

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

<b>JRPP No</b>	2016HCC038
<b>DA Number</b>	DA/624/2016
<b>Local Government Area</b>	Central Coast Council
<b>Proposed Development</b>	Masterplan development application for mixed use development comprising 81 residential units (in two tower elements), retail space and car parking
<b>Street Address</b>	10 Denning Street & 1-5 Short Street, The Entrance Lots D, E, F & G DP 348224, Lot 1 DP 102735, Lot 11 DP 17376, Lots 1 & 2 DP 1219145
<b>Applicant/Owner</b>	Central Coast Council
<b>Number of Submissions</b>	Two objectors
<b>Regional Development Criteria</b>	Lodged prior to 1 March 2018 Clause 3 –Development with a CIV exceeding \$5 million and Council related
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings</li> <li>• State Environmental Planning Policy No. 71 – Coastal Protection</li> <li>• Draft State Environmental Planning Policy – Coastal Protection</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy 55 – Remediation of Land</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• Wyong Local Environmental Plan 2013</li> <li>• Wyong Shire Development Control Plan 2013 <ul style="list-style-type: none"> <li>- Chapter 2.11 - Parking and Access</li> <li>- Chapter 2.4 - Multiple Dwelling Residential Development</li> <li>- Chapter 3.4 – Denning/Short St Key Site</li> <li>- Chapter 2.15 - Public Art</li> <li>- Chapter 5.1 - Retail Centres</li> <li>- Chapter 5.3 - The Entrance Peninsula</li> <li>- Chapter 3.7 - Heritage and Conservation</li> <li>- Chapter 6.1 - Key Sites</li> <li>- Chapter 3.1 Site Waste Management</li> </ul> </li> </ul>
<b>List all documents submitted with</b>	Annexure A – GLN Planning Assessment Report Annexure B – Draft Refusal Annexure C – Development Plans

(contd)+

<b>this report for the panel's consideration</b>	Annexure D – Applicants Clause 4.6 Request for Variation Attachment 1 – Numerical Compliance Table Attachment 2 – WDCP Chapter 2.4 Attachment 3 - WDCP Chapter 6.1 Clause 3.4 Denying/Short St Checklist Attachment 4 - Clause 7.11 Checklist Attachment 5 – SEPP 71 Checklist Attachment 6 - Draft SEPP Coastal Protection Checklist Attachment 7 - WDCP Chapter 5.3 Checklist
<b>Recommendation</b>	Refusal
<b>Report by</b>	GLN Planning prepared by Jillian Sneyd
<b>Report Date</b>	March 2016

<b>Summary of s79C matters</b> Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Yes</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	<b>No</b>

## Assessment Report and Recommendation

### PREPARED BY GLN PLANNING FOR CENTRAL COAST COUNCIL

#### For The Hunter Central Coast Joint Regional Planning Panel (JRPP)

### SUMMARY

An application has been received for a masterplan development application for a mixed use development containing retail (2,156m<sup>2</sup>) and residential floor space (81 Units) with associated car parking. The application has been examined having regard to the matters for consideration detailed in section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

<b>Applicant</b>	Central Coast Council
<b>Owner</b>	Central Coast Council
<b>Application No</b>	DA/624/2016
<b>Description of Land</b>	10 Denning Street & 1-5 Short Street, The Entrance
<b>Proposed Development</b>	Staged mixed use development (under Section 83B) Masterplan development application for a mixed use development containing retail (2,156m <sup>2</sup> ) and residential floor space (81 Units) with associated car parking
<b>Site Area</b>	3266.7m <sup>2</sup> to increase to 4302m <sup>2</sup> including road reservation
<b>Zoning</b>	B2 Local Centre Wyong LEP 2013
<b>Existing Use</b>	Carpark and closed road
<b>Estimated Value</b>	\$48,790,383

### RECOMMENDATION

- 1 That the Regional Planning Panel refuse the application subject to appropriate reasons for refusal detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 and other relevant issues.***
- 2 That Council advise those who made written submissions of its decision.***

**PRECIS:**

<b>Proposed Development</b>	Staged mixed use development (lodged under Section 83B, now Section 4.22) Masterplan development application for mixed use development comprising 81 residential units (in two tower elements), retail space and car parking
<b>Permissibility and Zoning</b>	The site is zoned B2 Local Centre and the proposal is permissible as shop top housing and retail premises under WLEP 2013
<b>Relevant Legislation</b>	State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings State Environmental Planning Policy No. 71 – Coastal Protection State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 Wyong Local Environmental Plan 2013 (WLEP 2013) Wyong Shire Development Control Plan 2013 (WDGP 2013)
<b>Current Use</b>	Carpark
<b>Integrated Development</b>	No
<b>Submissions</b>	Three submissions from two submitters.

## VARIATIONS TO POLICIES

<b>LEP</b>	WLEP 2013
<b>Clause</b>	Clause 4.3 - Maximum Height of Buildings
<b>Standard</b>	Maximum height of buildings is 23 metres for the closed road portions of the development site.
<b>Departure basis</b>	23.15m or 100.6%
	Variation not supported.

<b>LEP</b>	WLEP 2013
<b>Clause</b>	Clause 7.11
<b>Standard</b>	Key Sites
<b>Departure basis</b>	Proposal relies on Clause 7.11 to achieve height of 50m, seeks to extend the key site provisions via application of Clause 4.6.
	Variation not supported.

<b>DCP</b>	WDCP 2013 – Chapter 5.3 – The Entrance Peninsula
<b>Clause</b>	Section 3.2.5.1 – Streetscape
<b>Standard</b>	For buildings taller than six storeys, tower elements to be set back from building lines by a minimum of 10 metres.
<b>Departure basis</b>	A nil setback is proposed for Tower 1 - Variation not supported.

The proposed variations are discussed in further detail later in the report.

## THE SITE

The subject site has four street frontages and operates as a public car park, referred to as the Short Street car park. The site is bounded by Short Street (generally east), Bayview Avenue (generally north), Theatre Lane (generally west) and Denning Street

(generally south. Theatre Lane serves as the rear access to the shops fronting The Entrance Road one block to the west.



*Figure 1 – Aerial photograph of subject site*

The main portion of the site is 3266.7m<sup>2</sup>, the proposal involves an increase to the site area to 4302m<sup>2</sup> by including the existing road reserve. The proposed site includes part of the road reserve adjoining the length of the site along both Short Street and Theatre Lane.

There are works indicated within the road reserve of Theatre Lane for which owners consent has not been obtained. (refer plan A-105 issue G).



## **SURROUNDING DEVELOPMENT**

The subject site is located within a commercial and residential setting, primarily characterised by a mix of multi-level developments, with a parcel of undeveloped land located directly to the north of the site. Surrounding land use includes residential, retail and commercial developments.

Development Consent No. DA/1080/2014 was granted by the Hunter and Central Coast Joint Regional Planning Panel on 14 December 2015 for a Section 83B staged mixed use development comprising shop top housing (residential tower) a hotel tower with multi-purpose function space, a restaurant, a shopping centre and parking, including demolition of existing structures on the Lakeside Plaza Site located at 8-118 The Entrance Road; 1-3 Glovers Lane; 19-23 Taylor Street, The Entrance. Further development consent is required for each of the three subsequent operational stages. A Section 96 Modification Application was approved by Council on 20 April 2017.

## **THE PROPOSED DEVELOPMENT**

The development application has been lodged under Section 83B of the Act, now Section 4.22 of the Act seeking concept approval for a staged mixed use development comprising two towers and including:

- Retail (2,156 m<sup>2</sup>)
- Residential floor space (81 units)
- Associated car parking (346 spaces).

The main body of the site is identified as a 'key site' under WLEP 2013 key site maps. The application has been lodged under these provisions which allow for a bonus building height in return for significant public benefits to be provided to the community and to stimulate further development and viability of town centres. The development has a maximum height of 46.15 metres above ground level (RL46.15 AHD). The site includes two portions of closed road adjoining the site to the east and west of the main body of the development site. The building is proposed to extend into the closed road and seeks variation of the maximum height control to the portions of closed road within the development site. The height of the main portion of the development site complies with the Key Site provisions.

Street front podium elements are to be built predominately to the street frontages and the building height limited to 2 storeys at the boundaries (7-8m podium to natural ground level).

There are two residential towers proposed. Tower 1 (towards the Denning Street frontage) contains 12 floors of residential units over 1 level of retail development.

Tower 2 (towards the Bayview Avenue frontage) contains 5 levels of residential units over 2 levels of retail development. Three and a half levels of below ground car parking are proposed with loading facilities off Theatre Lane.

Public domain improvements proposed include a Piazza at the Dening Street frontage and a Bus Hub on The Entrance Road. The Piazza is proposed as a fundamental building block for the Town Square envisaged in Council's adopted Masterplan.

The application seeks 'concept approval only'. The application does not indicate or seek approval the future staging of the proposed development.





Figure 2 – Proposed Site Plan

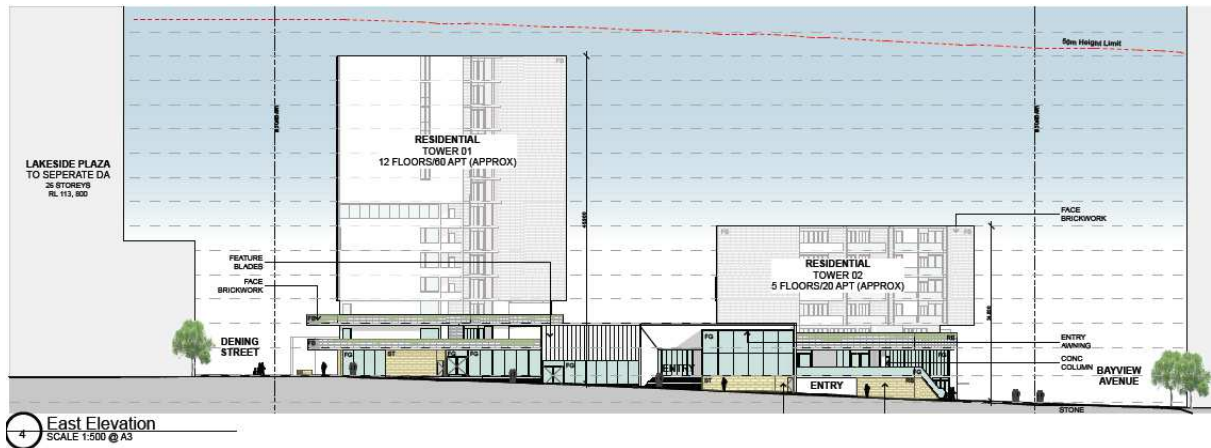


Figure 3 – East Elevation

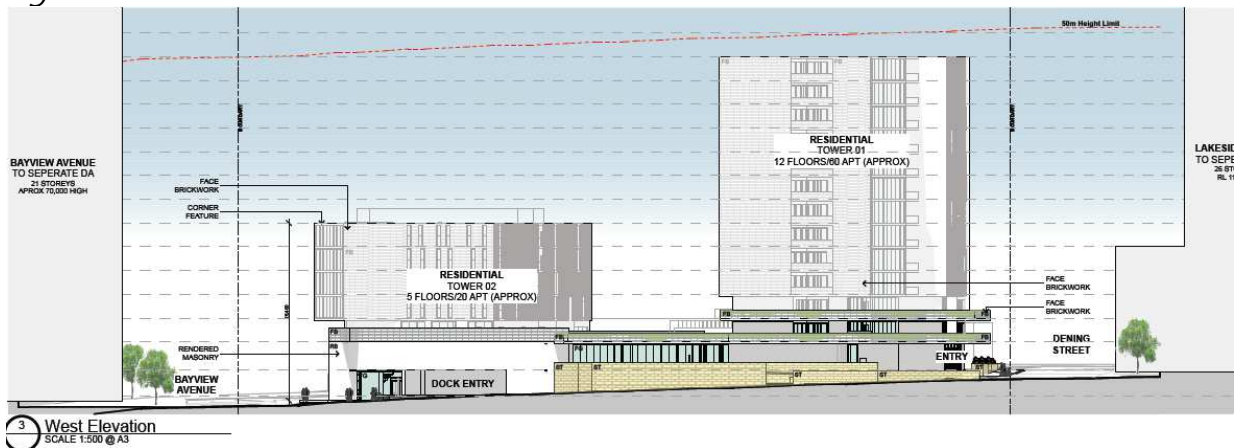


Figure 4 – West Elevation

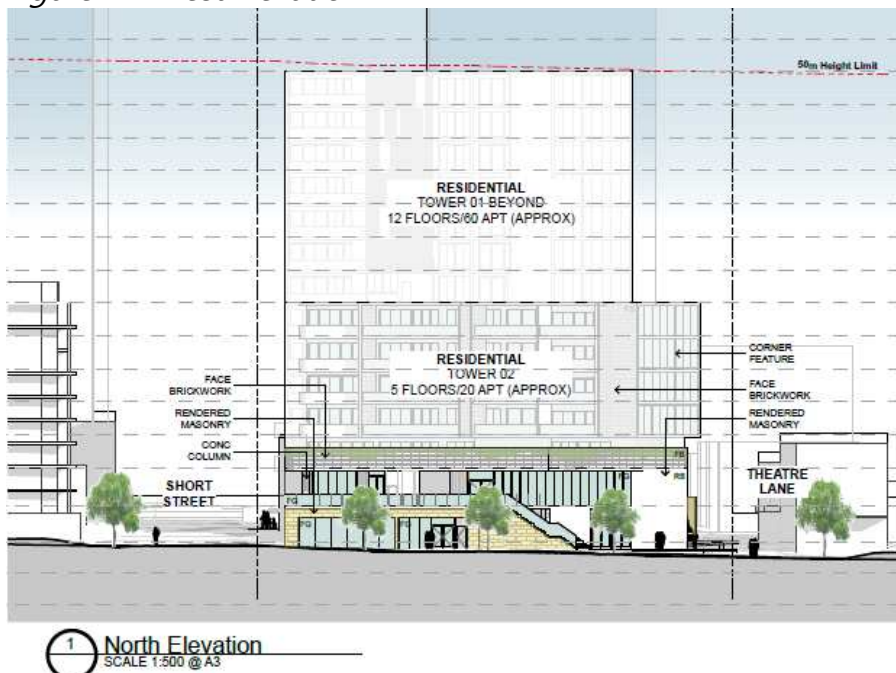
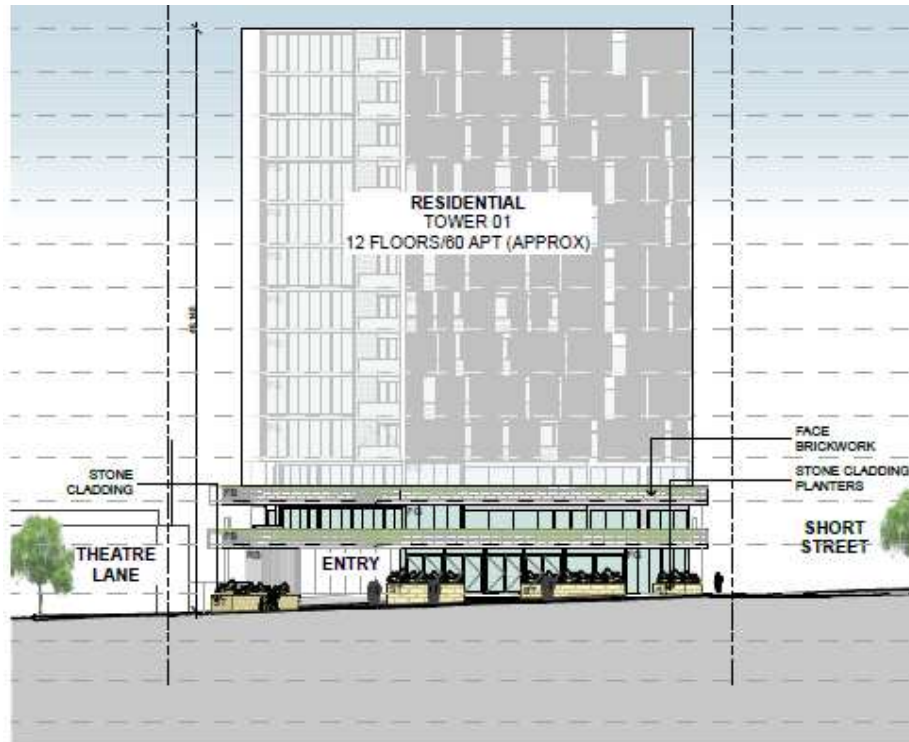


Figure 5 – North Elevation



2) **South Elevation**  
SCALE 1:500 @ A3

*Figure 6 – South Elevation*



*Figure 7 – Photomontage from Bayview Avenue*

## HISTORY

The site currently contains an at grade car parking facility (currently owned by Central Coast Council) with 93 car parking spaces and public toilets and an electrical kiosk in the south western corner. On-street angle car parking also exists along Short Street (21 spaces), Bayview Avenue (7 spaces) and Theatre Lane (10 spaces).

The site has a gentle slope from south to north, with a total fall of 4.5m over the length of the site.

The site is identified as a 'key site' under WLEP 2013 key site maps. The proposed development intends to utilise these provisions which allow for a bonus building height in return for significant public benefits to be provided to the community. The site has a maximum permitted height of 50 metres under the Key Sites height map (referred to under Wyong Local Environmental Plan 2013 – Clause 7.11(2)). Ordinarily the applicable height for development of the site would be 31 metres for the main development site occupied by the existing carpark. 23 metres is the applicable maximum permitted height for the portions of closed road within the site.

In order to rely on the Key Site provisions pertaining to building height, Wyong LEP 2013 (Clause 7.11) requires the preparation of a site specific Development Control Plan (DCP). A site specific DCP addressing Clause 7.11 of WLEP has not been prepared and as an alternative, the application has been lodged as a staged Development Application under the former Section 83B and 83C (now Sections 4.22 and 4.23) of the *Environmental Planning and Assessment Act 1979*.

Development Application No 624/2016 was lodged on 26 May 2016. An initial JRPP briefing was undertaken on 4 August 2016 on this matter. Following the briefing, an email was sent to the applicant on 16 August 2016 outlining feedback provided by the JRPP, requesting clarification in relation to car parking calculations, outlining comments from Council's Transportation Engineer, Social Planner and Heritage Officer. In March 2017, additional information was submitted. On 17 May 2017, following assessment of the additional information submitted, a further letter was sent to the applicant indicating that the application required a number of further issues to be addressed and summarised as:

- urban design issues including
  - internal retail arcade,
  - public amenity,
  - connection with open space and existing arcades,
  - relationship to Short St and Bayview residential developments,
  - address to Bayview Mall

- appearance of tower facades
  - tower setbacks
- failure to submit a design verification statement
- clause 7.11 of WLEP 2013
- public art
- transportation engineer concerns
- staging of the development
- matters raised in submissions

To date the applicant has not submitted any further information in response to this letter.

As Central Coast Council are the owners and applicants of the proposed development, an independent assessment of the development application has been undertaken. This report has been prepared by GLN Planning Pty Ltd.

## **SUBMISSIONS**

The application was notified on two occasions in accordance with WDCP 2013 – Chapter 1.2 Notification of Development Proposals with one (1) submission being received for the first notification period (15 June 2016 to 29 June 2016) and three (3) submissions from two (2) submitters received for the second notification period (14 April 2017 to 2 May 2017).

The applicant was advised of the matters raised by the objector which are summarised as:

- Inclusion of land in the development application which is not yet owned by Council and without the legally required owner's consent.
- Inclusion of building elements above 31 metres on land which is not included in the key sites map (and therefore not subject to the potential for an increased height limit of 50m).
- Location of the tallest element of the proposed development on the southern end of the site resulting in unacceptable visual and overshadowing impacts on Denning Street and the properties to the south of the site.
- Discrepancies and conflicts in the documentation submitted with the application such that it is not possible to determine the exact nature of the development proposed.

These matters were addressed by the amended information and the general issues raised in relation to the proposal following the second notification periods are discussed below.



- *Not valid to seek to use the provisions of clause 7.11 of the LEP to achieve increased height for part of the site and clause 4.6 for the balance.*

**Comment:** This assessment reaches the same conclusion, noting that the applicable height limit for the closed road portions of the site is 23m.

- *Use of the clause 4.6 provisions to effectively extend the Key Sites clause 7.11 provisions to additional land is not a valid variation of a development standard and an amendment of the Key Sites Map in WLEP 2013 would need to be implemented.*

**Comment:** This assessment similarly agrees, the Key Sites provisions were a strategic planning direction to identify key sites. The purpose of Clause 4.6 is to enable flexibility in the application of development standards not the amendment of LEP mapping for convenience.

- *The proposed development still locates the tallest building element on the southern boundary of the site resulting in unacceptable impacts upon both the public domain of Denning Street and the approved redevelopment of the Lakeside site.*

**Comment:** The shadow diagrams still depict a significant degree of overshadowing of Denning Street during March to September which constitutes detrimental overshadowing of public spaces and is inconsistent with the intent of Council's adopted Masterplan for The Entrance Town Centre and WDCP controls. The development has been designed to maximise solar outcomes within the site to the detriment of adjoining public spaces and adjacent approved and future development.

- *The application is deficient in its consideration of the criteria under Clause 7.11 of the LEP which determine whether the additional height limit on the Key Sites Map is applicable to the site. It is our view that the proposal presented in the DA documentation does not meet the requirements of Clause 7.11(3)(i) and (j) and the SEE provides minimal analysis of these factors.*

**Comment:** It is agreed that the application has not provided sufficient details and documentation to enable a rigorous assessment of the likely impacts of the concept proposal development.



## **ECOLOGICALLY SUSTAINABLE PRINCIPLES:**

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

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

## **CLIMATE CHANGE**

The potential impacts of climate change on the proposed development have been considered 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:

**Sustainable building design:** The residential part of the proposal includes initiatives for energy and water efficiency under the submitted BASIX Certificate. Sustainability measures for the design of the ground floor tenancies (food and drink premises and neighbourhood shop) have also been provided for via lighting, glazing, insulation and construction materials.

**Reduced Car Dependence:** The proposal includes parking for bicycles and motorcycles as alternative modes of transport to the car

**Rising Sea Level:** The site is located within an area subject to flooding from overland flow rather than flooding from the lake.

## **ASSESSMENT:**

Having regard for the matters for consideration detailed in Section 4.15 of the *EP&A Act 1979* and other statutory requirements, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues, which are elaborated upon for the Panel's information. Any tables relating to plans or policies are provided as an attachment.

## PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/POLICIES:

### (a) Wyong Local Environmental Plan 2013

#### Permissibility

Under WLEP 2013, the site is zoned B2 Local Centre.



Figure 8 – Extract of zoning map (light blue: B2 Local Centre, pink: R3 Medium Density Residential)

The proposal includes as permissible uses a number of land uses including, 'retail premises' and 'shop top housing'. The proposed development is to contain a mix of retail and shop-top residential housing and is defined in WLEP as a "mixed use development". Mixed use development is not a prohibited development within the B2 Zone and therefore falls within the list of land uses that are 'Permissible with the Consent of Council'.

The following land use definitions are relevant:

*"**mixed use development** which means "a building or place comprising 2 or more different land uses."*

*"**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,
- (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.”

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

**“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.”

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 nonresidential 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). Under the proposal a range of future business and retail

opportunities are created that will serve the needs of visitors to, and residents of, the local area. The proposal would create new employment opportunities in an accessible location and the residential accommodation is provided above ground floor level.

Additional housing will help in meeting Central Coast Regional Growth targets and will contribute additional adaptable housing supply in the locality.

## **Height of Buildings**

Under Clause 4.3 of Council's LEP and the Height of Buildings Map, the maximum height of buildings that applies to the site is 31 metres for the main body and 23 metres for the closed road portions of the development site. Council GIS system indicates that the Theatre Lane portion of closed road has a height limit of 31m and the Short St portion has a 23m height limit. The Council GIS system is believed to be a mapping error that has occurred at the time of the creation of the closed road lots in August 2016 (Lots 1 & 2 DP 1219145).

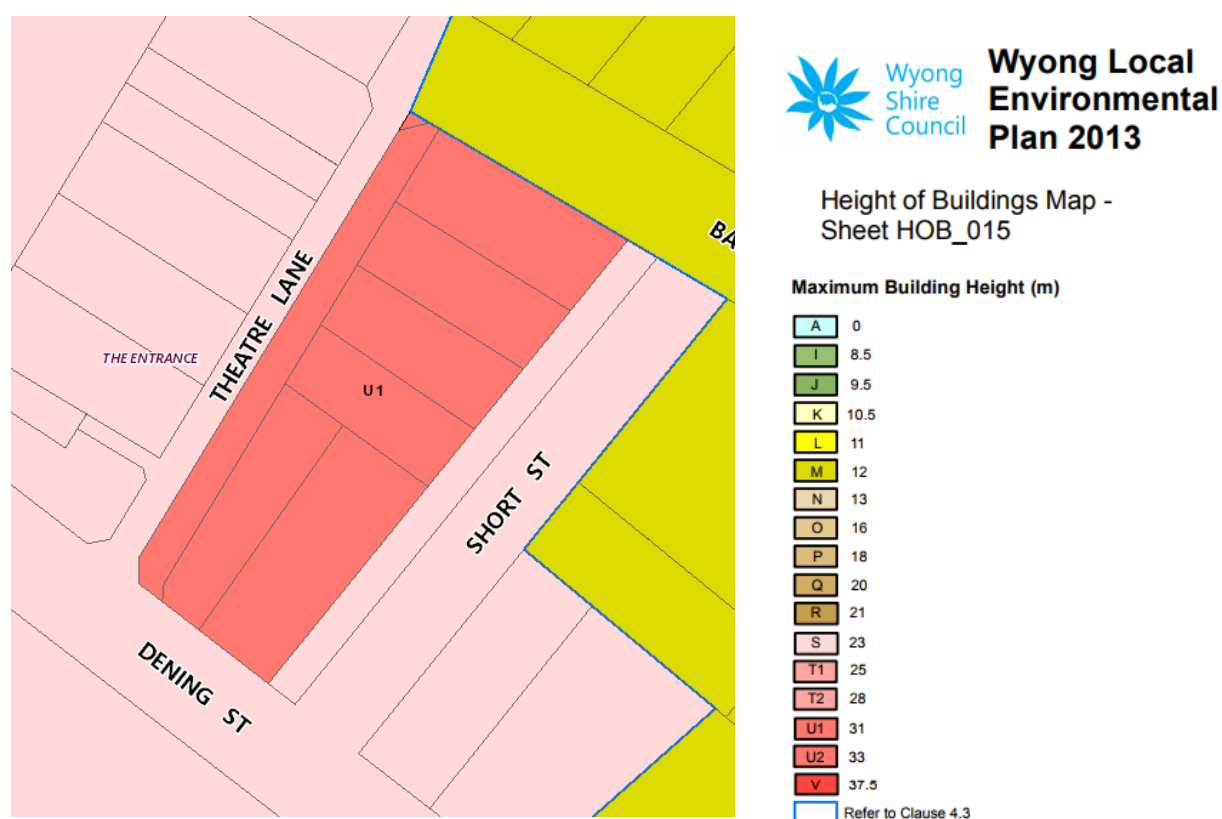
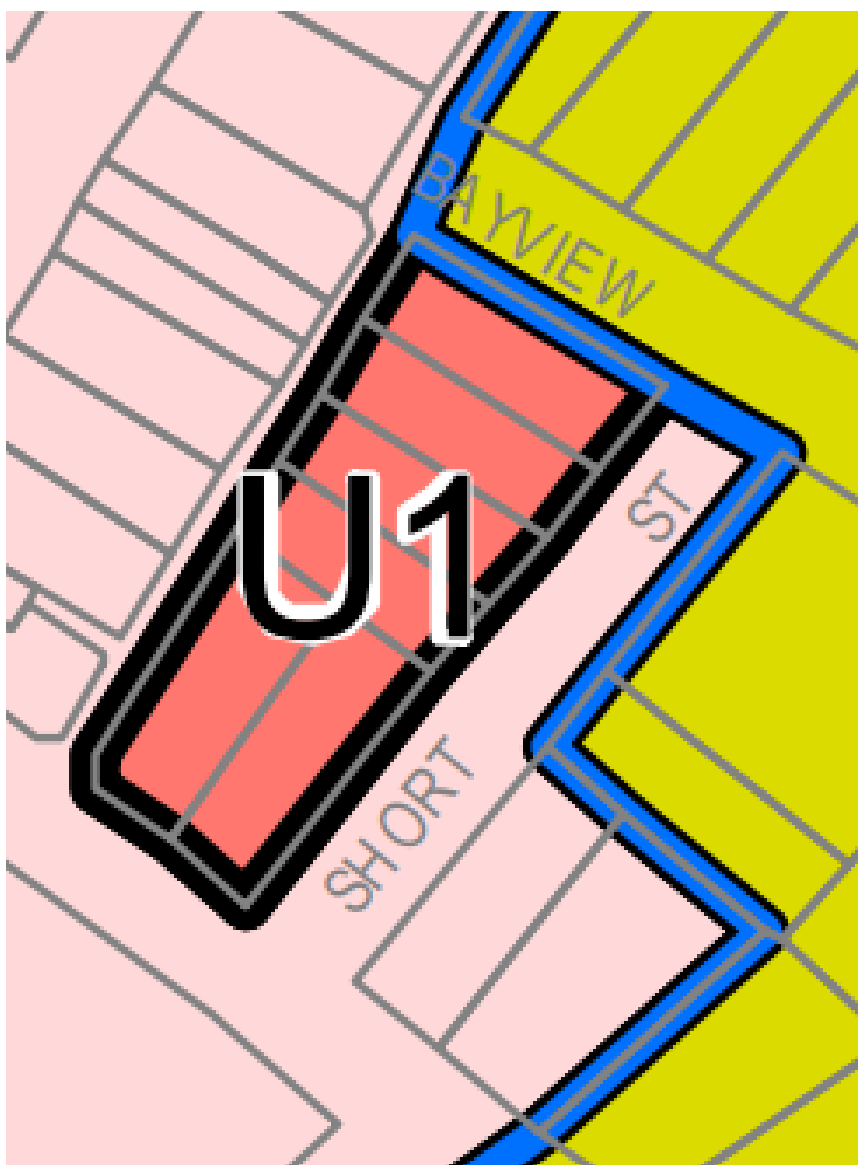


Figure 9 – Extract of Height of Buildings Map Source Council GIS



*Figure 10 – Extract of Height of Buildings Map Source WLEP Legislation NSW*

The published maps do not identify the portions of closed road (Lots 1 & 2 DP 1219145) on the cadastre which predates the creation of the lots. Map 15 has been effective since 3 February 2017 and the earlier map was published at the time of the WLEP commencing. (Refer [https://www.legislation.nsw.gov.au/maps/a3b26416-d437-4851-894c-d119c7446700/8550\\_COM\\_HOB\\_015\\_020\\_20151116.pdf](https://www.legislation.nsw.gov.au/maps/a3b26416-d437-4851-894c-d119c7446700/8550_COM_HOB_015_020_20151116.pdf)). The original map indicates the same height of building controls as the current published maps.





## Wyong Local Environmental Plan 2013

### Key Sites Map - Sheet KYS\_015

#### Key Site - Maximum Building Height (m)

Key Site

*Figure 11 – Extract of Key Sites Map*

The site is identified as a key site and a greater height applies in some circumstances. Under Council's Key Sites Maps (Clause 7.11(3)) the site is permitted a maximum building height of 50m.

The subject site includes portions of closed road within the development site. The Key Sites Map does not identify the areas of closed road within the key site. As a result there is a split maximum height of buildings. The effect of the keys sites identification enables the development of a building with the maximum height of buildings that applies to the site is 50 metres for the main body and 23 metres for the closed road portions (Lots 1 & 2 DP 1219145) of the development site.

### Clause 4.6 – Exceptions to Development Standards

A Clause 4.6 exception to the maximum permitted building height (WLEP Clause 4.3) applying to the site is sought under the development application. The development standard under Clause 4.3 of WLEP 2013 limits the maximum building height on the site to 50m for the identified key site and 23m for the closed road portions of the development site. The proposal seeks a maximum height of 46.15m. The exceedance of the height occurs within the closed road portions of the site as identified by the extract of Figure 2.2 from the Clause 4.6 Variation Request submitted by the applicant.

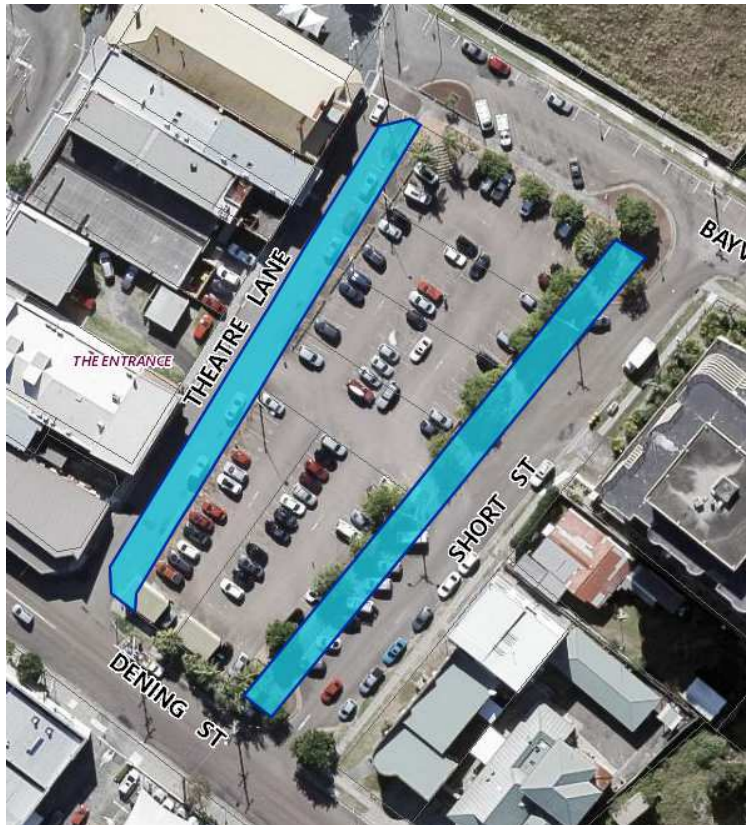


Figure 12 – Road closure lots subject to Clause 4.6 request

The variation sought is 23.15m. The elevations below seek to illustrate the extent of the variation. It is noted that the 31m height limit is indicated not the applicable 23m as identified on the height of building map.

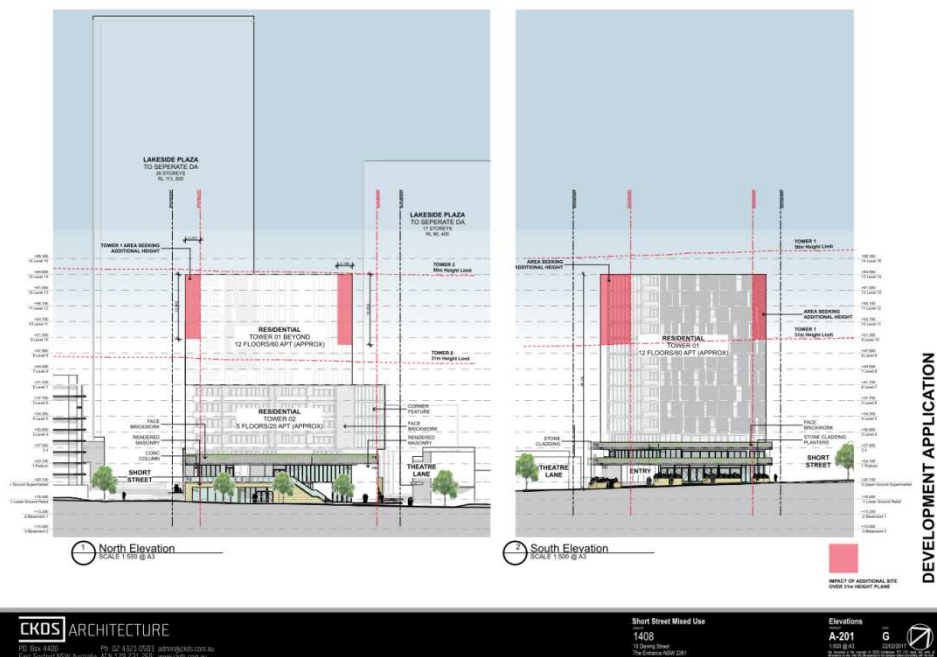


Figure 13 – Elevations depicting areas subject to Clause 4.6 request

The Clause 4.6 exception to the development standard applying to building height as sought by the applicant is included in Annexure. D. Clause 4.6(4) reads:

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

The applicant's Clause 4.6 Exception to Development Standard does not adequately address the matters required to be demonstrated under subclause (3)(a) and (3)(b). Subclause (3) reads:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The development proposal would result in the redevelopment of a key site within The Entrance with the type of development anticipated by WLEP 2013 and WDCP. However, the submitted Clause 4.6 Variation Request fails in the following respects:

- The extent of the variation is not correctly identified. The maximum height of the building is incorrectly identified as 31m. The maximum height of building for the closed road portion of the development site is 23m.
- The extent of the variation is incorrectly quantified as 6.9% of the built volume. The height control is not a massing control and comparison of the mass of the building which complies to that which does not is not a relevant assessment. The extent of the variation is in 100.6%. It is noted that the actual variation as a percentage of the building volume is greater than 6.9% when accounting for the variation in height from the 23m height plane.
- The consideration of the objectives of Clause 4.3 states incorrectly that: "*Shadow diagrams have been prepared to demonstrate that a building compliant with the 31m height limit on Lots 1 and 2 in DP 1219145 would produce the same overshadowing for adjacent dwellings as the 46.15m building proposed. Consequently, the objective would be no better achieved by smaller sections of the building on those two allotments than it is by the proposal.*" The correct analysis would be of a 23m building height.
- The variation request suggests that "The identification of the "Key Sites" did not consider expansion of, or amalgamation of lots involving adjoining former road

reserves for inclusion into the Key Sites. Limiting the height to part of the overall site is considered unreasonable when the project and design is viewed holistically". This argument is flawed for it was the intention to enable the height controls to be varied to land not included within the key site, a flexible approach could have been included within WLEP. Such flexibility is not available.

- The variation request is not well founded, the impacts of the variation which are additional overshadowing and additional width and so building bulk have not been addressed. There is considerable reliance on the desire to encourage development and growth in The Entrance and insufficient consideration of the other impacts.
- The variation is not considered to be in the public interest, the area in which the additional height is located has been identified as restricting vehicular access to nearby properties.

For these reasons and consideration of the principles developed by the Land and Environment Court, the variation of Clause 4.3 is not supported. It is noted that concurrence of the Secretary of the Department of Planning and Environment would be required to be assumed to support the Clause 4.6 variation of Clause 4.3 Maximum Height of Buildings.

### **Floor Space Ratio**

The maximum floor space ratio (FSR) for a building (under clause 4.4) on any land is not to exceed the FSR shown for the land on the FSR map which for this site is 3:1. The site has an area of 4302.1m<sup>2</sup> and therefore an allowable FSR of 3.0:1m<sup>2</sup>. The development has a GFA of 12906.3 m<sup>2</sup> and the proposal therefore complies with the maximum FSR.





*Figure 14 – Extract of Floor Space Ratio map (v= 3.0:1)*

### **Heritage Conservation**

The site is located in the vicinity of the identified local heritage item No 189 – Police Station opposite the subject site in Short St under WLEP 2013:





Figure 15– Extract of Heritage map (item 189 is The Entrance Police Station building)

Council's Heritage Officer advised of the following concerns during the assessment of the application:

1. *The primary impact of the proposed development on the identified heritage item is the overall bulk and scale of the building. Decreased prominence of a two storey podium on the Denning Street frontage as well as the Denning Street and Short Street corner would be a more sympathetic design.*
2. *The two storey podium should be set back further from Denning Street to be in alignment with the Police Station frontage.*
3. *An increased setback of the tower element above the two storey podium, away from the Denning Street frontage would give greater prominence to the two storey podium and its relationship to the Police Station.*
4. *At present the bulk and scale of the proposed tower building will visually dominate the single storey heritage police Station opposite.*

5. *The curved element fronting the Denning/Short Streets intersection is supported, depending on the architectural detailing at the detailed design stage.*

The applicant was advised of these matters by email and requested to address the matters in the additional information to be submitted. As no further information has been submitted and no amendments made to the proposal, the application is not supported by Council's Heritage Officer.

**Key Sites -Clause 7.11- Development requiring preparation of a development control plan)**

Clause 7.11 relates to the development of land identified as a 'key site' on the Key Sites Map and states:

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

- (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:*
  - (e) the application of the principles of ecologically sustainable development,*
  - (f) green building solutions,*
  - (g) design excellence, including a high standard of expertise in urban and landscape design, interior design, construction and historic preservation,*
  - (h) a high standard of architectural design, materials, unique facade treatment and detailing appropriate to the type and location of the development,*
  - (i) encouraging sustainable transport, including increased use of public transport, walking and cycling,*

- (j) road access, including the circulation network and the provision of car parking,*
- (k) the impact on, and improvements to, the public domain,*
- (l) environmental constraints, including acid sulfate soils, flooding, contamination and remediation,*
- (m) the relationship between the development and neighbouring sites, including urban and natural environments,*
- (n) 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."*

The clause allows for bonus development potential - being a greater height than ordinarily permitted – subject to the consent authority being satisfied that a site specific development control plan that provides for the above nominated matters has been prepared.

A site specific DCP has not been prepared and adopted for the site that provides for the above specified matters. However, the applicant submitted that under Section 83C of the EP&A Act, the concept development application lodged under these provisions of the Act satisfies this requirement. Section 83C has been replaced by Section 4.23 and states:

***"4.23 Concept development applications as alternative to DCP required by environmental planning instruments (cf previous s 83C)***

- (1) An environmental planning instrument cannot require the making of a staged development application before development is carried out.*
- (2) However, if an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a staged development application in respect of that land.*

*Note. Section 3.44 (5) also authorises the making of a development application where the relevant planning authority refuses to make, or delays making, a development control plan.*

- (3) Any such staged development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations."*

The development concept, as a masterplan for the site, is not considered to express:

- (g) design excellence, including a high standard of expertise in urban and landscape design, interior design, construction and historic preservation,*

- (h) a high standard of architectural design, materials, unique facade treatment and detailing appropriate to the type and location of the development,
- (j) road access, including the circulation network and the provision of car parking,
- (k) the impact on, and improvements to, the public domain,

In line with the requirements of Clause 7.11 the statement of environmental effects (SEE) and Clause 4.6 Request variation suggest that the Key Sites provisions can be extended to the closed road portions of the site. This position is not supported and it would be necessary to amend WLEP to allow development of up to 50m on those portions of the site.

A table of compliance for the proposal against the requirements of Clause 7.11 is attached to the report (in Attachment No. 4).

Application of s. 4.22 in this instance is beyond the intent of the applicable planning controls and if approved it is considered that the subsequent operative DA's will not have the capacity to address and meet the provisions appropriately.

### **Coastal Zone**

Clause 5.5(2) applies to development within the coastal zone and requires consideration of specified matters prior to consent being granted. The specified matters relate to:

<b>Clause 5.5(2) Coastal zone matters</b>	<b>Comment</b>
<ul style="list-style-type: none"> <li>maintaining existing and identifying new pedestrian access to and along the foreshore,</li> </ul>	<p>The proposal does not directly affect pedestrian access to/along the foreshore but will increase pedestrian activity in the area surrounding the site including the foreshore. The development is considered likely to attract visitors, customers, workers as well as direct residents of the proposal.</p>
<ul style="list-style-type: none"> <li>the suitability of the development and its impact on scenic quality,</li> </ul>	<p>The towers will be visible from various vantage points around The Entrance and beyond. However, the proposal will not disturb views to any coastal headlands. The subject site has been the subject of long term planning and is identified in the broader planning strategies for the area (eg. The Entrance Town Centre Masterplan). This masterplan encouraged development of a range of sites with this site being identified as a</p>

	key site (with height bonuses through the WLEP).
<ul style="list-style-type: none"> <li>the impact of the proposal on the amenity of the coastal foreshore (including shadowing or view loss),</li> </ul>	The site is approximately 400m from The Entrance Channel. There are no direct or unreasonable impacts on loss of amenity to the foreshore resulting from the proposal.
<ul style="list-style-type: none"> <li>protection of the visual amenity and scenic qualities of the coast,</li> </ul>	Due to the height of the towers, the proposal will be readily visible from some distance away. As noted, the redevelopment of the site has been the subject of long term planning and is identified in the broader planning strategies for the area including the WLEP and does not of itself warrant refusal of the application.
<ul style="list-style-type: none"> <li>conservation of coastal biodiversity and ecosystems, and</li> </ul>	The site is currently a carpark. The proposal does not adversely impact upon the conservation of coastal biodiversity and ecosystems including rock platforms or coast vegetation.
<ul style="list-style-type: none"> <li>the cumulative impacts of the development on the coastal catchment.</li> </ul>	The proposal does not have any cumulative impacts on the coastal catchment. With regard to visual impacts, the proposal has been the subject of long term planning and is identified in the broader planning strategies for the area. The concept design is compatible with the vision for The Entrance as a thriving sea side destination.

The proposal is considered satisfactory in relation to the protection of the coastal zone.

### **Acid Sulphate Soils**

Clause 7.1 requires consideration to be given to certain development on land being subject to actual or potential acid sulphate soils. The site is identified as Class 5 on the Acid Sulphate Soils (ASS) Planning Map and the proposal does include works that are proposed within 500 metres of adjacent Class 3 land and that are below 5 metres Australian Height Datum.

With the proposed excavation of 9.6 metres up to 13.3 metres, an Acid Sulphate Soils Assessment Report and Management Plan shall be required to be prepared by a



suitably qualified person for the future developments. The current application is for concept approval only and appropriate information to address this matter will need to be provided with the operational development applications lodged for subsequent stages for the basement car park construction.

### **Essential Services**

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.

Water service is available for the proposed development from The Entrance Road and Taylor Street. Council's existing system is adequate to provide water supply to the proposed development, with localised upgrades and renewals required as part of the development.

The site is sewered, as the proposal is for a concept application, Council could review the adequacy of the proposed connection points in more detail and determine if upgrades may be required.

In accordance with Clause 7.9, the future stages of the proposed development will need to demonstrate the manner in which the development can be adequately serviced. Water and sewer contributions will be applicable to the future operational stages of the development. In the event that approval was recommended, conditions of consent could be imposed in this regard.

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

#### **State Environmental Planning Policy 65 – Design Quality of Residential Apartment Buildings**

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Buildings applies to the development and requires the design quality of the residential flat development to be taken into consideration and evaluated against the nine design quality principle, and the Apartment Design Guide (ADG). The proposal is not accompanied by a Design Verification Statement as required by Clause 50(1A) of the Regulations (Regs). The SEE states:

*The proposed development seeks approval for a conceptual development of the proposed mixed-use development. Drawing No. 1408 Sheet A-006 (Rev E) prepared by CKDS Architecture provides a summary in relation to the design controls and level of compliance for the concept design.*

*Comment: It is concluded that the proposed development generally meets the compliance criteria with a more detailed assessment to be provided with the subsequent future development applications.*

Clause 70A of the Regs enables information for concept DA's to be deferred to a subsequent development application.

### **Concept development applications—residential apartment development**

*Clause 50 (1A) applies in relation to a concept development application only if the application sets out detailed proposals for the development or part of the development.*

The proposal provides for detailed proposals including indicative floor plans and a SEPP 65 Verification Statement is considered to be required. Deferral of matters relating to SEPP65 cannot guarantee that compliance can be achieved or that compliance may be compromised due to the form of the concept application and the requirement for future stages to comply with a Stage 1 development consent if granted. For this reason, the Design Quality Principles under Part 2 of SEPP65 must be addressed.

A new urban context is being established by recent development approved and this proposal which will modify the character, scale and place that currently exists in The Entrance town centre. Future development must be consistent with the adopted desired future character and form. The concept proposal does not provide sufficient detail to ensure consistency with the intent of the provisions of SEPP 65.

### **Former State Environmental Planning Policy 71 – Coastal Protection (repealed on 3 April 2018)**

Former State Environmental Planning Policy 71 – Coastal Protection applies to the development, as the site is located within the coastal zone. SEPP No. 71 – Coastal Protection was repealed on 3 April 2018, therefore, SEPP No. 71 – Coastal Protection is to be given determinative weight in assessment. 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 Attachment No. 5). 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. The site is locally prominent and the visual implications of the building when viewed from a range of locations has been considered in the long term and detailed planning for the site. This includes the adoption of Council's 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 residential component of the development constitutes 'BASIX affected development' as defined within the Regulations, however, BASIX Certificates have not been submitted with the development application. Under Clause 70A of the EPA Regulation, required information under a staged development application may be deferred to a subsequent development application. In the event that the application was recommended for approval, a condition of consent could be imposed in this regard.

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

Clause 7(1) of State Environmental Planning Policy 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.

A Preliminary Geotechnical Assessment was undertaken by Cardno dated March 2014. The assessment included a review of readily available information in relation to the current and past uses of the site as well as a site walkover. There is no evidence of any site contamination issues nor of the presence of acid sulphate soils. The site is currently utilised as an at grade carpark, however basement car parking will require detailed geotechnical investigations prior to the preparation of future detailed DA's for physical works on the site. In the event that the application was recommended for approval, a condition of consent could be imposed in this regard.

### **State Environmental Planning Policy 64 - Advertising and Signage**

There are no details for advertising or signage proposed or approved under the concept application.

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

The proposal constitutes regional development under Part 4 of the SEPP and as identified under Schedule 7 of the SEPP, due to the estimated value of the development (exceeding \$30 million). The proposal is also identified as Council related development over \$5 million. As such, the determining authority for the development application is the Hunter and Central Coast Regional Planning Panel. Clause 22 (now repealed) of the SEPP identified that in the case of a staged development (under Section 83B of the Act), the functions of a Council conferred on the regional panel extend to the determination of the separate future development applications for the stages.

Consideration of the applicable legislation would be required if the application was approved and at the time of preparing DA's for future stages of the development.

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

Clause 104 and Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 do not apply to the development (under Column 3). This portion of The Entrance Road is not part of the classified road network. The application was referred to the RMS for comment and is detailed later in this report.

### **State Environmental Planning Policy (Coastal Management) 2018**

SEPP (Coastal Management) 2018 commenced on 3 April 2018, following the lodgment of the subject Development Application. Subclause 21(1) of SEPP (Coastal Management) 2018 states the following in relation to savings and transitional provisions:

*(1) The former planning provisions continue to apply (and this Policy does not apply) to a development application lodged, but not finally determined, immediately before the commencement of this Policy in relation to land to which this Policy applies.*

Consideration was given to the relevant Clauses of SEPP – Coastal Management 2018 (being Clauses 14 and 15) in the assessment of the application and the proposal was considered satisfactory.

## **c) Relevant DCP's**

### **Wyong Development Control Plan 2013**

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

The existing carpark located on the site provides 131 parking spaces. The proposed development generates the need for on-site parking under Chapter 2.11 of WDCP as follows:

<b>Land Use</b>	<b>DCP Parking Rate</b>
Multi Dwelling Housing and Residential Flat Buildings	1 space per 1 bedroom dwelling 1.2 spaces per 2 bedroom dwelling 1.5 spaces per 3 (or more) bedroom dwelling 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.

	<p>In addition, 1 space per 5 units for visitor parking with a minimum of 1 visitor space per development 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>
Shops in District Centre	<p><b>For GFA (m<sup>2</sup>) Spaces/100m<sup>2</sup> (GFA) #</b></p> <p>Up to 13,000m<sup>2</sup> 4.7</p> <p>13,000-26,000m<sup>2</sup> 4.3</p> <p>26,000-40,000m<sup>2</sup> 3.3</p> <p>Over 40,000m<sup>2</sup> 3.1</p> <p>Note: Apply the requirement from the GFA grouping for the previous group that the development suits, then apply the remainder at the rate for the appropriate grouping e.g. a 28,000m<sup>2</sup> centre would require 4.3 spaces per 100m<sup>2</sup> up to 26,000m<sup>2</sup> then 3.3 spaces per 100m<sup>2</sup> for the remaining 2,000m<sup>2</sup>.</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 up to 2,600m<sup>2</sup> GFA then 1 space per 1,300m<sup>2</sup> GFA thereafter</p>

346 parking spaces for retail and residential use are proposed to be provided including 131(including 38 street parking spaces) to replace the existing spaces lost as a result of the development. Parking is proposed within 4 basement levels with 327 spaces provided on site, the additional 19 spaces are identified on Short Street and Bayview Avenue.

Parking (Chapter 2.11)	Details of development	DCP rate	Required Spaces	Parking provision
Residential				
- 1 bed	32	1 x 1 Bed	32	110
- 2 bed	34	1.2 x 2 Bed	41	
- 3 bed	12	1.5 x 3 Bed	18	
- 4 bed	3	2 x 4 Bed	3	
- Visitor		1 per 5 units	16	



Total Residential				
Retail	2198.5sqm	4.7 spaces/100sqm GFA	104	104
Existing spaces lost	131 spaces		131	131

As identified above, the application seeks to provide a quantum of carparking that will meet the needs of the development. The parking is not shown as residential and retail with access available to all from each level. This is not appropriate for the residential development and requires greater consideration before the application can be approved. In the event that the application was recommended for approval, the need to meet minimum parking requirements and detailed design matters could be addressed as a condition of consent requiring compliance in a later stage.

## **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 for each stage exceeds \$5 million. The application does not provide any details of public art proposed for the site.

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

As a concept DA, the bulk of the assessment cannot be undertaken until subsequent stages of the proposal have been developed. Future stages will be the subject of assessment against the detailed provisions of the ADG. A checklist of the proposal against the Chapter 2.4 provisions is contained in Attachment 2.

## **Chapter 3.1 Site Waste Management**

In the event that the application was recommended for approval, a Waste Management Plan would need to be submitted with the operational development applications for each stage of the development. The Plan would be required to outline the waste disposal, reuse and recycling (on and off site) for the construction and operational stages of the development.

### **a) Concept Waste Servicing**

Council's waste management requirements outline that the provision on-site waste servicing is required where there are 12 or more residential units proposed. Council's Engineer has provided the following advice on the waste servicing aspect of the proposal:

*The loading area will be able to cater for the waste vehicle provided it is 4.5m high minimum, however there is a disconnect between proposed bin storage area and the loading dock which would require bins to be wheeled a significant distance from the bin storage area to the loading dock. There is also a disconnect between the towers (which would have garbage chutes) and the bin storage area. The SEE addresses waste by dismissing it at this concept approval stage and dealing with it with the future DA's.*

Had the significant issues associated with the proposal been overcome, and the application was recommended for approval, further information would have been sought demonstrating suitable waste management and servicing arrangements complying with Council's requirements.

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

The site is located opposite the identified local heritage items under WLEP 2013:

- The Entrance Police Station - Item I89 – 12 Denning Street (corner of Short Street).

Council's Heritage Consultant has noted the scale of the proposal and its redevelopment of streetscape and determined that there be visual impacts to the Police Station that warrants amendments to improve the relationship with the heritage item. The proposal will generate more pedestrians and allow for greater exposure and enjoyment of the historic items. Additional Information was requested that has not been provided.

## **Chapter 6.1 Key Sites**

The site is identified as a key site under DCP Chapter 6.1 - Key Sites to which Clause 3.4 (Denning / Short Streets Carpark) and Clause 3 (Generic Development Controls) apply. The proposal has been assessed against the DCP objectives and the following generic development controls:

<b>Controls</b>	<b>Proposal</b>
Design Excellence	The proposed built form is unacceptable in terms of height, setbacks and proposed finishes.
Design Quality	The design has not addressed nine (9) SEPP 65 principles and this has been discussed elsewhere in the report.
Green Building Design	The design has not addressed Green Building Design in any manner that would be binding on a future application.
Livability	An assessment against the ADG and SEPP 65 has not been undertaken by the applicant.
Employment Generation	The proposal will result in the creation of commercial /retail floor space and construction employment.
Pedestrian Access	The pedestrian links proposed are not consistent with The Entrance Master Plan.
Traffic/Public Transport/Vehicular Access	The proposal will limit vehicular access to properties with frontage to The Entrance Road and rear access from Theatre Lane.
Carparking	General compliance with the carparking requirements has been achieved. The current proposal is concept only and the parking provision on site will be further refined in future applications for the operational stages.
Natural Hazards	The proposal is not subject to any natural hazards that would constrain the development of the site as proposed.
Public Domain	The concept DA does not provide public domain improvements consistent with The Entrance Masterplan or WDCP and other recent approvals.
Other Public Benefits	The application does not provide for, or detail, any potential public benefits.

There are specific controls under Clause 3.4 (Denning/Short Street) of the DCP that apply to the site and proposed development. The proposal is generally consistent with the objectives and requirements that specifically apply to the subject site as outlined in the attached table (Attachment No. 3)

## Public Benefit

Clause 2.11 of Chapter 6.1 requires significant public benefits to be provided to the community in return for bonus height potential and to stimulate further development, vitality and viability of town centres. The objective of the clause specifies:

- "To facilitate the provision of public domain improvements and other public benefits through iconic development of the key sites".

At this concept stage, the proposal does not comply with the objective of this clause in that 'public domain improvements and other public benefits' in the order envisaged by the DCP have not been provided. Under the requirements, Clause 2.11 specifies: *"The Masterplan and site specific DCP for each Key Site must provide a detailed proposal for significant public benefit. Such public benefit will be in addition to any development contributions levied in accordance with an adopted Section 94 or Section 94A contribution plan"*.

The detailed proposal for significant public benefit in addition to any development contributions levied in accordance with an adopted S94 contribution plan has at this stage not been provided. The application is therefore seeking a 100% variation to the DCP requirement. There is no levying of Section 94 contributions at the concept stage proposed under the current DA. The clause requires the following criteria to be satisfied prior to the granting of development consent for development utilising the bonus height provision.

*"a) The following criteria must be satisfied prior to the granting of development consent:*

*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 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:  $PB = (s.94 \times PBR)$ , 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."*

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. Under this clause, a Public Benefit of 1.5 (PBR) x S94 is applicable as the proposal does not exceed 70 metres in height.

There has been no VPA negotiated for the proposal for the provision of a public benefit contribution. As the DA is a concept application only, no contributions can be levied.

The application indicates that the public benefit is the provision of parking spaces. It being noted that these spaces are existing and would be otherwise lost as a result of the proposed development. The Denning Street property has been identified as having potential for a Town Square in The Entrance Peninsula Masterplan and the DCP. The Lakeside Plaza DA No. 1080/2014 has provided this through sculpture, artwork, landscaping, play areas, seating, and informal performance spaces. The applicant was advised that these features should be mirrored in the proposal to complete the northern edge of the town square. No additional information was submitted to address these issues.

Appendix A of WDCP Chapter 6.1 includes works that can be readily proposed as 'potential public benefits' under a development proposal. However, no works outlined within the Appendix have been proposed as part of the application to achieve a potential public benefit for the community.

## **Chapter 5.1 - Retail Centres**

Under WDCP Chapter 5.1, the site is located within a 'town centre' (ie. The Entrance Town centre) under the retail network plan. New retail floorspace is included under the proposal. Assessment of the economic impacts and benefits of the additional floorspace have been previously considered in identifying the site as an iconic site, and as such a net community benefit test is not required for the application.

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

The concept proposal does seek to meet the relevant aims and requirements of WDCP Chapter 5.3. The DCP identifies Denning Street as being a significant frontage for the design of the development. The proposal does not address the following requirements identified under the DCP and can be described in broad terms as urban design:

- Part 2.7.2 – stimulate highest levels of pedestrian and business activity – the proposed development relies on internal arcades, which will detract from active street frontages
- Active streetscapes are restricted by walls and access to the building.

A table of compliance with the relevant provisions of DCP Chapter 5.3 is included under Attachment 7. As the proposed building fails to adequately address the applicable



development standards of height further assessment against the provisions of DCP Chapter 5.3 is not necessary for this assessment.

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

### **a) Built Environment**

A thorough assessment of the aspects of the proposed development on the built environment has been undertaken in terms of DCP compliance and the submissions received. The form of the proposed development does not meet the stated and desired outcomes for development of the Short Street Carpark site and would result in a deleterious effect upon nearby and adjoining development. The site is identified as an "Iconic Development Site" It is stated that "The sites have been chosen on their ability to provide a significant economic benefit to the community, stimulate further development and provide a significant public domain benefit. The Iconic development sites have the benefit of realising additional development potential than the base development standards and the responsibility of providing significant public domain benefit. The proposed development does not achieve compliance with the applicable development standards and will compromise the public domain of the adjoining and so does not warrant support and should be refused.

### **i) Site context and local setting**

The site is located at the south of The Entrance town centre with the waterfront and memorial park being the northern extent. Significant pedestrian traffic is expected to be generated between north and south which will benefit surrounding businesses located between these sites.

The architectural appearance of the building requires modification to achieve appropriate urban design outcomes as has been communicated with the applicant but amended details have not been forthcoming. It is considered that the development in its current form will detract from the scenic qualities of the local setting. The location of key sites has been designed to draw the main development components to the north as an integral part of the town centre retail core. The Entrance Town Centre Masterplan defines the vision and direction for the development of the locality. The site context is planned to undergo substantial change under the revised controls adopted for a number of key sites within The Entrance. The potential redevelopment of surrounding sites has also been identified under Council's planning controls. The proposal is not sufficiently consistent with the planning controls that apply to the site to warrant support

Although there will be some amenity impacts to surrounding development (including shadowing, privacy, visual and acoustic impacts), not all of these impacts are considered as unreasonable in the transitioning context of The Entrance town centre.

In the event that the application was recommended for approval, the amenity impacts could be addressed in greater detail with further detailed information to be provided with each DA lodged for the future operational stages of the development.

### **ii) Energy efficiency, green solutions and sustainability**

Council's Key Site planning controls require development to clearly identify all the sustainability commitments to be provided as part of the development (other than those that would typically be required under BASIX for the residential component and Section J of the BCA for the commercial component) that would satisfy Clause 7.11 of WLEP and the DCP. This is necessary to demonstrate consistency with the objective of the clause to deliver a high standard of design excellence for the site.

### **iii) Public Domain**

The public domain issues have not been satisfactorily addressed in the information submitted. The applicant was advised of a number of urban design issues which were not amended nor additional information submitted. As a Concept application it is the broad public domain issues that require resolution so as to ensure subsequent stages of the development are appropriate. The failure to address these issues results in the application being recommended for refusal.

### **iv) Traffic and Parking**

Council's Traffic Engineer provided the following comments in relation to traffic and parking:

*The addendum to the traffic report only addresses capacity of Theatre Lane but does not address the servicing of the businesses fronting The Entrance Road from the lane. As previously advised the lane would need to be a minimum of 4.5 metres wide to allow service vehicles to park and make deliveries to these businesses. The road closure has in conjunction with the proposed development would restrict access to the properties fronting The Entrance Road. This is short sighted development and cannot be approved until a satisfactory lane width is provided in Theatre Lane.*

Other operational detailed design could be the subject of a condition of consent (in the event that the application was recommended for approval) but the matters raised are:

- *The plans show a staircase descending from the podium level to street level in Theatre Lane directly into the loading dock. The plans do not address how pedestrian safety can be achieved at this location. Pedestrians will be forced to walk behind manoeuvring trucks.*

- *The application does not address how the carpark is proposed to be managed. The residential parking needs to be physically separated from the commercial and public parking.*
- *The artist's impression of the Short Street view shows a garage door at the entry to the carpark and it is assumed that access will be controlled at certain times for security. This will satisfy resident access (swipe card or code) but not public access.*

#### **v) Earthworks**

The proposed 3- 4 storey basement will involve excavation generating a significant number of truck movements required to remove the material. This will impose a significant impact upon the surrounding road network and reduce pavements durability and quality. In the event that the application was recommended for approval, a plan detailing the preferred route could be provided outlining movement times and restricted areas as part of the built form DA's. Construction and Traffic Management Plans could be prepared for the built form DA's that include suitable truck routes with due consideration of the surrounding road network. Further geotechnical investigation will be necessary as recommended in the applicant's submitted preliminary report.

#### **vi) Groundwater**

Preliminary geotechnical investigation in the area has revealed observed to contain groundwater ranging from about 0.7 to 2.6m deep. The report stated that it is expected that the permanent groundwater level would be of considerable depth below excavation level and that the water observed during drilling was simply seepage from either the overlying fill material or along the residual soil / weathered rock boundary. Notwithstanding this statement, similar existing developments within The Entrance involving basement carparks have required continuously operated pump-out systems to cater for movement of groundwater in this area. During construction, de-watering systems will need to be provided to ensure that discharge to the public drainage system is appropriately controlled with any contaminants removed. In the event that approval was recommended, further information could be provided as part of the built form DA's.

#### **vii) Stormwater**

There have been no concept stormwater drainage plans provided as part of this development application. An on-site stormwater detention and drainage system will be required to control the rate of runoff leaving the site. The detention system must be designed to attenuate post developed flow rates to predevelopment flow rates for a full range of storm durations for the 5, 20 and 100 year average reoccurrence interval (ARI) design storms. Council has recently upgraded the downstream drainage system as part of The Entrance Town Centre works. Pump-out systems will be required to facilitate the likelihood of groundwater flows and underground basement carparks. The

provision of stormwater quality control facilities to treat stormwater will be required prior to entering Council's stormwater drainage system, and shall incorporate Water Sensitive Urban Design (WSUD) techniques. In the event that the application was recommended for approval, these matters could have been addressed in future built form DA's.

**viii) Noise and vibration**

This proposal is for concept only and as does not require consideration of noise or vibration impacts.

**ix) 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 has identified a number of general design considerations and measures to be included with the proposal to discourage anti-social behaviour and minimise the opportunities for criminal activities.

**b) Natural Environment**

The site is an infill development site, currently used as a open at grade carpark. There will be no significant impact upon the natural environment as a result of the proposal.

The proposed development has been assessed and determined to represent an inappropriate response to the applicable development controls and resultant built form and public domain. It is for these reasons that the application is recommended for refusal.

**SUITABILITY OF THE SITE FOR THE DEVELOPMENT:**

The site is identified as a "Key Site" and the design of the proposal seeks to utilise the bonus height provisions. The site is situated within an established town centre location which is well serviced with a high level of amenity. The site context is undergoing a transition and the proposal is consistent with the planned future character and higher density form of development on the identified key sites located within The Entrance Town Centre. The relevant planning controls that apply to the site encourage a higher density of development on each of the nominated key sites.

A review of Council's records identifies the following constraint:

- *Acid Sulfate Soils* - The subject site has been identified as containing Class 5 acid sulfate soils. Given the proposed extent of excavation proposed, an acid sulfate soils management plan would be required to be submitted. A preliminary

geotechnical assessment report was submitted with the application which concluded that it is unlikely that potential or actual acid sulfate soils would be encountered on site.

There are no other constraints that would render the site unsuitable for development.

**Any submission from public authorities.**

**Roads and Maritime Services (RMS)**

RMS recommends that the following matters should be considered by Council in determining this development:

- Roads and Maritime has no proposal that requires any part of the property.
- Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.
- Council should have consideration for appropriate sight line distances in accordance with the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements.
- Council should satisfy itself that the cumulative impact from other surrounding approved yet to be constructed development does not have implications on the signalised intersection of The Entrance Road and Denning Street, and does not alter the outcomes of the traffic assessment submitted as part of this application.

These matters would be capable of being conditioned in the event of approval being recommended.

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

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

The site is owned by Council and represents an opportunity to provide best practice development within The Entrance whilst the locality is transitioning to higher density development. The proposal will create additional employment and retail opportunities for the Central Coast Region.



## OTHER MATTERS FOR CONSIDERATION:

### ***Environmental Planning and Assessment Act 1979***

#### **Division 2A – Special procedures concerning staged development applications.**

The application is a staged development application having been lodged under the provisions of Sections 83B and 83C of the EP&A Act (now Section 4.22 and 4.23) reads:

#### **4.22 Concept development applications**

(cf previous s 83B)

- (1) For the purposes of this Act, a concept development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*
- (2) In the case of a staged development, the application may set out detailed proposals for the first stage of development.*
- (3) A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.*
- (4) If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:
  - (a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*
  - (b) the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.*The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.*
- (5) The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.*

*Note.*

*The proposals for detailed development of the site will require further consideration under section 4.15 when a subsequent development application is lodged (subject to subsection (2)).*

### ***Environmental Planning and Assessment Regulation 2000***

Clause 70A identifies that information required for a staged DA may be deferred to a subsequent DA and states:

*Despite clause 50 (1) (a), the information required to be provided in a staged development application in respect of the various stages of the development may, with the approval of the consent authority, be deferred to a subsequent development application.*

The current application seeks concept approval only with no operational works to be approved under the current DA. In the event that the application was recommended for approval, all construction works would be the subject of separate development applications in the future (yet to be identified) stages.

Section 4.23(2) provides "if an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a concept development application in respect of that land."

The concept plan submitted is inconsistent with the provisions of the WLEP 2013 and WDCP, it is considered that approval of the concept proposal as submitted would compromise the ability to ensure an appropriate development outcome for the site and the adjoining public domain.

## **Contributions**

As the DA is seeking concept approval only, with no operational works under the application, Section 7.11 contributions are not applicable to this application. Section 7.11 contributions will be applicable to stages under the future DA's that include physical works and additional demand on existing infrastructure.

## **Water and Sewer Contributions**

As the DA is seeking concept approval only, with no operational works under the application, Water and sewer contributions are not payable at this stage but will be applicable for the proposal under the future stages of the development wherein approval under the *Water Management Act 2000* and will need to be obtained.

## **GOVERNANCE**

Central Coast Council have provided documentation that indicates the land the subject of the application is held by Council as operational land under the *Local Government Act 1993*.

## CONCLUSION:

The application seeks concept approval for the construction of a staged mixed use development. The application has been lodged under Sections 83B and 83C (now Sections 4.22 and 4.23) of the Act and provides no details of the construction stages.

The proposal includes a retail podium and two towers which seek utilise the bonus LEP height of 50 metres (rather than 31 and 23 metres) as a portion of the site is identified as a 'key site' under LEP 2013. The bonus building height is permitted where a proposal demonstrates significant public benefits. The submitted application does not identify a significant public benefit offer confirmed for this initial concept development application. There is, opportunity to secure significant public benefit through later stage development applications when the height bonus and additional infrastructure demand is triggered. The application is reliant on a Clause 4.6 variation for the height of the building to exceed 23m for the closed road portions of the site. The submitted Clause 4.6 variation to Clause 4.3 is identified in this assessment as being flawed and not supported. The operation of the Key Sites provision is therefore not supported at this concept DA stage.

Clause 70A of the Regulation 2000 allows for the information required to be provided in a staged development application to be deferred to a subsequent application. In this instance, the development application seeks approval for concept only approval with no operational works. No operational stages have been identified to be the subject of future development applications.

In assessment of the application, as a concept development application, the decision of the Court of Appeal in *Bay Simmer Investments v NSW* [2017] NSWCA 135 and subsequent amendment to the then ss. 83B and 83C and now ss. 4.22 and 4.23 have been considered. The assessment is consistent with the applicable case law and recent amendments to the Act. This assessment is not seeking to determination of all construction-related and other operational impacts, but seeks to ensure the resultant form of the development will be consistent with the operation and intent of the applicable planning controls. It is considered that the concept DA if approved would compromise the ability of a future DA to achieve the built form and public domain outcomes as contained in WLEP 2013 and WDCP.

The proposal has been assessed using the heads of consideration in Section 4.15 and under 4.22 and 4.23 of the Environmental Planning and Assessment Act 1979. It is considered the proposed development does not warrant support. The proposal is recommended for refusal.



## **Attachments**

Annexure A – Draft Reasons for Refusal

Annexure B – Development Plans

Annexure C – Applicant’s Clause 4.6 Request for Variation

Attachment 1 – Numerical Compliance Table

Attachment 2 – WDCP 2013 - Chapter 2.4 – Table of Compliance

Attachment 3 – WDCP 2013 - Chapter 6.1 Clause 3.4 Denying/Short Street – Table of Compliance

Attachment 4 – WLEP 2013 - Clause 7.11 – Table of Compliance

Attachment 5 – SEPP 71 – Table of Compliance

Attachment 6 – WDCP Chapter 5.3 – Table of Compliance

## Annexure A – Draft Reasons for Refusal

1. The Clause 4.6 exception seeking variation to the maximum height of buildings of 23m as identified by Clause 4.3 of Wyong Local Environmental Plan 2013, is not well founded and does not accurately identify the extent of the variation proposed and cannot be supported.
2. Clause 4.6 is not an appropriate means to seek variation Clause 7.11 Key Sites provisions of Wyong Local Environmental Plan 2013. As it is not varying a development standard but seeking to apply provisions to adjoining parcels of land.
3. The proposed development seeks a maximum height of building of 46.15m exceeding the maximum permitted height of buildings of 23m as identified by Clause 4.3 of Wyong Local Environmental Plan 2013 on Lots 1 and 2 DP 1219145.
4. Owners consent has not been provided for the building located within Theatre Lane, beyond the boundary of Lot 1, DP 1219145.
5. A design verification statement has not been submitted as required by SEPP 65 and the requirements of Clause 50(1)(a) of the *Environmental Planning and Assessment Regulation 2000*.
6. The tower facades are inconsistent with the seaside context and SEPP 65. Inadequate detail and treatments are provided of the tower facades have been provided. The tower facades indicate dark colours, inadequate articulation and recognition of the site context. The principles of SEPP 65 have not been addressed.
7. The Concept Development application as “an alternative to DCP” as enabled by section 4.23 of the Environmental Planning and Assessment Act fails to indicate that the requirements of Clause 7.11(3) of Wyong LEP 2013 would be capable of satisfaction in a later stage development application.
8. The proposal will restrict vehicular and loading access to the properties located on The Entrance Road with access from Theatre Lane.
9. The provisions of Wyong Development Control Plan 2013 have not been addressed and satisfied in the following areas:
  - i. Urban Design, including relationship to adjoining development and public spaces.
  - ii. Public Art
  - iii. Tower Setbacks as detailed in WDCP Chapter 5.3 - The Entrance Peninsula.



10. The development fails to provide an appropriate level of public amenity by failure to address the public domain improvements and considerations required for iconic development sites identified in Wyong Local Environmental Plan 2013 and of Wyong Development Control Plan 2013.

### Attachment 1 – Numerical Compliance Table

Numerical Compliance Table (Relevant Controls under LEP, DCP SEPP)			
Controls	Proposed	Required	Compliance
Site Area	4302.1sqm	-	-
Height (WLEP)	46.15m	<ul style="list-style-type: none"> <li>• 23m Lots 1 &amp; 2 DP 1219145</li> <li>• 31m Main development lot</li> <li>• 50m for key site</li> </ul>	No
FSR (WLEP)	3:1	3:1	Yes
Gross Floor Area	12906.3sqm	12906.3sqm	Yes
<b>Apartment Mix</b> <b>-1 Bed</b> <b>-2 Bed</b> <b>-3 Bed</b> <b>- 4 Bed</b>	81 total 32 (39%) 34 (44%) 12 (15%) 3 (4%)	Satisfactory mix	Yes
Podium Setbacks	Nil	Nil	Yes
Tower Setbacks	<10m	10m	No
Separation distances	Detailed design not provided, matter for future DA.	50% of ADG	No

## Attachment 2 – WDCP 2013 – Chapter 2.4 – Table of Compliance

Requirement	Proposal	Complies?
<b>2.0 Context</b>		
Submission of a suitable site analysis to be provided with the development application (s2.1.1)	Site analysis submitted.	Yes
Contextual analysis submitted addressing economic, social, environmental and urban design context (s2.1.2)	Assessment provided in SEE and supporting documentation.	Yes
<b>3.0 Scale</b>		
Building heights to comply with Heights of Building Map under WLEP 2013 (3.1.1)	Proposal exceeds maximum height of buildings limit under WLEP. Clause 4.6 variation not supported.	No
Ceiling heights within R1 zones shall not exceed two storeys and 7m in height (3.1.2)	N/A	N/A
Minimum of 25% of site area to be soft landscaping. (s3.2)	Concept DA – details required to be satisfied at construction DA stage	Yes
<b>4.0 Built Form</b>		
<b>4.1 Construction and Appearance of Development</b>		
Need to respond to their context in terms of scale, functionality and sustainability. (4.1.1a)	Proposal exceeds maximum height of buildings limit under WLEP. Clause 4.6 variation not supported.	No
Buildings facades to be articulated in length and height, monotonous and unbroken lengths of wall >10m in length and >3m in height not permitted. Visual interest to be provided for two storey designs. (s4.1.1b)	Concerns raised to visual appearance of proposed towers and presentation to streets, including activation of street frontages.	No
Garages shall not dominate the street elevations (s4.1.1c)	N/A	N/A

Roof design to be related to the built form and size and scale of the building. (s4.1.2)	Roof design suitable for proposed development.	Yes
Existing buildings to be suitably upgraded in terms of architectural features and form, roof form, external building materials and colours, location and orientation and dwelling curtilage. (s4.1.3a)	N/A	N/A
Internal finishes, bathrooms and kitchen facilities are to be upgraded in existing buildings. (s4.1.3b)	N/A	N/A
<b>4.2 Cut and Fill</b>		
Cut and fill considerations (s4.2)	N/A	N/A
<b>4.3 Building Lines</b>		
<b>General Requirements (4.3.1)</b>		
Absolute water frontage= 20m (4.3.1a)	N/A	N/A
Coastal Hazard Setbacks (4.3.1b)	N/A	N/A
Rear boundary adjoining reserve= 4.5m (4.3.1c)	N/A	N/A
<b>RFB – 3 or more storeys in Height (s4.3.3)</b>		
Front setbacks for development: 7.5m with some exceptions.	N/A	N/A
Side and rear setbacks: First to fourth storeys: 6.0m Fifth to eight storeys: 9.0m Ninth storey and above: 12.0m	N/A	N/A
Garages: 6.0m when direct access from road OR 7.5m for Category A roads	All parking at basement level.	NA
Corner allotments: same as side and rear setbacks, plus comply with sight lines.	N/A	N/A
<b>4.4 Transport Needs</b>		
<b>General Requirements (4.4.1)</b>		
Enclosed space to be provided for each dwelling.	Basement level parking proposed.	Yes
All vehicles to enter and exit the site in a forward direction.	Concept DA – details required to be satisfied at construction DA stage	Yes
<b>Resident Parking (4.4.2)</b>		
One bedroom unit: 1 car space Two bedroom unit: 1.2 car spaces Three or more bedrooms unit: 1.5 car spaces (s5.4.2)	Concept DA – details required to be satisfied at construction DA stage	Yes
<b>Visitor Parking (4.4.3)</b>		
Visitor parking: 15 units: 1 space / 5 units or part thereof	Concept DA – details required to be satisfied at construction DA stage	Yes
Visitor parking is generally not encouraged within the front setback.	Provided in basement parking levels.	Yes
Bicycle facilities to be provided for RFBs where common carparking provided: rate of 1 / 3 units.	Concept DA – details required to be satisfied at construction DA stage	Yes
<b>4.5 Vehicular Access Design</b>		
Refer to s4.5.1 for general vehicular access design general requirements.	Concept DA – details required to be satisfied at construction DA stage	Yes
<b>Basement Parking (4.5.3)</b>		
See section 4.5.3 for requirements.	Concept DA – details required to be satisfied at construction DA stage	Yes
<b>4.6 Pedestrian Access</b>		

See section 4.6 for requirements.	Concept DA – details required to be satisfied at construction DA stage	Yes
<b>5.0 Density</b>		
<b>5.1 Floor Space Ratio</b>		
R3 – As specified under the WLEP 2013 Mapping.	3:1	Yes
<b>5.2 Development Bonuses</b>		
Refer to 5.2 for bonus provision requirements.	N/A	N/A
<b>6.0 Amenity</b>		
<b>6.1 Private Open Space</b>		
<b>Developments others than single dwellings above shops or commercial premises (6.1.6)</b>		
Each dwelling to have min 10m <sup>2</sup> with min dimension of 2m and 20m <sup>2</sup> / dwelling as communal open space with min dimension of 5m.	Concept DA – details required to be satisfied at construction DA stage	Yes
<b>6.2 Communal Open Space</b>		
<b>General Requirements (6.2.1)</b>		
Spaces to be landscaped and include facilities	Concept DA – details required to be satisfied at construction DA stage	Yes
Communal areas not to be provided in front setback without demonstrated need	Concept DA – details required to be satisfied at construction DA stage	Yes
Roof top open space only to be provided for low and high rise RFBs in additional to ground level requirements.	Concept DA – details required to be satisfied at construction DA stage	Yes
<b>6.3 Solar Access</b>		
At least 75% of each required open space area shall receive at least 3 hours unobstructed sunlight between the hours of 9am and 3pm on June 21.	ADG Compliance required to be satisfied at construction DA stage.	
Developments of 2 storeys and above shall provide shadow diagrams showing shadow casting at 9am, 12 noon and 3pm on June 21. The diagrams are to show shadows over the site and adjoining properties.	Shadow diagrams prepared. Taller building provided to south of site increasing overshadowing of proposed public plaza adjacent to Lakeside Plaza.	No
<b>6.4 Privacy</b>		
Direct overlooking of internal living areas and private open space to surrounding dwellings shall be minimised.	Concept DA – details required to be satisfied at construction DA stage	Future DA
Refer to s9.4.1 for recommended building separation distances.	Compliance with ADG required	No
Site layout should separate sources of noise from bedroom areas of dwellings.	Compliance required to be satisfied at construction DA stage	Future DA
<b>6.5 Views</b>		
A visual analysis illustrating the impacts of the proposed may be required for developments which have the potential to obstruct views.	Concept DA – details required to be satisfied at construction DA stage	Future DA
Developments should be designed to minimise view loss from adjoining and adjacent properties. (s9.4)	Concept DA – details required to be satisfied at construction DA stage	Future DA
<b>7.0 Services</b>		
Details of services available and impacts on existing services to be provided.	Concept DA – details required to be satisfied at construction DA stage	Yes
Kerb and guttering to be provided along the street frontage unless unreasonable.	Capable of condition of development consent.	Yes
<b>8.0 Stormwater Management</b>		

Stormwater management plan to be submitted with the development application. (s7.3)	Concept DA – details required to be satisfied at construction DA stage. Capable of condition of development consent.	Yes
<b>9.0 Landscaping</b>		
A Landscape plan prepared by an approved consultant to be submitted with the development application.	Indicative details provided, Concept DA – details required to be satisfied at construction DA stage.	Yes
Deep soil zones: 50% of soft landscaping area to be deep soil zone (12 ½ % of the site).		Future DA
Planting on structures: see 9.1.3		Future DA
Two semi-advanced trees per 15 metre frontage to be provided, details to be provided as part of landscape plan.		Future DA
<b>10.0 Sustainability</b>		
<b>10.1 Waste Management</b>		
<b>General Requirements (10.1.1)</b>		
Proposed development to comply with the requirements of Chapter 3.1 – Site Waste Management.	Concept DA – details required to be satisfied at construction DA stage.	NA
<b>Residential Flat Buildings 3 or more storeys in height (10.1.2)</b>		
RFBs > 3 storeys = Garbage chute system required. Recycling room for each floor and bins centrally located within basement of building. 3 collection options available.	Concept DA – details required to be satisfied at construction DA stage. Capable of condition of development consent.	Yes
<b>11.0 Safety and Security</b>		
CPTED principles should be taken into account	CPTED Assessment submitted. Concept DA – details required to be satisfied at construction DA stage. Capable of condition of development consent.	Yes
> 20 dwellings a formal Crime Risk Assessment may be required.	CPTED Assessment submitted	Yes
<b>12.0 Social Dimensions</b>		
<b>12.1 Housing Choice</b>		
A variety of dwelling types, particularly in large RFD and on ground floor, to be provided.	Variety of dwelling types proposed.	Yes
10% of units in RFBs is to be suitable for adaptation for occupancy by disabled/aged persons.	Concept DA – details required to be satisfied at construction DA stage. Capable of condition of development consent.	Yes
<b>12.2 Facilities and Amenities</b>		
An internal laundry shall be provided within each dwelling.	Concept DA – details required to be satisfied at construction DA stage.	Yes
Provision is to be made for a car washing facility for each development.	Concept DA – details required to be satisfied at construction DA stage.	Yes
Internal storage space is to be provided. 1-2 bedrooms: 3m <sup>2</sup> floor area 3 or more bedrooms: 6m <sup>2</sup> floor area.	Concept DA – details required to be satisfied at construction DA stage.	Yes
<b>13.0 Aesthetics</b>		
<b>13.1 Fencing</b>		
Details of material, height, type and extent of all proposed fencing shall be shown on development application plans.	No fencing proposed, no necessary for island development site.	N/A

Fences contribute to the amenity, beauty and useability of private open spaces through incorporating design features.	N/A	N/A
Dividing fences shall not adversely affect flow of surface water or create flooding problems.	N/A	N/A
Courtyard fencing is to be of a decorative nature and 1.8m in height.	N/A	N/A
Courtyard fencing in front setbacks may only be provided: <ul style="list-style-type: none"> <li>On category A roads for noise attenuation.</li> <li>On category B roads for solar access.</li> <li>No closer than 1.5m from front boundary alignment, and setback to be suitably landscaped.</li> </ul>	N/A	N/A
Decorative fencing may be provided along the front boundary with a maximum height of 1.2m.	N/A	N/A
No courtyard fencing permitted within the setback area on side streets.	N/A	N/A
No structures or landscaping to be provided within sight lines.	N/A	N/A

### Attachment 3 – WDCP 2013 – Chapter 6.1 (Clause 3.4 – Dening/Short Street) – Table of Compliance

Wyong DCP Chapter 6.1 (Key Sites) Clause 3.4 Requirements for Dening/Short St		Compliance Yes/No
a	The coastal character, building envelope, design guidelines, and matters for consideration within Chapter 5.3 - The Entrance Peninsula apply to this site and must be addressed.	Refer to relevant part of report
b	Locate retail, commercial, community services / facilities and entertainment land uses on the two lower storeys, with residential and tourist accommodation on the levels above	Yes
c	Any proposal shall address adjoining development in terms of overshadowing, building separation, view loss and amenity issues.	No
d	Substantial street tree planting and high quality landscaping shall be employed in the development design.	To be detailed in future DA
e	Pedestrian movement within and around the site shall be catered for within the development design.	Yes, can be detailed in future DA



f	Locate adequate public parking to cater for the future land use mix in a multiple level facility below ground level and/or above ground level if concealed behind occupied floor space. Provide for a net increase in public carparking.	No, 131 spaces including those within the streets are to be maintained on site. No additional parking spaces are provided.
g	Development shall adequately address the relevant requirements of State Environmental Planning Policy (SEPP) 71 – Coastal Protection.	Yes, see relevant part of report and Draft SEPP – Coastal Management.
h	Consideration shall be given to the principles and objectives of other DCP Chapters, in particular Chapter 3.7 – Conservation of the Built Environment.	No, refer Council Heritage Officers comments.
i	Developments are to identify the desirable qualities to be incorporated in appropriate heritage infill design on the site. The qualities should be illustrated in the Masterplan by annotated drawings addressing the principles of scale, form,	No
j	Ensure that retail and entertainment type activities are focussed toward Theatre Lane or Denning Street, and emphasise that focus by the appropriate configuration of pedestrian pathways and retail areas on this site.	No, proposal provides level changes and back of house functions to Theatre Lane.
k	Provide a small forecourt facing Denning Street to complement the future redevelopment of Lakeside Plaza and, potentially, as an extension of a future town square.	Not provided and Lakeside Plaza proposals not considered in development proposed.
l	Provide a plaza forecourt facing Bayview Avenue as a focal point for future development upon this site, and as the kernel of a possible future town (civic) square (extension of the existing Bayview Avenue mall.	Plaza provided, detailed design could be subject of future DA.
m	Design the forecourt, and possible future town (civic) square, to accommodate public events, to provide opportunities for outdoor dining, and to highlight pedestrian pathways through the development.	No, detailed design not considered
n	Provide a narrow forecourt along Theatre Lane to separate vehicles and pedestrians, suitable for pavement dining and accommodating pedestrian links from existing arcades off The Entrance Road.	No, building works extend beyond site into Theatre Lane.
o	Splay the building form at the corner of Theatre Lane and Denning Street to provide convenient pedestrian access to residential neighbourhoods which are located to the east and south-east.	Yes
p	Promote an outdoor pedestrian environment by open air forecourts that are landscaped and shaded by awnings or trees.	Yes

q	Locate the taller building elements above podium levels as slender towers toward the site's northern end to minimise shadow impacts upon neighbouring activated streets, properties and a future town square, as well as to maximise the sharing of lake and coastal views which may be available from existing dwellings nearby.	No, taller tower located on southern portion of the site.
r	Concentrate vehicle access to this site via Short Street/Bayview Avenue only, incorporating separate entries to public and residential parking areas.	No Vehicular access proposed via Theatre Lane for all basement parking areas.
s	Evaluate town centre access around this site, and determine whether road closures or turn restrictions would be beneficial.	No, access to adjoining sites not addressed from Theatre Lane.

#### Attachment 4 – WLEP 2013 – Clause 7.1 – Table of Compliance

Clause 7.11 Objectives	Comment	Compliance
(1) (a) to deliver a high standard of design excellence for certain key sites in Wyong,	The architectural design and presentation of the building is not considered to represent design excellence	No
(b) to encourage the amalgamation of those key sites to provide opportunities for the expansion of, and improvements to, the public domain,	The ownership of the key site by Council achieves amalgamation and opportunities for the expansion of, and improvements to, the public domain,	Yes
(c) to provide a catalyst for the social and economic development of centres within Wyong,	The development will provide a catalyst for growth and development within the Entrance Town Centre.	Yes
(d) to deliver significant public benefit to the community.	The proposal is associated with some public benefit although significant public benefit as envisaged by the planning controls has not been provided.	No
(2) This clause applies to land identified as "Key Site" on the Key Sites Map	The site is only partially identified as a key site. The closed road portions of the site are not identified as "Key Site"	No
(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 proposal includes the bonus height as shown on the Key Sites map for the site and the closed road portions of the site. A DCP has not been prepared for the site, the provisions of Section 83C now Section 4.22 of the Act allows for the	No

Clause 7.11 Objectives	Comment	Compliance
the land that is the subject of the development application:	lodgement of a staged application instead of preparation of a DCP. The application has failed to demonstrate that the nominated matters have been addressed within the submitted information for the Staged DA	
(a) the application of the principles of ecologically sustainable development,	Refer below. Further details could be provided with the DA's for the future operational stages of the development.	Capable of compliance
(a) green building solutions, 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.	Considered in the DA submission, Further details could be provided with the DA's for the future operational stages of the development.	Capable of compliance
(c) design excellence, including a high standard of expertise in urban and landscape design, interior design, construction and historic preservation,	The current DA is concept only and is inconsistent with the SEPP 65 principles. The future DA's for each stage could see the further resolution of the architecture including the façade details for the podium levels and the materials and finishes for the building.	No
(d) a high standard of architectural design, materials, unique facade treatment and detailing appropriate to the type and location of the development,	The concept DA includes a concept materials scheme only. The future DA's could enable the further resolution of the architecture including the façade details for the podium levels and the materials and finishes for the building	Capable of compliance
(e) encouraging sustainable transport, including increased use of public transport, walking and cycling,	The concept DA provides no specific details of sustainable transport. The development of new housing in a accessible location will of itself encourage sustainable transport.	Capable of compliance
(f) road access, including the circulation network and the provision of car parking	The concept DA is not satisfactory in relation to the road network. Additional details have been requested to indicate that The Entrance Rd properties with rear access from Theatre Lane can access their land.	No

Clause 7.11 Objectives	Comment	Compliance
(g) the impact on, and improvements to, the public domain,	The concept DA includes a public domain improvements with some general improvements planned for the street frontages immediately adjoining the site. The works proposed are inconsistent with WDCP.	No
(h) environmental constraints, including acid sulfate soils, flooding, contamination and remediation	The identified environmental constraints are not such that would render the site as unsuitable for the development. The DA for concept approval only and appropriate conditions could be imposed in relation to any relevant environmental constraints requiring further information to be provided with each DA lodged for the future operational stages of the development.	Capable of compliance.

## Attachment 5 – SEPP No. 71 Coastal Protection – Table of Compliance

State Environmental Planning Policy (SEPP) No.71 – Coastal Protection applies to the development as the subject site is located within the coastal protection zone, but not within 100m of a coastal lake or sensitive coastal location. Clause 8 'Matters for Consideration' is to be taken into consideration by the consent authority when it determines a development application to carry out development on land to which SEPP 71 applies. The proposed development has satisfactorily addressed the matters of consideration outlined in Clause 8, as indicated below: -

Matters for Consideration	Compliance Y/N/NA
a. <i>the aims of this Policy set out in clause 2</i>	The proposal complies with the aims of this Policy.
b. <i>existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,</i>	N/A. The subject land does not adjoin the foreshore.
c. <i>opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,</i>	N/A. The subject land does not adjoin the foreshore.
d. <i>the suitability of development given its type, location and design and its relationship with the surrounding area,</i>	The proposal is considered suitable to the location if developed in keeping with the relevant Planning Controls. The proposed development does not adequately address the provisions of WLEP and WDCP and is not supported.
e. <i>any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,</i>	N/A. The subject land does not adjoin the foreshore.

<b>Matters for Consideration</b>	<b>Compliance Y/N/NA</b>
<i>f. the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,</i>	The scenic quality will not be directly impacted as the building is located away from the foreshore. The type of development is that anticipated by the planning controls.
<i>g. measures to conserve animals (within the meaning of the <u>Threatened Species Conservation Act 1995</u>) and plants (within the meaning of that Act), and their habitats,</i>	The subject land contains very little vegetation, none of which has been identified as being endangered ecological communities.
<i>h. measures to conserve fish (within the meaning of Part 7A of the <u>Fisheries Management Act 1994</u>) and marine vegetation (within the meaning of that Part), and their habitats</i>	N/A. The subject land does not adjoin the foreshore.
<i>i. existing wildlife corridors and the impact of development on these corridors,</i>	The subject site is not part of nor adjoins existing wildlife corridors.
<i>j. the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,</i>	N/A. The subject land does not adjoin the foreshore.
<i>k. measures to reduce the potential for conflict between land-based and water-based coastal activities,</i>	N/A. The subject land does not adjoin the foreshore.
<i>l. measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,</i>	The subject site has not been identified as containing any Aboriginal relics or a place of significance.
<i>m. likely impacts of development on the water quality of coastal waterbodies,</i>	N/A. The subject land does not adjoin the foreshore.
<i>n. the conservation and preservation of items of heritage, archaeological or historic significance,</i>	The subject site has not been identified as containing any items of heritage, archaeological or historic significance.
<i>o. only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,</i>	N/A. There is no draft LEP applicable to the site.

## Attachment 6 – WDCP 2013 – Chapter 5.3 – Table of Compliance

Wyong DCP Chapter 5.3 – Compliance table	
Control	Compliance Yes/No
<b>2.7 Desired Character: Mixed Development in The Entrance Town Centre</b>	

<p><b>2.7.1 Encourage an Outdoor Lifestyle and Increased Levels of Pedestrian Activity</b></p> <ul style="list-style-type: none"> <li>▢ Provide reasonable levels of midwinter sunlight for street frontages and open spaces.</li> <li>▢ Provide a pedestrian friendly-scale next to any pedestrian frontage by avoiding “street wall” building forms with sheer vertical facades that are excessively long.</li> <li>▢ Stimulate the highest levels of pedestrian activity around open spaces and along commercially-significant street frontages.</li> <li>▢ Provide views from pedestrian areas toward scenic backdrops or the sky by limiting the width of upper storey facades and by separating the upper storeys of adjoining buildings.</li> <li>▢ Contribute to the Council’s improvements strategies for street frontages and open spaces.</li> <li>▢ Incorporate facilities for public transport, pedestrians and cyclists.</li> </ul>	<p>No</p> <p>The building does not positively contribute to the pedestrian amenity of the area by way of scale, active frontages and solar access.</p>
<p><b>2.7.2 Stimulate Highest Levels of Pedestrian and Business Activity</b></p> <ul style="list-style-type: none"> <li>▢ Concentrate shops, entertainment or business-related premises, community facilities or major pedestrian entrances in podium facades that that will face and abut an open space area or a commercially-significant street frontage.</li> <li>▢ Avoid blank walls, building services, vehicle entrances or above-ground carparking that would face any open space area or commercially-significant street frontage.</li> <li>▢ Locate carparking predominantly in basements or behind “active” floor space.</li> <li>▢ Limit pedestrian links across any site to those which would service destinations that are commercially or socially significant, incorporating an outdoor fresh-air character rather than conventional indoor arcades, but only if such links would not detract from the desired level of street activity.</li> </ul>	<p>No</p> <p>Insufficient consideration of active street frontage and relationship with adjoining development.</p>



<b>2.7 Desired Character: Mixed Development in The Entrance Town Centre</b>	
<b>2.7.3 Protect Scenic Quality and Promote an Outdoor Lifestyle</b> <ul style="list-style-type: none"> <li>▢ Limit the height of street facades to podiums which generally are no taller than two storeys.</li> <li>▢ Require that storeys above any podium have a pronounced setback from the podium façade.</li> <li>▢ Provide green roofs above podiums which may be used as communal open spaces.</li> <li>▢ For buildings up to six storeys, apply built-form character guidelines for residential flat buildings up to six storeys.</li> <li>▢ For buildings taller than six storeys, apply built-form character guidelines for residential flat buildings taller than six storeys.</li> <li>▢ Coordinate the size, number and location of business signs, and avoid major corporate logos.</li> </ul>	No The relationship of the development to adjoining development requires additional consideration and design treatments.
<b>3.0 Building Envelope Provisions</b>	
<b>3.2.5 Mixed Development in Zones B2, SP3 over Six Storeys: Frontages to Streets, Lanes and Civic Spaces</b>	
<b>3.2.5.1 Streetscape</b> To maintain appropriate amenity and built form, all new buildings shall comprise podium and tower elements.	Yes. The proposal comprises podium and tower elements.
a. Maximum building height and floor space ratio shall be in accordance with Clauses 4.3 and 4.4 of the WLEP 2013.	No the building exceeds the maximum height of buildings. .
b. For podium elements, heights and setbacks to be the same as for buildings up to six storeys.	N/A
c. For buildings taller than six storeys, tower elements to be setback from building lines by a minimum of 10m.	No. The residential tower has a setback of less than 10m.
<b>3.2.6 Mixed Development in Zones B2, SP3 and RE2: Sunlight to Footpaths and Open Spaces</b>	
a. Significant public places occur within zones B2 and SP3 at The Entrance Town Centre. As well as satisfying other envelope controls, new buildings are to: <ul style="list-style-type: none"> <li>▢ maintain the amount of sunlight that is currently available to significant public places between the hours of 10 am and 2.00pm during midwinter (June 21); and</li> <li>▢ ensure specified sunlight is to be available to at least half of any public open space, and at least half of the width for the specified footpaths.</li> </ul>	Yes. Shadow diagrams were submitted. Opportunity exists to minimize overshadowing by relocation of the taller portions of the building to the south of the site.
<b>3.2.8 Mixed Development in Zones B2, SP3 and RE2: Boundary Facing Residential</b>	
<b>3.2.8.1 Landscaped Setbacks</b>	
a. A setback which is predominantly deep soil is to be provided next to any residential property.	N/A.
b. Podium elements and any basement to be setback from any boundary that faces a residential property by a minimum of 6m.	N/A

<b>3.2.8.2 Sunlight Access</b>	
<p>a. The setback should be half of the “distance separation” which is specified by the SEPP No 65 Apartment Design Guide.</p> <p>b. Neighbouring dwellings to receive the amount of sunlight that is specified by the SEPP No 65 Apartment Design Guide.</p> <p>c. If a neighbouring dwelling currently receives less than the required amount of sunlight, there is to be no further reduction.</p> <p>d. To protect existing sunlight, adjustment may be necessary to the form, siting and dimensions of upper storeys that are permitted by the general envelope controls.</p>	<p>No. Half the separation distance is not provided to all adjoining properties. .</p>
<b>Clause 4.1 - Design Guidelines: Residential Development</b>	
<b>4.2.1 Pedestrian Networks</b>	
<p>a. Footpaths that have potential to/already contribute to simulating significant social and commercial activity of centres are:</p> <ul style="list-style-type: none"> <li>□ The Entrance Town Centre: <ul style="list-style-type: none"> <li>Dening Street from The Entrance Road to Taylor Street</li> <li>Theatre Lane;</li> <li>Bayview Avenue from The Entrance Road to Short Street;</li> </ul> </li> </ul>	<p>No. Greater consideration of pedestrian movements needs to be incorporated into the design.</p>
<p>b. New open spaces with the potential to simulate significant social and commercial activity are:</p> <ul style="list-style-type: none"> <li>□ The Entrance Town Centre: <ul style="list-style-type: none"> <li>A town square in the Dening Street, The Entrance Road, Short Street vicinity;</li> <li>An outdoor forecourt along the eastern side of Theatre Lane;</li> <li>Extension of Bayview Avenue Mall along the Bayview Avenue to Short Street;</li> </ul> </li> </ul>	<p>No. The proposal does not address any of the new open spaces identified. .</p>
<p>Development proposals upon lands which face any of the nominated public places (whether existing or as desired) are to be planned and designed to maximise pedestrian and business activity:</p> <ul style="list-style-type: none"> <li>□ incorporate new open spaces as specified above;</li> <li>□ provide active frontages facing pedestrian footpaths that are nominated above, or facing any desired open space that is specified above;</li> <li>□ locate major facilities, services and parking areas where they would not disrupt the desired level of pedestrian activity;</li> <li>□ include new cross-site pedestrian pathways only where they would follow “desire lines” to major destinations or facilities.</li> </ul>	<p>No. New public open spaces have not been incorporated into the concept DA. .</p>

<b>4.2.2 Transport and Access Infrastructure</b>	
<p>a. Public carparking is to be provided as part of the following “Key Site” developments in The Entrance Town Centre and at Picnic Point:</p> <p style="padding-left: 40px;">The Denning Street carpark;</p>	<p>Yes.</p> <p>Parking is proposed on the site to replace the existing parking area and street parking and meet the needs of the development proposed. .</p>
<p>c. To accommodate new public open spaces, the redirection of existing town centre traffic is to be evaluated and, where desirable, implemented as part of the following “Key Sites”:</p> <p style="padding-left: 40px;">□ The Denning Street carpark;</p>	<p>No, new public spaces are not proposed to require redirection of traffic. Access to properties in Theatre Lane requires greater consideration .</p>
Subclause (d) and (e) not applicable	N/A
<p>f. Cycle access to be promoted by all new developments:</p> <p style="padding-left: 40px;">□ bike storage is to be provided in safe and accessible locations, either at street level or as part of basement carparks;</p> <p style="padding-left: 40px;">□ cycle storage is to be provided at a rate required by Council or specified by Council policy.</p>	<p>Yes.</p> <p>Details can be provided in the future DA's for each stage. A condition has been recommended.</p>
<b>4.2.3 New Public Open Spaces</b>	
<p>a. A new town square is to be provided as a focal point for The Entrance Town Centre:</p> <p style="padding-left: 40px;">□ the square is to be located along Denning Street between The Entrance Road and Short Street;</p> <p style="padding-left: 40px;">□ the square ought to be provided as part of “Key Site” developments upon the Lakeside Plaza and the Denning Street Carpark Sites;</p> <p style="padding-left: 40px;">□ subject to a positive traffic assessment and the redirection of existing vehicles, the square may incorporate portion of the Denning Street road reserve;</p> <p style="padding-left: 40px;">□ the square is to be designed to accommodate planned events as well as informal social interaction;</p> <p style="padding-left: 40px;">□ the square is to have a minimum width of approximately 30m and an area of approximately 2,000m<sup>2</sup>, with at least two thirds of the required space located on the Lakeside Plaza property with a minimum width of 20m;</p> <p style="padding-left: 40px;">□ pavements in the square are to be generally level and may include steps to raised areas around the perimeter that are suitable for pavement dining and spectators;</p> <p style="padding-left: 40px;">□ the square is to be shaded by rows of trees, and its surface area should not be encumbered by any fixed furniture or substantial structures.</p>	<p>No, The Town Square is not included in the Concept DA. The proposal does not provide details of connection to the approved Lakeside Plaza proposal.</p>
Subclauses b – g not applicable	N/A
h. Consistent design standards are to be applied by all new open spaces:	Yes.

<ul style="list-style-type: none"> <li>▫ surfaces, gradients and level changes are to accommodate visitors with impaired mobility or sight, and should satisfy relevant requirements of AS 1428;</li> <li>▫ tree plantings are to be consistent or compatible with the Council's established town centre plans;</li> <li>▫ surfaces, materials and furniture (including play structures, shelters, seating and lighting) are to be designed and constructed according to the applicable Australian Standards as well as satisfying the Council's established works standards or town centre plans.</li> </ul>	<p>Matters can be detailed and addressed under the future DA for Stage 2.</p>
<p><b>Clause 4.2.4 - Active Frontages</b></p>	
<p>Active frontages display a variety of land uses or building elements which are visible and attractive to pedestrians, and enhance the safety and amenity of publicly-accessible places:</p> <ul style="list-style-type: none"> <li>▫ active frontages in any facade are measured by the width of windows or balconies;</li> <li>▫ at street level, active frontages include building entrances or lobbies, and premises with substantial display windows such as business premises, food and drink premises, and shops;</li> <li>▫ immediately above street level, active frontages include balconies, and premises that accommodate substantial numbers of customers such as food and drink premises or lobbies and foyers of entertainment facilities, function centres and registered clubs;</li> <li>▫ on higher storeys, active frontages are achieved by residential balconies and living room windows.</li> </ul>	<p>Yes. Concept plans appear to be generally consistent with these requirements. Details of façade designs are to be provided with the future DA's for the operational stages.</p>
<p>Active frontages are to be provided along footpaths and other publicly-accessible places, and the extent of active frontages within any facade is to be in proportion to the commercial-significance of the adjacent footpath or publicly-accessible place:</p> <ul style="list-style-type: none"> <li>▫ facing new civic spaces, active frontages are to occupy at least 90% of any ground floor facade and 80% of facades for the first three storeys above the ground floor;</li> <li>▫ facing existing streets that are commercially-significant, active frontages are to occupy 85% to 90% of any ground floor facade, and at least 80% of the first storey above the ground floor;</li> <li>▫ facing rear laneways that are significant pedestrian routes and streets that provide vehicle access, active frontages are to occupy at least 30% of any ground floor facade, and 50% of the first storey above the ground floor;</li> <li>▫ facing streets that are not defined as commercially-significant, there is no requirement to provide active frontages at ground floor level or on the storey immediately above.</li> </ul>	<p>No, active street frontages not adequately addressed. .</p>

<p>Certain facilities or building elements interrupt the continuity and effectiveness of active frontages, and are not to be located in any facade which faces a new open space, a commercially-significant footpath or a new cross-site pedestrian link:</p> <ul style="list-style-type: none"> <li>▢ carpark and delivery docks are to be accessed from streets or laneways that are not commercially-significant, unless no alternative is available;</li> <li>▢ carpark are to be located in basements or if located above-ground level, are to be hidden behind active frontages that face any new open space, cross-site link, or commercially-significant footpath;</li> <li>▢ above-ground carpark are to occupy 50% of a facade that faces a laneway or a street which is not commercially-significant provided that parking decks are shrouded completely by architecturally-designed screens which complement the form and design of the development's facades;</li> <li>▢ "big box" retailers and entertainment facilities that are enclosed by blank walls are subject to the same restrictions as above-ground carpark;</li> <li>▢ service areas and delivery docks are to be accessed from streets or laneways that are not commercially-significant, unless no alternative is available.</li> </ul>	<p>Yes. The design includes basement parking levels</p>
<b>Clause 4.2.5 – Pedestrian Links</b>	
<p>a. New cross-site pedestrian links are to be provided as part of the following "Key Site" developments:</p>	<p>No Site is not identified. Internal retail arcade is contrary to DCP provisions.</p>
<b>Clause 5.1 – Key Sites- Concept Plans/Site Specific DCP's: General Design Principle</b>	
<p>a. Design the taller elements as slender towers which have a maximum longitudinal dimension of approximately 35m, and locate these elements to maximise the sharing of iconic coastal views which may be available from existing dwellings nearby.</p>	<p>No. Design includes slender towers, but buildings have been located to maximise views from the site, not for view sharing in the locality.</p>
<p>b. Employ simple streamlined building forms, for example using curvilinear/sculptured facades that are oriented toward coastal views, and avoid roof-top plant rooms that are not designed to complement the form of towers.</p>	<p>No. Design is simple streamlined, curvilinear facade oriented towards coastal views. Rooftop plant is not identified at Concept DA stage.</p>

c.	Configure new developments as podiums with towers that are separated by broad courtyards.	Yes . Tower elements on podium separated by open space on top of podium.
d.	Provide green roofs above podiums, and upon those rooftops, locate a variety of communal recreation spaces which are designed to protect the privacy of surrounding dwellings.	Yes. Open space including trees on podium rooftop, Future DA's to further detail.
e.	Ensure that development design does not compromise the ability of adjoining properties to develop with building forms which are consistent or mutually-compatible.	No. Concept design does not adequately consider adjoining properties. .
f.	Avoid orientating blank exterior walls towards town centre footpaths that are commercially-significant.	No. Concept design provides for blank walls to Denning Street Theatre Lane and Short Street.
g.	Screen the impact of service areas or above-ground parking by providing deep soil setbacks that are planted with medium sized trees.	No. Could be addressed in later stages
h.	Screen the impact of service areas or "big box" retailers which might face residential properties or developments by providing deep soil setbacks that are planted with medium sized trees that are indigenous coastal species.	N/A
i.	Employ co-ordinated non-slip and durable paving for indoor and outdoor areas, including street pavements.	N/A to Concept DA.
j.	Establish new pedestrian spaces around the sites, and integrate those spaces with pedestrian desire lines that are evident in the town centre.	No. Concept proposal relies on internal retail arcade.
k	Maintain areas of deep soil in generous setbacks facing all boundaries where practically possible.	No , Minimal areas of deep soil provided to boundaries.