 metres wide and comply with the queuing lengths, control point location and grades in accordance with the requirements of AS/NZS 2890.1:2004. All other ramp sections within the basement car parking levels shall be a minimum 6.1 metres wide.
- Dedicated accessible parking spaces for people with disabilities to achieve geometric compliance with AS 2890.6:2009.
- The loading dock shall be designed and constructed in accordance with AS 2890.2-2002 Part 2: Off-Street Commercial Vehicle Facilities.  
A Traffic Management Plan shall be prepared to control all loading dock movements from the Ocean Parade carriageway incorporating safe traffic control measures. Forward ingress and egress movements are recommended unless a RMS Traffic Controller certified staff member from the development is present when delivery trucks arrive. The person is to supervise any reversing manoeuvres by the delivery vehicles and place adequate barriers to prevent pedestrians entering the loading dock area.

The design drawings shall be prepared in accordance with the requirements of AS/NZS 2890 – Parts 1, 2 and 6, and be approved by the Accredited Certifier prior to the issue of a Construction Certificate.

- 23 The submission to the Accredited Certifier of lighting design drawings for the carpark. The design shall be prepared in accordance with the requirements of AS/NZS 1158 and AS 4282-1997, including the provision of current best practice energy efficient lighting and be approved by the Accredited Certifier prior to issue of a Construction Certificate.

### **Stormwater Drainage - Design Requirements**

- 24 The submission to the Accredited Certifier of a detailed stormwater management plan featuring:
- Stormwater disposal connecting into the stormwater drainage pits within Marine Parade.
  - The provision of stormwater quality control facilities to treat stormwater in accordance with the Engineers Australia publication *Australian Runoff Quality – A Guide to Water Sensitive Urban Design* prior to entering Council's stormwater drainage system.
  - The stormwater drainage system servicing the building shall include the provision of a Rainwater Re-Use system to collect generated run-off from the roofed areas to service toilet flushing and landscaping within the site. The tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500, shall include first flow diversion devices fixed to all inflows, be provided with a functioning pressure pump, and be plumbed to service all fixtures. The tank must be controlled such that supplemental flows from domestic mains do not take place until the tank is at least 80% empty.

- Design plans must be approved by Council/Accredited Certifier prior to issue of the Construction Certificate.

The plans must be prepared in accordance with *AS/NZS3500.3:2004* and Council's *Civil Works Design Guidelines*, and be approved by the Accredited Certifier prior to issue of the Construction Certificate.

### **Sustainability commitments**

- 25 The development is to be carried out in accordance with the statement of sustainability commitments dated July 2014 and the Construction Certificate plans and specifications are to demonstrate compliance prior to issue of the construction certificate. It is noted that these measures are in addition to Basix measures and are required for development of 'key sites'.

### **Food Act Requirements**

- 26 Prior to the issue of a Construction Certificate, detailed plans and specifications for the food handling areas of the restaurant tenancy (T10) are to be submitted to and approved by Council's Environmental Health Officer- Food.

### **Liquid Trade Waste Requirements**

- 27 Prior to the issue of the Construction Certificate, the developer must submit a Liquid Trade Waste (LTW) Application for approval to Council as the Water and Sewer Authority in order to discharge liquid trade waste into the sewerage system. The (LTW) Application is to be approved by Council prior to the issue of a Construction Certificate.

### **Grease Arrestor**

- 28 The proposed grease arrestor shall be appropriately sized to accommodate not only the T10 retail space (Restaurant) but also any other potential retail food outlets likely to operate at these premises in the future. Grease arrestor sizing shall be in accordance with the requirements outlined in the NSW Office of Water LTW Regulation Guidelines 2009, Table 2 Appendix F).

The proposed grease arrestor installation shall be in accordance with Australian Standards National Plumbing and Drainage Code AS3500, Part 2, Sanitary Plumbing and Sanitary Drainage and Council requirements. Reference shall be made to Appendix F, NSW Office of Water LTW Regulation Guidelines 2009 for venting requirements for grease arrestor chamber room as proposed in this development.

Details shall be provided for approval; by Council prior to the issue of a Construction Certificate.

### **Adaptable housing**

- 29 Prior to issue of a Construction Certificate, the architectural plans are to be amended as follows:

- A minimum of 10% of all dwellings within the development are to be designed as suitable for adaptation for occupation by disabled/aged persons as outlined in AS 4299:Adaptable Housing. The adaptable housing should include a mix of 1, 2, and 3 bedroom dwellings, a mix of outlook and include adaptable units located at the podium with a courtyard. Satisfactory plans demonstrating compliance are required to be provided. The plans are to demonstrate compliance including satisfactory circulation space and good layout design requiring minimal changes in accordance with the Australian Standard.

### **Plan changes**

- 30 Prior to issue of a Construction Certificate, the architectural plans are to be amended as follows:
- The rear door for the retail unit T06 is to be deleted in order to ensure security in the design for the residential units using the adjacent residential lobby.
  - Toilets and shower facilities are to be provided in close proximity to the swimming pool and available for use by persons within the communal open space and swimming pool area.

### **Car wash bay**

- 31 The car wash bay must be bunded in accordance with AS 1940–1993 and AS/NZS 4452–1997, covered and discharges directed to sewer in accordance with Council's Trade Waste requirements. A separate trade waste approval must be obtained prior to connection to the sewer. Each bay shall have a harvested water supply connection and a power outlet.

## **PRIOR TO COMMENCEMENT OF WORKS**

### **Erosion and Sediment Control Requirements**

- 32 Prior to the commencement of construction an initial Erosion and Sediment Control Plan (ESCP) prepared in accordance with the latest edition of the Landcom Publication *'Soils and Constructions- Volume 1'* (The Blue Book) shall be provided to the Principal Certifying Authority. This plan shall be modified and updated during construction to reflect any changes due to the on-ground/site conditions. A copy of any modifications or updates to the ESCP shall be provided to the PCA and provided to Council upon request.
- 33 Erosion and sediment controls shall be monitored, maintained and adapted in accordance with the most recent ESCP until the site is fully stabilised and landscaped. Failure to comply with this condition may result in fines under the provision of the Protection of the Environment Operations Act



## Protection of Adjoining Property Requirements

- 34 Prior to works associated with the development commencing, the owner of the adjoining property affected by the proposed excavation and/or structural protective works, must be given written notice of the intention to commence works. The required notice must be accompanied by details of the proposed work at least seven (7) days prior to the commencement of proposed excavation and/or structural protective works.
- 35 Prior to works associated with the development commencing, the applicant must supply the Principal Certifying Authority with a dilapidation report for the adjoining properties, which documents and photographs the condition of buildings and other improvements. The report must be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works. **Note:** The report is to be made available by the Principal Certifying Authority in any private dispute between neighbours regarding damage arising from construction works upon the development site.

## Site Requirements

- 36 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.
- 37 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
- be a standard flushing toilet connected to a public sewer system; or
  - have an on-site effluent disposal system approved under the *Local Government Act 1993*, or be a temporary chemical closet approved under the *Local Government Act 1993*, supplied by a suitably licensed contractor.
- 38 Prior to works associated with the development commencing, a suitable metal waste skip (with self-closing lid or secure covering) or lined mesh steel cage(s) is to be provided upon the development site for the duration of the construction phase of the development in accordance with the requirements of Development Control Plan 2013, Chapter 2.1 – *Dwelling Houses & Ancillary Development*. The required waste receptacle is to be suitably emptied at appropriate times during the construction phase of the development.

39 A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic;
- could cause damage to adjoining lands by falling objects; or
- involve the enclosure of a public place or part of a public place.

These works are exempt development pursuant to clause 2.109 of the *State Environmental Planning Policy (Exempt and Complying Development Codes)* 2008 where the development standards prescribed in clause 2.110 of that instrument state:

- enclose the work area;
- if it is a temporary construction site fence adjoining, or on, a public place—be covered in chain wire mesh that is designed, appropriately fixed and installed in accordance with AS 2423—2002, *Coated steel wire fencing products for terrestrial, aquatic and general use*; and
- be removed immediately after the work in relation to which it was erected has finished if no safety issue will arise from its removal.

**Note 1:** A structure on public land or on or over a public road requires the prior approval of the relevant authority under the [Local Government Act 1993](#) or the [Roads Act 1993](#), respectively.

**Note 2:** The [Work Health and Safety Act 2011](#) and [Work Health and Safety Regulation 2011](#) contain provisions relating to scaffolds, hoardings and other temporary structures.

## **Roads - Preconstruction Requirements**

40 Prior to commencing any works upon public roads the developer and their contractor will be required to:

- Obtain a copy of the Council approved Civil Works plans and pavement design (if applicable).
- Obtain a copy of Council's *Civil Works Design Guidelines*. This is Council's Specification for Civil Works and is available on Council's web site.
- Arrange a meeting on-site with Council's Principal Development Construction Engineer on (02) 4350 5555.

- 41 Prior to works associated with the development commencing, a Plan of Management is to be submitted to and approved by Council as the Roads Authority for any works or deliveries that impact on any public roads or public land as a result of the construction of the development. The plan must include a Traffic Control Plan prepared by a person holding Roads and Traffic Authority (RTA) accreditation for selecting and modifying traffic control plans. Fees and charges are applicable to the review and approval of the required management plan in accordance with Council's Plan of Management. Any signage or infrastructure works shown on the plan are to be carried out by the developer at no cost to Council.
- 42 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.

## DURING WORKS

### Approved Plans

- 43 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

### Acid Sulphate Soils – Construction Requirements

- 44 Upon completion of excavation works, documentary evidence is to be provided for the approval of the Principal Certifying Authority demonstrating compliance with the requirements of the Acid Sulphate Soils Management Plan submitted with respect to the development.

### Dust Control Requirements

- 45 Suitable dust suppression measures shall be implemented and maintained by the developer during demolition, excavation and construction works associated with the development. Such measures are required to minimise the emission of dust and other impurities into the surrounding environment.

### Fill Material

- 46 All materials other than fill imported to the site for civil works, shall have a resource recovery exemption made under the Protection of the Environment Operations (Waste) Regulation 2005.

- 47 All site fill material shall be classified as Virgin Excavated Natural Material (VENM) or Excavated Natural Earth (ENM) in accordance with the Waste Classification Guidelines – Part 1: Classifying Waste published by the Department of Environment, Climate Change and Water NSW (now Office of Environment and Heritage). Site fill material shall be certified as VENM or ENM by a practising Geotechnical Engineer prior to haulage to site. Certification documentation shall be provided to the Principal Certifying Authority throughout the construction phase of the works.

### **Flooding - Construction Requirements**

- 48 The minimum floor level of the proposed retail ground floor areas within the building is to be RL 3.6 metres AHD. Certification from a Registered Surveyor confirming that the minimum floor level has been achieved must be submitted to the Principal Certifying Authority when the structure reaches ground floor stage. **Note:** Form work associated with the building is not to be erected until such time as the floor level certification is received.

### **Silencing Devices**

- 49 Sound attenuating devices shall be provided and maintained in respect of all power-operated plant used during demolition, earth works and the erection of the structure. The quietest available plant should be used and be regularly maintained and fitted with appropriate mufflers.

### **Services/Utility Requirements**

- 50 The developer is solely responsible for any costs relating to alterations and extensions of existing roads, drainage, water and sewer infrastructure and other utilities for the proposed development.
- 51 Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;
  - Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

### **Site Requirements**

- 52 Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Friday, between 8:00am and 1:00pm Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.

- 53 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 54 During the construction phase of the development, any excavation below the level of footings of buildings upon adjoining allotments requires the preservation and protection of the adjoining buildings from damage resulting from subsidence. Should it be necessary, the excavation is to be supported and the adjoining buildings underpinned in a manner certified by a suitably qualified Structural Engineer.

### **Waste Management Requirements**

- 55 During the construction phase of the development, all building materials must be re-used, recycled or disposed of in accordance with the Waste Management Plan and documentation dated June 2014.

### **Swimming Pool Construction Requirements**

- 56 Prior to the swimming pool being filled with water, required swimming pool safety barriers and gates are to be installed in accordance with the approved plans and specifications and the provisions of the *Swimming Pools Act 1992*, *Swimming Pools Regulations 2008* and AS 1926.1-2012 including the display of an approved sign regarding pool safety and resuscitation techniques that contains all of the following information:
- “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL”;
  - “POOL GATES MUST BE KEPT CLOSED AT ALL TIMES”;
  - “KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900mm CLEAR OF THE POOL FENCE AT ALL TIMES”; and
  - A simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults).
- 57 Prior to the swimming pool being filled with water, the common boundary fence forming part of the pool enclosure, it is to have a minimum height of 1.8 metres when measured inside the pool enclosure in accordance with the provisions of AS 1926.1-2012. The maintenance and effectiveness of the fence is the responsibility of the pool owner whilst ever the pool exists. Alternatively, the pool must be fully enclosed by swimming pool safety fencing complying with the provisions of AS 1926.1-2012 in lieu of any boundary fencing.
- 58 Prior to the swimming pool being filled with water, the disposal of filter backwash to the sewer must be completed in a manner that will not cause a nuisance, or where sewer is not available, the disposal of filter backwash must be discharged into a rubble absorption trench to the satisfaction of the Principal Certifying Authority.

- 59 Prior to the swimming pool being filled with water, each window which is capable of giving access to the swimming pool enclosure, where the height of the sill of the lowest openable portion of the window is less than 1.8 metres above the adjoining ground surface level, or the sill of the lowest openable portion of the window is less than 1.2 metres above the internal floor surface level, are required to be protected with suitable security screens complying with the provisions of Clause 2.7 of AS 1926.1-2012.

#### **Noise**

- 60 A minimum of five working days prior to any potentially noise generating construction works commencing, written notice shall be given to surrounding occupants advising of the time/date and duration for the works and the principal contractors contact details.

### **PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE**

#### **Building Code of Australia – Compliance Requirements**

- 61 Prior to the issue of an Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

#### **Dilapidation Rectification Requirements**

- 62 A post construction dilapidation report is to be prepared by a suitably qualified person at the completion of construction works. This report should identify whether the construction works created any structural damage to adjoining properties when compared to the pre-construction dilapidation report. A copy of this report shall be made available to the adjoining owners and Council prior to issue of the Occupation Certificate
- 63 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.

#### **SEPP 65 – Design Verification Requirements**

- 64 Prior to the issue the Occupation Certificate, the Principal Certifying Authority shall receive a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the Design Quality Principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development.

## **Statutory Certificate Requirements**

- 65 Prior to the occupation of the building occurring, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority. Occupation of the development without an Occupation Certificate is an offence under the provisions of the *Environmental Planning and Assessment Regulation*, 2000.
- 66 Prior to the Issue of an Occupation Certificate, a Final Fire Safety Certificate, as required by Clause 153 of the *Environmental Planning and Assessment Regulation*, 2000, certifying that all the Fire Safety Measures within the building have been designed and installed in accordance with the relevant standard of performance as nominated by the Fire Safety Schedule issued with the Construction Certificate, is to be supplied for the approval of the Principal Certifying Authority. Such Final Fire Safety Certificate is also to be displayed within a prominent location within the building such as the main entry.

## **Swimming Pool Compliance Requirements**

- 67 Prior to the issue of an Occupation Certificate, the filter plant equipment associated with the swimming is to be sited in accordance with the approved plans, or where necessary, is to be sound insulated so as to minimise the noise to adjoining properties. Under the provisions of the Protection of the *Environment Operations Regulations* 2000, (Noise Control), a person must not cause or permit a swimming pool or spa pump to be used if noise is audible within a habitable room of any other residential premises;
- before 8.00am or after 8.00pm on any Sunday or public holiday; and
  - before 7.00am or after 8.00pm on any other day.
- 68 Prior to the issue of an Occupation Certificate, the swimming pool surrounds and any associated paving must be constructed in a manner that water from pool overflow does not discharge onto neighbouring properties.

## **Basix Requirements**

- 69 Pursuant to Clause 97(a)(3) of the *Environmental Planning and Assessment Regulation* 2000, it is a condition of this development consent that all the commitments listed in the BASIX Certificate for the development are fulfilled. All work is to be satisfactorily completed prior to the issue of the Occupation Certificate.

## **Waste Management Requirements**

- 70 For safety, amenity and maintenance reasons, the waste storage area must be constructed to the following standards prior to the issue of an Occupation Certificate:
- Floors must be constructed of concrete, graded and drained to an approved drainage outlet connected to the sewer and finished to a smooth even trowelled surface;
  - Walls must be constructed with solid impervious material and shall be cement rendered internally to a smooth even steel trowelled surface;

- All intersections between the walls and floors shall be coved with coving having a minimum radius of 25mm;
- All entry points into the room must be bunded to prevent the escape of liquid waste. Bunding shall be for 110% of the likely liquid storage waste and constructed in such a manner that does not obstruct the removal of waste receptacles from the room or create a safety risk to users;
- Adequate ventilation shall be provided;
- Adequate lighting shall be provided;
- The ceiling must have a minimum height of 2.1 metres from floor level and be finished with a smooth faced non-absorbent material capable of being easily cleaned;
- Waste storage areas shall prevent the access of vermin;
- Waste receptacles used shall be compatible with Wyong Council's waste collection service;
- The door to the storage area shall be weatherproof and shall be openable from the inside at all times; and
- Hot and cold water hose cocks shall be located inside or within close proximity to the waste storage areas to facilitate cleaning.

## **Contamination**

- 71 All recommended actions specified in the contamination assessment report titled "Phase 1 Contamination Assessment With Limited Sampling - Proposed Multi-Storey Residential And Commercial Development 14 – 16 The Entrance Road And 2 Ocean Parade, The Entrance - Project 41505 – Dated October 2007 By Douglas Partners" are to be implemented prior to occupation.
- 72 All asbestos, asbestos contaminated material and waste is required to be lawfully disposed of and a copy of the disposal receipts must be provided to Council prior to occupation.
- 73 A suitably qualified consultant who is experienced with assessing and managing contaminated hazardous material will provide Council with a "Clearance Certificate", which demonstrates that the subject property has been successfully remediated and is free of contamination prior to occupation.

## **Food Act Requirements (Tenancy T10 only)**

- 74 No food handling, (as defined by the NSW Food Act 2003), is permitted in the food premises prior to the issue of the Occupation Certificate.
- 75 All liquid trade waste is required to pass through a basket arrestor with fixed screens, fitted to all floor wastes and sinks, before being discharged into the sewerage system.



- 76 Compliance with the requirements of the New South Wales Food Act 2003, the Food Regulation 2010, and AS4674–2004 – Design, Construction and Fitout of Food Premises, and AS1668, Part 11 – Mechanical Ventilation, for all food preparation and food storage areas, including liquor areas.
- 77 The installation of hand wash facilities with a minimum dimension of 500mm x 400mm providing warm running water through a common mixing spout with hands-free tap operation (consisting of elbow or wrist operated tap levers, foot or hip operated tap levers, or electronic sensor tap operation).

### **Landscaping Requirements**

- 78 Prior to the issue of an Occupation Certificate, to ensure landscaping works are properly completed, the landscape designer must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent.
- 79 Screen planting is to be established and maintained along the eastern boundary to minimize privacy impacts to the adjoining properties located adjacent to this boundary.
- 80 The applicant is to provide adequate volume of soil to accommodate the Norfolk Island Pine, this will require the construction of a suitable tree pit; the design of which is to be certified by a minimum AQF5 qualified consulting arborist. The volume required to support a healthy mature tree is suggested in the Arborist report provided by Daniel Mathews of Urban Forestry Australia (Appendix Q of the SEE)

### **Bicycle Parking Requirements**

- 81 Prior to the issue of an Occupation Certificate, to encourage the use of alternate transport modes by staff and residents, secure bicycle storage, change rooms and lockers must be provided to accommodate a minimum of 50 cycles. Additionally, a minimum of 4 public bicycle storage spaces for patrons must be located in close proximity to the building entrances and be highly visible and well illuminated to minimise the likelihood of theft and vandalism. The installation and dimensions of the facility shall be in accordance with NSW Bicycle Guidelines 2005 and Guide to Traffic Engineering Practice – Bicycles, Part 14 – AustRoads. These works must be completed prior to the issue of an Occupation Certificate.

### **Roads – Compliance Requirements**

- 82 All road signage and pavement marking works must be completed in accordance with the plans approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.
- 83 The provision of any additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council as the Roads Authority prior to issue of the Occupation Certificate.
- 84 All works within the public roads must be completed in accordance with the approved Civil Works design drawings and Council's *Civil Works Construction Specification* and be approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.

## **Stormwater – Compliance Requirements**

- 85 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.
- 86 Prior to the issue of an Occupation Certificate, stormwater generated from roof areas of the building and any overflows from rain water tanks installed in conjunction with the development, is to be disposed of into Council's street gutter drainage system. Where provided, the existing kerb stormwater connection is to be utilised.

## **Work as Executed Requirements**

- 87 Prior to the issue of an Occupation Certificate, Works as Executed information for the development as identified in Council's *Civil Works Construction Specification* is to be submitted to and approved by Council. The required Works as Executed information is to be submitted in hard copy and in electronic format in accordance with Council's 'CADCHECK' requirements.

## **Water and Sewer Services/Infrastructure – Compliance Requirements**

- 88 Prior to the issue of an Occupation Certificate, all water and sewer works for the development must be approved by Council as the Water and Sewer Authority.
- 89 The obtaining of a satisfactory final plumbing & drainage inspection advice or Section 307 Certificate of Compliance under the *Water Management Act 2000* for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority, prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

## **Noise suppressing screen**

- 90 The developer is to provide a noise suppressing screen along the eastern edge of the podium to minimise the potential impacts from the use of the podium area onto the rooftop terrace areas at No.4 Marine Parade. The screen shall be of sufficient height to minimise potential noise impacts.

## **Amenity**

- 91 Any plant or equipment required for refrigeration, air-conditioning, heating, filtering and the like must be suitably insulated for the purpose of reducing noise emissions and should not visibly screened so as not to project beyond the roofline or from an external wall.

## **Consolidation**

- 92 The consolidation of all lots comprising the site into one lot by registered subdivision prior to the issue of an Occupation Certificate. Adequate proof of the consolidation is to be submitted to the Principal Certifying Authority.

**Contribution required for any future use as ‘food and drink premises’**

- 93 The provision of car parking spaces for the ground floor shops have been calculated based on retail uses only under a ‘shop’ parking rate. Any future use of the ground floor shops as a ‘food and drink premises’ (WLEP 2013) will generate increased parking demand and a contribution for parking will be payable under Council’s Section 94 Plan (The Entrance District Development Contributions Plan No.3) unless the required parking spaces can be provided on site.

**Parking provision**

- 94 The parking spaces are to be provided for the development in accordance with the plans and allocated (in accordance with DCP Ch2.11 Cl.3.2) as follows:
- 1 space per unit is to be allocated as resident parking
  - The remaining spaces (including excess and visitor spaces but excluding stacked spaces) are to be provided as separate parking and available for common use at all times.
  - Ten (10) spaces (including the accessible space) are to be provided for the restaurant and shops and are to remain unallocated. One of these spaces is to be reserved for deliveries and service vehicles.
  - One (1) residential visitor space is to be available for car washing. The car washing space is to be fitted with a tap and electrical outlet.
  - One (1) retail parking space is to be identified and maintained as a service/delivery space and one retail space is to be identified and maintained as an accessible parking space. The remaining retail parking spaces are to be identified and line marked as available for parking for the retail staff and customers.

**Accessible path of travel**

- 95 An unrestricted accessible path of travel is to remain available between the retail parking spaces (containing the accessible parking space) and the lower ground retail tenancies.

**Site Appearance, Maintenance and Security Requirements**

- 96 To minimise the opportunity for crime and in addition to the measures outlined in the applicant’s supporting information (CPTED report dated 20 November 2014 prepared by Ingham Planning) and CPTED principles, the development shall incorporate the following:
- i. In order to maintain a safe level of visibility for pedestrians within and around the development, adequate lighting to AS1158 is to be provided to all common areas including parking, and any pedestrian routes to these areas. All lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties.

- ii. Ensure that the development minimises the opportunities for concealment or entrapment spaces.
  - iii. The means to isolate the various areas of the site shall be incorporated into the development, including measures for after-hours access.
  - iv. Ensure the development management adopts an ongoing policy of rapid repair of vandalism and graffiti and ensuring that all lighting is in working order.
  - v. Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- 97 The owner/operator(s) of the site must maintain the external finishes of the building(s), structures, walls and fences for the life of the development and any graffiti must be removed in a timely manner.
- 98 The owner/operator(s) of the site must maintain the required CCTV for the life of the development so that at all times the CCTV provides high-quality images of all public areas within the site.
- 99 The owner/operator(s) must effectively manage any incidences of anti-social behaviour or nuisance on the site by implementing appropriate responses to such incidences if they occur. The owner/operator(s) must also take appropriate measures after any such incident to reduce the likelihood of such incidences reoccurring on the site.
- 100 All site landscaping is to be maintained for the life of the development in accordance with the approved landscape plan, as amended by the conditions of this consent, and with the approved maintenance schedule.

### **Hours of Operation Requirements**

- 101 For the purposes of preserving the amenity of neighbouring occupants and residents, hours of operation for the shops (T01-09) and restaurant (T10) are restricted to between:
- 7.00am and 10.00pm Monday to Saturday
  - 8.00am and 8.00pm Sundays

### **Loading and Waste Collection Area**

- 102 To preserve the amenity of surrounding occupants and residents, deliveries to and from the site, including waste collection, must only take place between:
- 7.00am to 6.00pm weekdays
  - 8.00am to 4.00pm on Saturdays.

No deliveries are permitted on Sundays.

- 103 Loading and unloading of vehicles and delivery goods and merchandise and the like to and from the premises must be carried out wholly within the land as it is shown on the endorsed plan and be conducted as to cause minimum interference with other vehicular traffic. The loading bay is to be kept unobstructed except when in use.

- 104 The largest vehicle permitted to access the development during ordinary business hours, including waste collection vehicles, is the medium rigid vehicle.
- 105 The loading and unloading of goods from vehicles must only be carried out on the land. The loading dock shall be suitably managed and timetabled to ensure that multiple loading activities (including waste collection) do not overlap (potentially creating on street queuing). The loading bay shall accommodate at most only 1 small rigid and 1 medium rigid vehicle at a time.
- 106 Garbage/recycling bins must not be permitted to encroach with the carpark or vehicle manoeuvring areas.

#### **Amenity**

- 107 To preserve amenity for surrounding occupants, signage limiting use of the pool area to after 8.00am and before 8.00pm on any Sunday or public holiday; and after 7.00am and before 8.00pm on any other day shall be visibly installed within the vicinity of the pool. Any lighting associated with the pool area is to be switched off outside of the permitted hours.

#### **Noise – plant maintenance**

- 108 Regular servicing and maintenance of 'plant' to ensure that it is run in a proper and efficient manner

#### **Future subdivision**

- 109 Any future subdivision of the development is to be subject to appropriate easements to be created to benefit Council for the purpose of permitting Council officers to access the building on a 24 hour a day basis.in order to maintain and repair the sewer line extending through the building.

## **SCHEDULE OF CONTRIBUTIONS**

The Entrance Car Parking	\$1,193,756.80
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