

JOINT REGIONAL PLANNING PANEL (Hunter Central Coast)

JRPP No	2017HCC003
DA Number	DA/7/2017
Local Government Area	Central Coast Council
Proposed Development	Mixed use, shop top housing development including food and drink premises and a neighbourhood shop (4 tenancies), 36 residential dwellings and basement parking.
Street Address	5-8 Beach Parade Canton Beach
Applicant/Owner	Real Built P/L
Number of Submissions	Two objections
Regional Development Criteria (Schedule 4A of the Act)	Capital investment value of \$22.49 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</i> • <i>State Environmental Planning Policy No. 71 – Coastal Protection & Draft SEPP (Coastal Management) 2016</i> • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> • <i>State Environmental Planning Policy 55 – Remediation of Land</i> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i> • <i>Draft State Environmental Planning Policy (Coastal Management) 2016</i> • <i>Wyang Local Environmental Plan 2013</i> • <i>Wyang Shire Development Control Plan 2013</i> <ul style="list-style-type: none"> - <i>Chapter 1.2 Notification of Development Proposals</i> - <i>Chapter 2.4 - Multiple Dwelling Residential Development</i> - <i>Chapter 2.11 - Parking and Access</i> - <i>Chapter 3.3 Floodplain Management</i> - <i>Chapter 3.6 - Tree & Vegetation Management</i> - <i>Chapter 5.1 - Retail Centres</i> - <i>Chapter 6.1 - Key Sites</i>

List all documents submitted with this report for the panel's consideration	Attachment 1 – Numerical Compliance Table Attachment 2– Residential Flat Design Code – Compliance Table Attachment 3- State Environmental Planning Policy No 71 – Coastal Protection Attachment 4 Applicant's Clause 4.6 Exception to development standard – height of building Attachment 5 – Draft recommended conditions
Recommendation	Approval
Report by	Salli Pendergast – Senior Development Planner

DRAFT

CENTRAL COAST COUNCIL

Development Assessment

Proposed mixed use, shop top housing development, including food and drink premises and a neighbourhood shop (4 ground floor tenancies), 36 dwellings, basement parking and ancillary works

DA/7/2017

Author: Salli Pendergast

SUMMARY

A development application has been received for a shop top housing mixed use development at 5-8 Beach Parade Canton Beach. The application has been assessed having regard to the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act* (EP&A Act) 1979 and other statutory requirements.

Applicant	X Pace Design Group
Owner	Real Built P/L
Application No	DA/7/2017
Description of Land	5-8 Beach Parade, Canton Beach Lots 246, 309, 310 & 311 DP 755266
Proposed Development	Mixed use shop top housing development including food and drink premises and a neighbourhood shop (4 tenancies), 36 dwellings, basement parking and ancillary works
Site Area	3,263.6m ²
Zoning	SP3 - Tourist
Existing Use	Previously Lakedge Caravan Park
Value of Works	\$22,489,350

DRAFT

RECOMMENDATION

1. ***That Council grant consent to DA/7/2017 at 5-8 Beach Parade, Canton Beach for a mixed use, shop top housing development subject to conditions.***
2. ***That Council advise those who made written submissions of Council's decision.***

PRECIS

- The proposal is permissible within the SP3 Tourist zone under Wyong Local Environmental Plan 2013 (WLEP 2013) as food and drink premises, a neighbourhood shop, shop top housing and ancillary works.
- The site is identified as a 'key site' under WLEP 2013 key site maps, however the proposal is not relying on the provisions of Clause 7.11 of WLEP 2013 which allow for a bonus building height of 23 metres (rather than 16 metres) subject to the provision of significant public benefit to the community.

-
- Following the notification of the proposal, two submissions were received.
 - The value of the development is approximately \$22.4 million. Due to the value of the development the application will be determined by the Hunter and Central Coast JRPP.
 - The proposal seeks a variation to Council's height planning control for which a clause 4.6 exception to the development standard has been prepared by the applicant.
 - The proposal also seeks a variation to the parking provision for the ground floor tenancies proposed as food and drink premises and a neighbourhood shop.

INTRODUCTION

The Site

The site is on the corner of Beach Parade and Crossingham Street Canton Beach and comprises four allotments with a total site area of 3,263.6m². The site is relatively flat and has a secondary frontage to Crossingham Street and a primary frontage to Beach Parade.

The site contains the remnants of a previous caravan park (Lakedge Caravan Park), including small concrete slabs, an asphaltic concrete driveway and grassed areas. There are medium to large trees scattered throughout the site. The site is generally vacant land and there are a number of mature trees located along the Crossingham Street frontage. There is some minor flooding of the site from overland flow to the east. The site is identified as a 'key site' and is not bushfire prone land.

Surrounding the site is residential dwellings to the east and south and medium density residential development to the north. Development surrounding the site is predominately one and two storey residential dwelling houses and town houses (see figures 1 and 2).

The site is located opposite Canton Beach foreshore area which includes a shared pathway and play equipment and adjoins Tuggerah Lake.

The western side of Beach Parade has a series of parallel and angled parking spaces which service the beach and playground area. The site is approximately 550m from the nearest bus stop which is on Crossingham Street.



Figure 1 – Aerial View



Figure 2 – Site in context

The Proposed Development

The application seeks approval for construction of a five storey, mixed use shop top housing development including a basement car park with 68 spaces, four ground level tenancies (food and drink premises and a neighbourhood shop) and 36 dwellings on the four levels above the ground floor.

The proposed gross floor area of the development is 4688.27m² and the respective areas are as follows:

- Basement – 21.3m²
- Ground floor tenancies and amenities – 384.69m²
- First floor (residential) – 1070.57m²
- Second floor (residential) - 1070.57m²
- Third floor (residential) - 1070.57m²
- Fourth floor (residential) - 1070.57m²

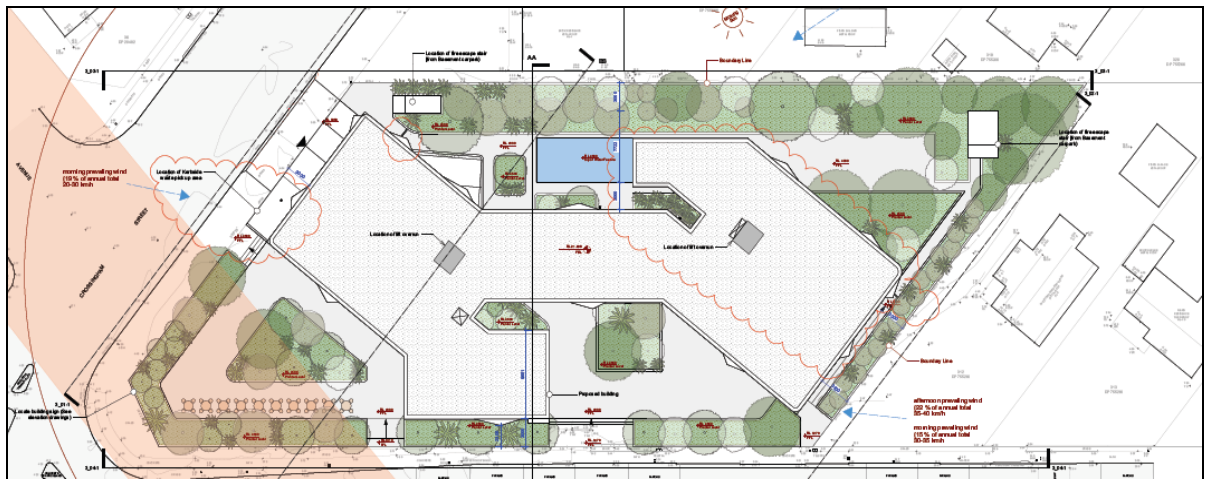
The residential component of the development comprises 24 x two bedroom dwellings and 12 x three bedroom dwellings including 4 adaptable dwellings. The development form comprises two attached buildings (above ground) with a shared basement level. As such, there are two separate residential lobbies at ground level, each with their own lift that services the residential dwellings above.

The ground level component includes four tenancies to be used as food and drink premises (3 tenancies) and a neighbourhood shop (1 tenancy) with adjoining forecourt areas for outdoor dining. There is an off street, service delivery space for the development located at ground level accessed from Crossingham Street. Within the ground floor level of the building there is a third lift providing access to the basement level only for the general public and restaurant activities. The communal open space area for the residential component is also located at ground floor level behind the building line. The development includes landscaping to all boundaries See Figure 3.

Vehicular access to the basement parking level servicing the development is via Crossingham Street. The basement parking level includes a total of 68 spaces which are allocated as follows:

- 47 spaces for the residential uses,
- 14 spaces for the ground floor tenancies and
- 7 visitor spaces (5 in front of residential shutter and 2 behind residential shutter).

The building appearance consists of two vertical parts; a raised podium with recessed, glass fronted commercial ground level, and a more solid masonry residential element above. The development is to be constructed using highly durable and thermally efficient materials including concrete (white and dark render), metal cladding and steel grills (dark grey), and glass balustrading. Face brick and timber cladding has been used to provide accented façade elements (see figures 4, 5 and 6).



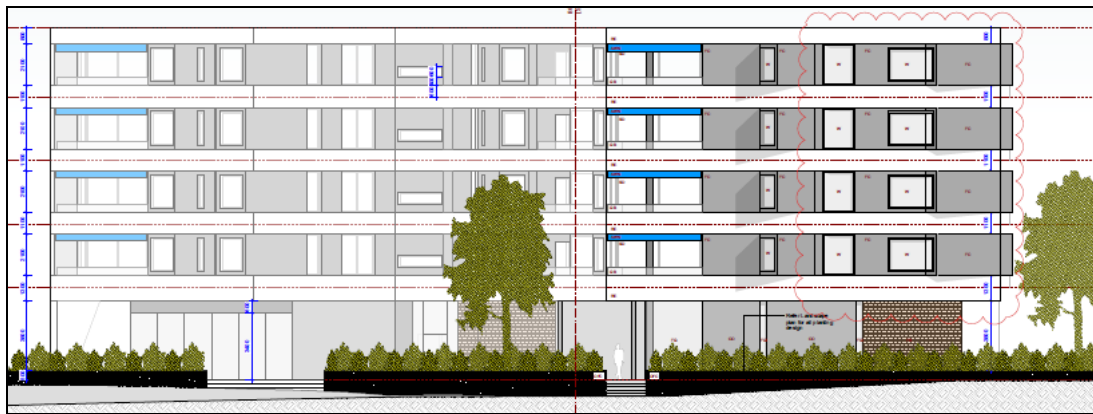


Figure 6 South elevation

VARIATIONS TO COUNCIL POLICIES

LEP	WLEP 2013
Clause	Clause 4.3 - Height of buildings
Standard	16m maximum height
Departure basis	Maximum proposed height 18.41m (RL 21.83m AHD) which exceeds the control by a maximum of 2.41m (15%).

WDCP	Wyong Development Control Plan 2015 (WDCP) Chapter 2.11 – Parking and Access
Clause	3.2 Calculation of car parking spaces - Table 1
Standard	On-site parking requirements for specific land uses
Departure basis	Total shortfall of 16 spaces (15 spaces for ground floor tenancies plus shortfall of 1 visitor residential space). (19% variation). A TMP has been provided.

WDCP	WDCP Chapter 2.4 – Multiple Dwelling Residential
Clause	4.3.3 – Residential Flat Building Setbacks
Standard	Minimum front setback 7.5m and side setbacks 6m
Departure basis	2.4m minimum setback to Beach Parade proposed variation 7%- 30% 6m minimum side setback 3m proposed (50% variation), 5 th storey required setback 9m but proposed 3m (66% variation).

WDCP	WDCP Chapter 2.4 – Multiple Dwelling Residential
Clause	6.4.1 – Visual Privacy
Standard	Recommended building separation distances
Departure basis	33% 12m separation required and 8 and 9m minimum provided but privacy (visual and aural) are minimized and potential for overlooking limited due to design.

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

SITE HISTORY

Development Consent DA/1653/2004 was issued 14th March 2005 for a mixed use development comprising 44 residential dwellings, café/retail space & basement parking. This consent was not commenced and has lapsed.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS

Any submission from the public.

The application was notified in accordance with WDCP 2013 – Chapter 1.2 Notification of Development Proposals with 2 submissions being received. The general issues raised in relation to the proposal are included below.

- *Overdevelopment. Precedent. Non-compliance with height and floor space ratio (FSR) demonstrates this point and Clause 4.6 variations inadequate. Insufficient environmental planning grounds to justify contravening development standard. The Clause 4.6 variations rely on the key site provisions to justify the variation without accepting any obligation associated with the key site provisions.*

Comment:

The proposal complies with the maximum permitted FSR but not with the height, setbacks and separation distances, or parking controls. This is not reflective of an overdevelopment or shortfall in design but rather the flexibility needed to address the constraints of the site and achieve a better outcome for development of the site. The Clause 4.6 variation for the height seeks variation to the height up to 2.41m in excess of the 16m base height limit under WLEP 2013. It is noted that if the development was to trigger the 'key site' height provisions the height limit would increase to 23m.

In this instance, the variation is supported and strict compliance with the development standard is considered unreasonable or unnecessary and there are sufficient environmental planning grounds to justify contravening the development standard.

The variation will not be readily discernable and there are not unreasonable impacts associated with the height non-compliance.

The proposal is consistent with the principles under State Environmental Planning Policy Design Quality of Residential Apartment Development (SEPP 65) and given the future character of the area anticipated by Council, the extent of variation is not out of context and is considered reasonable. There are overland flooding constraints adjoining the site that do not permit a lowering of the floor level of the building. The height is considered appropriate for its location and the extent of variation is not unreasonable within the context and in terms of a complying FSR and satisfactory physical form.

The built form capitalises on the building's location and orientation and good distance views in almost all apartments. The proposal will include positive benefits to the public domain fronting the site through the provision of outdoor dining opportunities to activate the area.

-
- *Parking insufficient for restaurant tenancies*

Comment:

The variation to parking is discussed later in the report and is considered reasonable within the constraints of the site which limits the potential to provide another level of basement parking. Additionally, the parking provision despite the shortfall is considered satisfactory in consideration of the context of the site adjoining a foreshore reserve with an availability of on-street parking and which attracts visitors independently of the development that will likely visit the food and drink premises on the ground level of the building.

- *Setbacks - non compliant resulting in unacceptable bulk and height*

Comment:

Although there are variations sought to the setbacks under the proposal, there are no significant or unreasonable impacts on amenity resulting from the variations. There is sufficient building separation and the irregular building form of the development means that the setback variations to walls are limited in length along the boundary. The development design responds appropriately and sensitively to the site context, environmental conditions and site attributes.

The building is positioned on the site to suitably respond to the residential context of the adjoining boundaries and to the street. The proposal complies with solar access requirements and potential privacy impacts have been minimised. Each of the building setbacks is to be satisfactorily landscaped including deep soil planting.

The proposal does not result in any unreasonable overshadowing of the property to the east and solar access remains compliant with the WDCP. Additionally, there are no unreasonable privacy impacts with dwellings oriented towards the street to maximise water views. The east facing windows have been angled, restricted in size and orientated so as to mitigate any potential for privacy impacts.

- *Proposal will prejudice the future development potential of land to the east*

Comment:

The proposed development has been designed to allow for satisfactory separation of the proposed, existing and likely future building forms on and surrounding the site. Indicative concept plans for redevelopment of the adjoining lots has been prepared by the applicant demonstrating the manner in which the adjoining sites can be developed.

The future restaurants and cafes with large outdoor areas will compliment the waterfront area and increase the popularity of the area for future development potential.

- *Insufficient landscaping resulting in impacts to amenity and public domain*

Comment:

Satisfactory landscaping has been provided to all boundaries including the street. The landscaped area complies with the relevant planning controls that apply to the development. The landscaping includes provision of deep soil zones and screen planting to boundaries and includes taller species to address the scale and appearance of the building.

- *Inconsistency with zone objectives. Proposal is for permanent accommodation rather than tourist oriented development.*

Comment:

Clause 2.3 of WLEP 2013 requires that *the consent authority must have regard to the objectives for development in a zone* when determining a development application. The SP3 Tourist zone objectives seek to encourage a variety of tourist-oriented development. The development is consistent with this in offering additional accommodation, employment and business opportunities into the area which will contribute towards the increased attraction of the area for visitors and tourist. The food and drink premises floor space and alfresco seating at the ground floor will encourage activation of the area and encourage tourists and locals to visit.

This directly contributes to the tourism objectives of the locality and complements the scenic foreshore context of the site.

In relation to the accommodation, although the residential dwellings are intended for permanent occupation, this does not preclude their future use for short term accommodation (through online services for short term letting of apartments) should this be viable in the longer term. The permanent accommodation will also improve the off-season viability of the tourist based development (i.e. restaurants and cafes) which is consistent with the zone objectives.

- *Adverse impact on the desired future character*

Comment:

The site context is undergoing a transition and the proposal is consistent with the planned future character of the area as identified under Council's identification of a number of 'key sites' for redevelopment in the Canton Beach and Toukley area. The architectural character of the development is acceptable within the locality and streetscape and will make a positive contribution to the foreshore area. The development is considered to be consistent with the WDCP Chapter 6.1 Clause 3.15 objectives for development of this key site. The proposal has been designed to minimise any potential to adversely impact on the character and amenity of the locality and streetscape and will not detract from the scenic qualities of the area.

- *Proposal will result in isolation of surrounding Key site development sites. No effort made to develop whole of the key site lots together - therefore resulting in an inferior outcome. Adverse impacts on 1,3, & 5 Crossingham Street and 1 Kantara Road from height, visual impacts, loss of opportunity and development potential, excessive bulk and scale.*

Comment:

A total of nine lots including the subject site (4 lots) and the adjoining sites (5 lots) have been identified as a "Key Site" under Council's planning controls (see figure 14). The development of the subject site will not preclude or prejudice the future development of the remaining 5 lots under the iconic sites provisions (which allow for the increased height limit). The remaining lots are in a regular shape, orientation and configuration to allow for future development as a contiguous parcel. The remaining part of the iconic site has a large street frontage and a northern aspect. It is considered that the proposed development will not result in the isolation of the remaining lots identified as an iconic site.



Figure 14 The nine lots identified as iconic sites under WLEP 2013 (site shown in green)

- *Traffic generation resulting in upgrades being needed to surrounding roads.*

Comment:

The traffic assessment accompanying the application concluded that traffic generated by the development will not have a significant impact on the adjoining road network. The traffic report estimates the likely traffic generation for the ground floor tenancies within the development to be in the order of 9 vehicle trips per hour during the peak periods. The traffic report estimates the likely traffic generation for the residential component to be in the order of 11 vehicle trips per hour in the AM and PM peak periods. The total projected traffic generation for the development is estimated to be 20 vehicle trips per hour in the peak times. On this basis the development will not present any adverse traffic impacts. Road infrastructure upgrade works for the street frontages of the site generated by the proposal are included under recommended conditions. Council's Traffic Engineer has reviewed the report and supports the development subject to conditions.

- *Poor state of adjoining beach (stinking weed) so no one swims there. Council needs to maintain if want to attract visitors.*

Comment:

Council has a maintenance schedule for weed removal from the lake, however, this is outside the immediate scope and control of the proposal.

ASSESSMENT

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

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES

Relevant State Environmental Planning Policies (SEPPs)

SEPP No.65 (Design Quality of Residential Apartment Development)

State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development) (SEPP 65) applies to the development and requires the design quality of the development to be taken into consideration and evaluated against the design quality principles, and Clause 30(2) of SEPP 65 requires such development to be designed in accordance with the associated Apartment Design Guide (ADG) as follows:

- 30(2) *Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:*
- (a) the design quality principles, and*
 - (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.*

The proposal has been designed in accordance with the ADG and a compliance table summarising the proposal against the ADG has been included under the report (refer to Attachment 2). The following table considers the proposal against the SEPP 65 design quality principles and includes the applicant's relevant design comments.

Principles	Proposal (Applicant's response)
Context	<p>The site is situated at the northeast corner of Tuggerah Lake. The area is not characterised by any dominant built form. However, the subject site has the potential of being a future urban anchor point for the area. If developed to a high standard, the site can become a visual reference point and the seed of a positive change. It would be on the visual axis if approached from the northwest along Moss Avenue and then Beach Parade. It would be visible from many locations along the western side of Tuggerah Lake as well as from the adjacent Wyrrabalong National Park to the east.</p> <p>The built environment context is average to poor. There are no buildings of any serious architectural or historic merit. There is a presence of pitched roofs, flat roofs, traditional, ornate and simplified modern building forms. Equally, there is little consistency in materials used, finishes, textures and colours. Most of the older buildings are single family houses located in the middle of larger blocks with substantial surrounding garden space. The proposed building is larger than anything else in the immediate existing vicinity but is consistent with the desired future character of the area as envisaged in Council's planning controls.</p>

	<p>The proposal will activate the streetscape through ground floor restaurants along the site frontage which adjoins foreshore open space located opposite the site. The future restaurants and cafes with large outdoor areas will enhance the waterfront atmosphere and provide for better utilisation of the beach area.</p> <p>The proposed development responds positively to its context and the desired future character of the area as reflected in Council's current controls for the site. The proposal will make a positive contribution to the Canton Beach foreshore area by transforming a currently vacant site of limited streetscape appeal into a contemporary development that will enhance the street appearance, activate the street frontage and provide improved landscaping.</p>
Scale	<p>The building bulk has been suitably addressed by the stepped building form and articulation of the building with an unusual footprint resulting in a variation of building planes facing the street. The development achieves strict compliance with the floor space ratio control. Although a variation to the building height is sought, the proposal demonstrates an appropriate scale in terms of bulk, height and building separation which contribute positively to the desired future character of the area.</p>
Built Form	<p>The physical form of the proposal makes a positive contribution to the streetscape and public domain. The concept of the building is based on two buildings that touch. The footprint takes the shape of a tape and it roughly resembles letter 'S'. There are two building cores - one on the northern end and the other on the southern end of the site.</p> <p>The proposed building form is vertically divided into two elements: slightly raised podium with recessed, glass fronted commercial ground level and more solid masonry residential element above. The ground level is open, airy and landscaped. It is designed as public space where people will gather around food and drink, sitting largely outside in the atmosphere of waterfront summer holiday. The upper levels are designed to visually float above the podium only connecting with the ground through a number of dynamically shaped columns.</p> <p>The facade is layered in continuous solid bands and highly articulated balcony and window bands between. Some of the windows protrude beyond the principle volume and some are recessed. Vertical louvers and use of awnings enriches the building form.</p> <p>The footprint of proposed development addresses the orientation and the shape of the site. While it responds to the movement of the sun and natural light it also acknowledges the water views, which are the primary asset of the site. The form of the tape enables cross ventilation and provides visual play which breaks the building volume.</p> <p>The proposed development achieves an appropriate built form in terms of building alignment, setbacks, proportions and articulation of building elements. Both street frontages at ground level will incorporate active frontages with restaurants and cafes that will support and encourage future tourism to the area and will service the local community.</p>
Density	<p>The proposal complies with maximum FSR permitted for the site and the density is considered appropriate for its location and context.</p>

Resource, Energy and Water Efficiency	<p>The orientation and topography of the site offers limited opportunity for a building configuration which would result in a highly efficient energy model. The primary limitation is the orientation of the block which runs north to south with longer boundaries facing east and west. This problem is further amplified with the orientation of the water views which are primarily to the west.</p> <p>The shape of the block with acute angles contributes to the level of difficulty through increased inefficiency in northwest and southeast corners. Despite the given limitations posed by the nature of the site, the proposed building offers a reasonable degree of positive environmental outcomes and makes efficient use of natural resources and water.</p> <p>After analysis of a number of different configuration options, the applicant advises that this one has provided best environmental outcomes. The result is ample cross ventilation and solar access while still providing views across the water. Six out of nine dwellings on each level have cross ventilation and water views. In addition, both public circulation areas associated with building cores on each level have a window which provides for daylight as well as fresh air. Each dwelling has a covered balcony and an external blind/awning to control low level sunlight, which will result in minimisation of use of air-conditioning.</p> <p>The configuration of the built form on site has enabled all dwellings to be open planned living, facilitating natural light and cross ventilation. Materials with high thermal mass will be used and insulation to selected areas will be included to assist with maintaining thermal comfort. Water collection/storage takes place across the site through collection from roofs and hard surfaces within the site are to be re-circulated for irrigation as well as use in toilets and laundries. A BASIX assessment, submitted separately to this report, confirms that water and energy reduction targets have been met and include measures to maintain these targets.</p>
Landscape	<p>A landscape scheme has been designed for the site which achieves a high quality landscaped environment for future residents, whilst contributing positively to the public domain. The proposed landscape design is able to relate to the character of the area and positively contribute to the scenic quality of the site and the streetscape.</p> <p>Landscaping throughout the site assists in breaking down the visual bulk of the building and improving the interface when viewed from adjoining properties. It also provides active uses with visual links and pedestrian connectivity to the foreshore open space area opposite the site. The development is well articulated with landscaped courtyards between the wings to break up the length and disguise scale.</p>
Amenity	<p>Amenity is optimised through appropriate room dimensions and open plan room configurations, sunlight access and natural cross ventilation. Room shapes enable easy furnishing and habitable rooms have been designed with good access to sunlight and natural ventilation. The built form capitalises on the building's location and orientation with good distance water views in almost all apartments.</p>

	<p>There is an internal division between day and night parts within each of the dwellings which assists with internal acoustic and visual privacy. The position of living spaces for most of the dwellings are located so as to capture direct sunlight and at the same time views. Balconies are of usable size and always adjacent to living and dining spaces.</p> <p>The proposal includes generous communal open space and landscaped setbacks. The internal layout of the building allows for two separate centralised cores servicing a max of 5 dwellings, avoiding long corridors. There is good basement storage and all dwellings can be accessed by mobility impaired persons. The contemporary development will provide a high level of amenity to future occupants and maintains the amenity of the adjoining residents.</p>
Safety and Security	<p>The proposed development optimises safety and security by activating the street frontages which in turn improve the usability of the adjoining Canton Beach foreshore area. The proposal increases passive surveillance both internally and externally to the foreshore open space and to communal areas within the development. The residential balconies overlook the surrounding streets and the foreshore park opposite the site.</p> <p>The design and layout of the building provides clearly identifiable building entrances which assists in way finding. There are two defined lobby areas which provide access to each unit with no ground floor dwellings proposed. Podium public areas are visible from multiple angles and numerous apartments. There are very few points within the site that have restricted observation abilities. Access control measures are also included to and within the basement car park area and storage facilities.</p>
Social Dimensions	<p>The proposal provides a number of different dwelling types which can cater for residents of different ages and with diverse family status. Accessible dwellings will be included and accessibility throughout the development is optimised. All dwellings have lift access and are provided with parking. The proposal has been design to encourage foot traffic and a good level of encounters and interaction, which in turn strengthens community atmosphere.</p> <p>The central entry is spacious, landscaped and with a simple and quiet water feature. The podium level is designed to provide amenities as part of cafe and restaurant tenancies. It is envisaged that the podium corner towards Beach Parade and Crossingham Street will be a lively tourist destination with outdoor tables, chairs and umbrellas enjoying the park-like ambience.</p>
Aesthetics	<p>The design provides articulation and uses face brick and glazing to differentiate the commercial use and provide a distinct base to the building. The projecting oriel windows with fibre cement cladding and the vertical fins add further articulation to the building form and create shadowing to the façade. The proposal will improve the streetscape appearance with the introduction of articulated and modulated facades to both street frontages with balconies, window openings and a mix of materials and finishes. The provision of the communal open space and landscape planting and features throughout the site also assists in breaking down the visual bulk, improving the interface when viewed from adjoining properties.</p>

State Environmental Planning Policy No.71 (Coastal Protection)

State Environmental Planning Policy No.71 – Coastal Protection (SEPP 71) applies to the development. The site is located within a sensitive coastal location under SEPP 71 and 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 (refer to the attached table of compliance). The proposal has also been considered under Part 4 of the SEPP the policy and is considered inconsistent with the aspects identified under this part. (See Attachment 3)

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, and, in accordance with the SEPP, a BASIX Certificate has been submitted with the development application (Certificate No.773112M). The BASIX Certificate outlines the water conservation and energy efficiency measures to be adopted as part of the proposal in order to ensure the development will be energy and water efficient consistent with the NSW State Governments requirements.

State Environmental Planning Policy No.55 – Remediation of Land

Clause 7(1) of State Environmental Planning Policy No. 55 requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and if contaminated that the land is suitable in its contaminated state (or will be suitable, after remediation) for the development proposed to be carried out.

The proposal is for a mixed use development on the site comprising food and drinks premises and shop top housing. The site has a history for residential uses and as a caravan park. An assessment for potential contamination accompanied the proposal which includes soil sampling for contaminants (such as heavy metals, hydrocarbons, pesticides and asbestos). The analytical testing of the soil and surrounding stockpiles have not identified any areas of any real environmental concern. Although minor traces of asbestos were identified in one sample this can be resolved through a conditional requirement for a clearance certificate to be obtained.

Under the recommended conditions, the development is to be carried out in accordance with the recommendations of the report prepared by Environmental Investigation Services dated 1 March 2016. In this regard, the surface fill material (identified as containing asbestos fragments) must be disposed of to a NSW Environmental Protection Authority licensed facility and following removal of the fill material an asbestos clearance certificate of the excavation base should be obtained in order to confirm the underlying soil is virgin excavated natural material (VENM).

State Environmental Planning Policy (State and Regional Development) 2011

The proposal constitutes regional development under Part 4 of the SEPP and as identified under Part 4A of the EP&A Act due to the estimated value of the development (exceeding \$20 million). As such, the determining authority for the development application is the Hunter and Central Coast JRPP.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP) regulates clearing that is not ancillary to development requiring consent. The proposal includes the removal of trees associated with the development of the site for which development consent has been sought; therefore the Vegetation SEPP does not apply.

Draft State Environmental Planning Policy (Coastal Management) 2016

The site is identified as within the coastal environment area and is considered satisfactory with regard to the matters identified under Clause 14 (a)-(g). The site is also located within the coastal use area and the proposal is considered satisfactory with regard to the matters identified under Clause 15. In accordance with Clause 16, the proposal is not likely to increase risk of coastal hazards on the land or other land.

Wyong Local Environmental Plan 2013

Permissibility

The subject site is zoned SP3 Tourist under WLEP 2013 (see figure 7). Within the SP3 Tourist zone 'shop top housing' and 'food and drink premises' and 'neighbourhood shop' are permissible with consent. It is noted that within the SP3 zone 'commercial premises' including 'retail premises' and 'business premises' are not identified as permissible development.



Figure 7 – Zoning Map

The following definitions under WLEP are relevant to the proposal and read:

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

Note.

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

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

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

Note.

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

neighbourhood shop means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

Note. See clause 5.4 for controls relating to the retail floor area of neighbourhood shops.

Neighbourhood shops are a type of **shop**—see the definition of that term in this Dictionary.

Having regard to Clause 2.3 of WLEP, the proposed development is considered consistent with the SP3 Tourist zone objectives which read as follows:

- *To provide for a variety of tourist-oriented development and related uses.*
- *To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.*
- *To protect and enhance the natural environment for tourist and recreational purposes.*

The proposal includes permanent residential and restaurants/cafes with alfresco seating at ground floor level and a neighbourhood shop. The applicant argues that *this will encourage the activation of the area and encourage tourists and locals to visit.*

The residential component is proposed to be permanent residential rather than tourist accommodation and this will assist in the off season viability of the proposed ground floor restaurants and cafes. Additionally, the applicant has argued that *there is now greater flexibility in the use of apartments for tourist and visitor style of accommodation. There is a long-standing practice of letting apartments for short periods to tourist and this practice has increased with the advent of services such as 'Airbnb'.* Therefore there is potential for future use of the permanent accommodation as tourist accommodation should this be a viable use at a future point in time.

The proposal includes satisfactory landscaped setbacks which aim to retain the visual context and setting of the site. The proposal will protect and enhance the natural environment for tourist and recreational purposes by encouraging the increased use of the foreshore areas by visitors for recreational purposes.

Clause 4.3 - Height of Buildings

Under the WLEP maximum height of building maps (Clause 4.3), the site is permitted a maximum building height of 16m. The proposal includes a maximum height of 18.41m (RL 21.83m AHD) which exceeds the permitted height by 0.81m and up to 2.41m See Figure 8. A Clause 4.6 exception to the development standard accompanies the application outlining the variation to the WLEP height control under Clause 4.3. The height of the development has been minimised however, the floor levels of the building and level for the basement entry are dictated by the potential overland flooding constraint to the east of the site and surrounding area.

The site is identified as a 'key site' to which despite Clause 4.3, extends the maximum building height for the site to not exceed that height shown on the Key Sites map of a maximum of 23 metres on the basis of other provisions being satisfied. The proposal does not seek to utilise or rely upon the key site provisions, however, it is noted that the remainder of the key site, could in the future, be developed to a height of 23m under these provisions.

Details in relation to the height variation is provided later in this report under Clause 4.6 Exception to Development Standards.

Clause 4.4 - Floor Space Ratio

The maximum floor space ratio (FSR) for a building (under clause 4.4(2)) on any land is not to exceed the maximum FSR shown for the land on the FSR map which for this site is 1.25:1 (Area 2).

The site is also subject to subclause (2B) which allows for bonus additional floor area. Clause 4.4(2B) states:

(2B) Despite subclause (2), a building on land identified as "Area 1" or "Area 2" on the [Floor Space Ratio Map](#) for which the site area is as specified in Column 1 of the table to this subclause may exceed the maximum floor space ratio shown on the [Floor Space Ratio Map](#) in relation to that land by the percentage of that ratio shown opposite the relevant site area in Column 2 of that table.

Column 1	Column 2
Site area	% of max FSR
1,500m ² or more, but less than 2,000m ²	7.5%
2,000m ² or more, but less than 2,500m ²	10%
2,500m ² or more, but less than 3,000m ²	12.5%
3,000m ² or more, but less than 4,000m ²	15%
4,000m ² or more	20%

The site is 3,263.6m² in area. In accordance with Clause 4.4(2B) the allowable FSR for the site is 1.25:1 + 15% (bonus) which equates to a maximum FSR of 1.4375:1 applying to the development. The maximum gross floor area (GFA) for a building on the subject site is therefore 4691.4m². The proposal has a gross floor area of 4688.3m² and an FSR of 1.4365:1 which is below the maximum permitted under the clause. The development proposal therefore complies with the maximum allowable FSR.

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 limits the maximum building height on the site to 16m and the proposal includes a height ranging from 16.81m to 18.41m. The exceedance of the height occurs at the roof level and ranges from a 0.81m to 2.41m variation.

The Clause 4.6 exception to the development standard applying to building height as sought by the applicant is included under attachment 4. 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 adequately addresses 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.

In accordance with the SP3 Tourist zone objectives the proposal will provide for a tourist oriented development that will increase the attractiveness and appeal of the local site context to visitors by providing restaurants and cafes with outdoor dining in a scenic and accessible setting adjoining the foreshore.

In accordance with the objectives under Clause 4.3(1):

- The development achieves an appropriate density by complying with the maximum permitted FSR for the site.
- The area is undergoing transition and the proposed height of the building will be compatible with the future planned height and likely bulk and scale of future development within the area and the desired future character of the locality. The proposal will result in a building height and size as was envisaged on the site under Council's long term planning for the site and surrounding lots for 'key site' development. The proposal demonstrates an appropriate scale in terms of bulk, height and building separation which contribute positively to the desired future character of the area.

- The development has been sensitively designed to respond to existing development surrounding the site and mitigates potential visual impacts. The development includes satisfactory articulation, sufficient landscaped setbacks and a unique design that responds to the orientation and location of the site. The proposal will make a positive contribution to the public domain (i.e. The Canton Beach reserve site context) by transforming the vacant site of limited streetscape appeal into a proposal that will create visual interest, enhance the streetscape appearance and activate the street frontage.
- The height of the building is appropriate and will preserve the residential amenity of neighbouring properties. Despite the variation the proposed building height will not adversely impact on surrounding residential amenity in respect of unreasonable or significant overshadowing, overlooking, view loss, bulk and scale and access. This is due to the internal and external design of the building and its form and orientation (see figure 8).

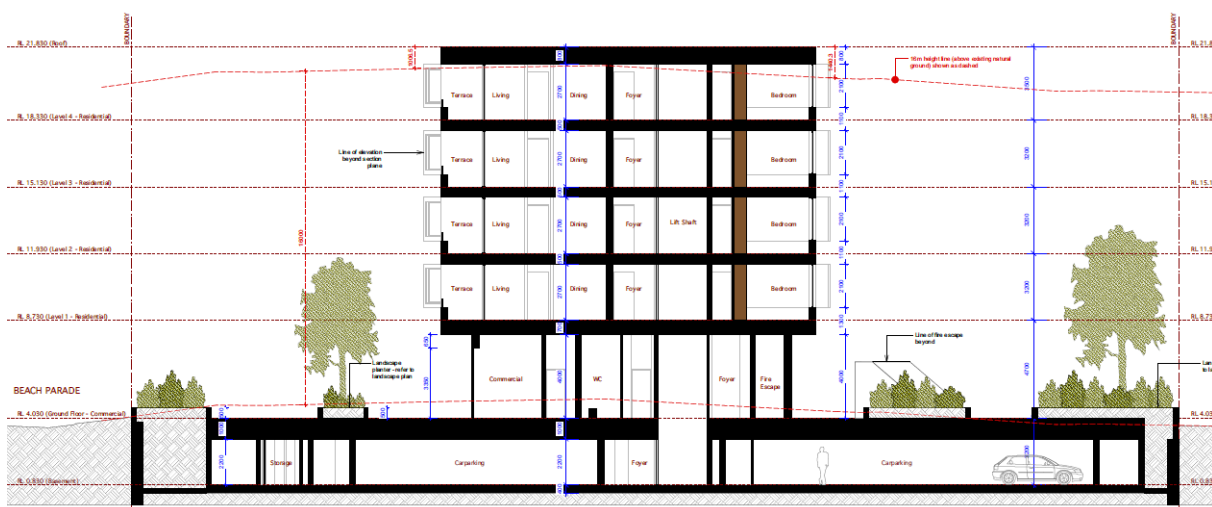


Figure 8 - Section through building showing height variation

The proposed development is considered to be in the public interest despite the variation being sought because it is consistent with the SP3 Tourist zone objectives and the objectives for the maximum height development standard identified under Clause 4.3(1).

In this instance, and on these grounds, the exception is supported and strict compliance with the development standard is considered unreasonable or unnecessary in the circumstances of the case, and there are sufficient environmental planning grounds to justify contravening the development standard. The extent of variation is 15% above the 16m maximum height permitted on the site. This variation will not be discernable and there are no unreasonable impacts associated with the exception. The exception to the maximum height under Clause 4.6 is considered reasonable and acceptable in the specific circumstances for the development.

Clause 5.5(2) - 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:

Clause 5.5(2) Coastal zone matters	Comment
<ul style="list-style-type: none"> maintaining existing and identifying new pedestrian access to and along the foreshore, 	<p>The proposal will increase pedestrian activity in the area surrounding the site. There is currently provision along the foreshore in front of the site for pedestrian access to and along the foreshore. The proposal will complement the use of the existing foreshore reserve area for passive recreation. The proposal will encourage greater public use of the area by providing more opportunities for dining in the area and increasing the attraction and interest of the place for visitors.</p> <p>The development is considered likely to attract visitors, to the site and adjoining foreshore park. The development will not diminish the existing foreshore access and will not adversely impact on the use of the foreshore for visitors.</p>
<ul style="list-style-type: none"> the suitability of the development and its impact on scenic quality, 	<p>The building will be visible from various vantage points around the lake including public foreshore reserve areas. However, the proposal will not disturb views to any coastal headlands. The proposal will result in a building height and size as was envisaged on the site. The proposal will assist in improving the usability of the coastal foreshore area for visitors by providing an active street front opposite the park. New landscaping will improve the scenic quality and appearance of the site from the street and lake front.</p>
<ul style="list-style-type: none"> the impact of the proposal on the amenity of the coastal foreshore (including shadowing or view loss from a public place), 	<p>There is some overshadowing of the foreshore area from the proposal resulting from the orientation of the site. However, this is largely confined to the road carriageway and adjoining verge. The extent of shadowing is not significant or unreasonable within the context of the site. There will be some impact on views at street level across the site to the lake from along Crossingham Street and from adjoining properties to the east across the site to the lake. The extent of view loss is not considered unreasonable given the context and planning controls.</p>
<ul style="list-style-type: none"> protection of the visual amenity and scenic qualities of the coast, 	<p>Due to the height of the building in the context of existing surrounding development, the proposal will be readily visible from some distance away. As noted, the redevelopment of the site generally complies with Council's controls excepting a minor variation to the building height.</p> <p>Otherwise the development is consistent with Council's planning controls for the site. The redevelopment of the site has been identified in Council's long term planning for the area as the site is identified as a key site. The visual bulk and height of the building is acceptable given the transitional context of the site. The building FSR is below Council's maximum controls for the site and although there is a minor variation to the height, this variation is not readily discernable and the height is well below the potential height of the site under the key site provisions.</p>

<ul style="list-style-type: none"> • conservation of coastal biodiversity and ecosystems, and 	The proposal does not adversely impact upon the conservation of coastal biodiversity and ecosystems including rock platforms or significant coastal vegetation and wildlife corridors, water quality, native flora or fauna habitats.
<ul style="list-style-type: none"> • the cumulative impacts of the development on the coastal catchment. 	The proposal is not likely have any unreasonable or significant cumulative impacts on the coastal catchment.

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

Clause 5.4 (7) Neighbourhood Shops

Clause 5.4(7) limits the retail area for a neighbourhood shop to a maximum of 125m². The proposed neighbourhood shop is 56.24m² in area which is below the maximum and complies with the Clause.

Clause 5.9 Preservation of trees or vegetation

Clause 5.9 requires consent to be obtained for the removal of or impact upon certain trees and vegetation. An arborist report was prepared and submitted for the proposal which identified a total of 23 trees (exotic and native) requiring removal under the proposal.

The report identified the most significant trees as being the two *Angophora costata* or Sydney Red Gums (trees 6 and 13 in the report) and one *Corymbia maculate* or Spotted Gum (tree 1). The site's largest tree is the mature *Cinnamomum camphora*, or Camphor laurel tree (tree 11) which is over 15m in height. The planted trees include mature *Cupaniopsis anacardioides*, or Tuckeroo's (trees 3-5, 14-16) and *Araucaria heterophylla*, or Norfolk Island Pine trees (trees 7 & 20). Other than these trees, the site includes a number of other trees to be removed including a Coral Tree (tree 2), Cocos Palms (trees 8, & 21-23), Jacaranda trees (trees 10 & 12) (see figure 9).

All trees on the site are recommended for removal due to the size and extent of the construction footprint extending over the whole site. This is in part due to the need to minimise excavation depth on the site whilst providing a suitable number of parking spaces within the basement level. The possibility of retaining and protecting trees on the site was investigated by the applicant, however, this would have resulted in the loss of a number of car parking spaces needed for the development. The landscaping plan includes replacement tree planting along the frontages of the site along to the side and corner boundaries.



Figure 9 Extract from Arborist report (Botanics Tree Wise People page 6) showing trees to be removed on the site.

Acid Sulfate Soils

The site is identified as Class 3 and 4 on the Acid Sulphate Soils (ASS) Planning Map and under Clause 7.1 of WLEP, works which are proposed as follows requires preparation of an acid sulphate soils management plan:

- Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
- Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.

The construction of the basement will require for the basement. A preliminary acid sulphate soils assessment report was prepared for the proposed works which concluded:

...the results of the soil sampling are considered to be indicative of mildly acidic soils associated with organic/humic material rather than PASS as no significant concentrations of oxidisable sulphur were encountered in samples. Therefore lime treatment of the excavated soil (to a maximum depth of 4.5m below ground level) to manage PASS is not considered necessary. Based on the information an Acid Sulfate Soil Management Plan (ASSMP) is not required for the proposed development at the site. However the risks of generating ASS conditions below 4.5m below ground level is substantially increased with depth.

The proposal is therefore consistent with the requirements of Clause 7.1 of the WLEP.

Flood Planning

The site is identified as partly flood affected in the area alongside the eastern (rear) boundary of the site (see figure 11). The Northern Lakes Flood Study (Overland Flow Study) identifies that the properties adjoining the eastern boundary of the site are located in a natural low point where water ponds during high intensity flood events and when the ground water table is high. The estimated flood level during the 1% AEP storm event is 4.06m AHD.

It is noted that the properties within the low point are approximately 500mm lower than the road carriageway and the existing piped drainage system. The submitted survey levels indicate that stormwater flows from this low point do not flow over or onto the subject site.

Clause 7.2 applies to the site as it is identified as part flood planning land under Council's maps. Consent must not be granted to land identified by this clause unless the consent authority is satisfied that the development:

- Is compatible with the flood hazard of the land: and
- Is not likely to significantly adversely affect flood behaviour resulting in worsened flood hazard to other development or properties, and
- Incorporates appropriate measures to manage risk to life from flood and
- Is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses, and
- Is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

Conditions have been recommended by Council's Senior Development Engineer to address potential impacts from overland flow in the vicinity of the site. All floor levels are to be 300mm above the 1% AEP flood level. The proposed development is not likely to significantly adversely affect any flood behaviour resulting in worsened flood hazard to other development or properties. The proposed development is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses, and is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding. The proposal is satisfactory in relation to the matters identified under the clause.

Foreshore Building Line

The site is not located within a foreshore area but opposite a foreshore reserve. The proposal does not include any building works that would adversely impact visual amenity, accessibility or functioning of the foreshore area. The proposal is considered compatible with the requirements of Clause 7.5 (Limited development on foreshore area) and 7.6 (Development on the foreshore must ensure access).

Essential Services

In accordance with Clause 7.9, the proposed development can be satisfactorily serviced. Existing water infrastructure is running along Beach Parade and the site is currently serviced for sewer. The proposed development is located outside the zone of influence of the sewer mains servicing the area and outside the zone of influence of the water main servicing the area. Water and sewer contributions will be applicable to the development in accordance with the Shire Wide charges.

The development will require a Section 307 Certificate under the *Water Management Act* 2000. Other services are available to the site including electricity supply, stormwater drainage and suitable road access.

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 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 specifically nominated matters has been prepared. In return for the bonus height, WDCP Chapter 6.1 Key Sites requires provision of significant public benefit to the community.

The proposal does not include the use of this clause for any bonus development potential for the site.

Relevant Development Control Plans

Wyong Development Control Plan 2013 (WDCP)

Chapter 2.11 – Parking and Access

The proposed development generates the need for on-site parking under Chapter 2.11 of the WDCP as outline below.

Land Use	WDC Parking Rate
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 <i>Note: The above requirements may be reduced to 1 space per dwelling if development is in the Regional Centre or a District Centre, subject to submission of a Transport Management Plan and approval by Council.</i> 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 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
Restaurant and Function Centre	15 spaces per 100m ² GFA or 1 space per 3 seats, whichever is the greater Service Requirements: 1 space per 400m ² GFA up to 2,000m ² GFA then 1 space per 1,000m ² thereafter.
Take Away Food & Drink Premises: <ul style="list-style-type: none">▪ With No Seating and No Drive Through▪ With Seating and No Drive Through▪ With Seating and Drive Through	12 spaces per 100m ² GFA. The greatest of 12 spaces per 100m ² GFA or 1 space per 5 seats (internal and external) or 1 space per 2 seats (internal) The greater of 1 space per 2 seats (internal) or 1 space per 3 seats (internal and external) Drive Through: queuing area for 10 car lengths. Queues must be able to extend an additional 2 car lengths without unreasonably disrupting carparking operations or extending into street. A minimum of 2 waiting bay spaces to pick up orders are required. Spaces may be required for buses and cars with trailers Service Requirements: 1 space
Shops in Neighbourhood Centre	1 space per 20m ² GFA Service Requirements: 1 space per 400m ² GFA

The development includes basement parking with 68 spaces. The parking allocation includes 47 residential spaces, 14 spaces for the ground floor tenancies and 7 visitor spaces. The proposed parking provision will include accessible spaces and a visitor/car wash bay. It is also proposed to provide 6 motorcycle spaces and 15 bicycle spaces within the basement.

Based on 24 x two bedroom dwellings and 12 x three bedroom dwellings, the WDCP requires provision of 47 spaces for the residential component and 7.2 visitor spaces as shown in the table below. The proposal complies with the requirement providing 47 spaces for the residential component. Clause 3.2b of the WDCP requires that where the number of required spaces under the WDCP does not equal a whole number, the number of spaces is to be rounded up. The proposal includes 7 visitor spaces for the visitor component, however when rounded up 8 visitor spaces are required and the proposal will have a shortfall of 1 visitor space.

Parking (Chapter 2.11)	Details of development	WDCP rate	Required Spaces	Parking proposed	Comply
Residential - 1 Bed - 2 Bed - 3 Bed TOTAL RESIDENTIAL Visitor Accessible (for adaptable units)	No dwellings 24 dwellings <u>12 dwellings</u> 36 dwellings 7 10% (4 units)	1 x 1 Bed 1.2 x 2 Bed 1.5 x 3 Bed - 1 per 5 units 1 per unit	- 29 <u>18</u> 47 7.2 4	47 7 5*	- Yes Yes Yes No, when rounded up.
Takeaway food and drink premises (no seating)	214.72m ² GFA	12 spaces per 100m ² GFA 1 service space	25.7 1	14 1	No - 30 required 15 provided shortfall of 15 spaces
Neighbourhood Shop	56.24m ²	1 space per 20m ² GFA 1 service space	2.8		
TOTAL	-	-	30	15	No

* Spaces shown but do not comply with required dimensions for accessible spaces but have been conditioned to comply.

Based on GFA of 385m² for the ground floor tenancies and amenities, 214.72m² is to be used as food and drink premises, and 56.24m² as a neighbourhood shop. Each of these uses generate parking demand for 26 spaces and 3 spaces respectively plus 1 service space is required. This totals a parking requirement for the ground floor of 30 spaces with 15 spaces provided.

A service/delivery space is included at ground level accessed from Crossingham Street which complies. However, only 14 spaces are proposed to be provided for the use of the ground floor tenancies on the site. This is a shortfall of 15 spaces and a variation to parking provision for the whole development of 22% (83 parking spaces are required and 68 provided). The applicant has provided a number of arguments to support the variation as included below.

-
- *The applicant has argued that there are 37 on street parking spaces surrounding the site along Beach Parade which can accommodate additional indirect parking demand not provided on the site. These spaces are available to the public and are provided for general visitors to the foreshore reserve and local area. Parking surveys (refer to Traffic Report) were undertaken to indicate the current usage of these on street spaces including a significant availability of on-street parking particularly in the evening period when the food and drink premises would be in use. This argument is based on the assumption that visitors who are already in the area primarily enjoying the foreshore reserve may also choose to visit the site for food or drinks.*

Comment

This locality has long provided passive lakeside recreation and holiday accommodation. To facilitate public access, Beach Parade does provide angled and parallel parking, approximately 10 spaces are opposite and adjacent to the site. While the development proposes a sort fall of on-site parking for the ground floor retail uses, it is acknowledged that a proportion of these customers will likely be visiting the locality for passive recreation purposes and a may include residents from the local area.

- *The required excavation for a second level of basement parking in which to accommodate all the spaces on site would likely be problematic given the context of the site with predominantly sandy soils; increased risk of encountering potentially acid sulfate soils below the proposed basement level; and potential groundwater issues. In consideration of these constraints, it would not be desirable to excavate to a second basement level in order to provide additional on-site parking.*

Comment

Council's engineer has considered and concurs that the excavation of a deeper basement would be difficult due to the soil type, acidity and groundwater constraints.

- *The restaurants and cafes will similarly draw on people who are already in the area for other reasons (either residents who are already in the locality and may walk to the site or day visitors to the area whose parking needs have already been met elsewhere. Clause 3.11 of WDCP Chapter 2.11 allows for some consideration of dual and complementary use of facilities in the reduction of on-site parking provision. The applicant argues that the dual use of the waterfront recreation area and the restaurants will complement each other and reflect a significant element of dual uses (i.e. visitors the waterfront).*

Comment

The WDCP Chapter 2.11 recognises that car parking demand is reduced where there is co-location of complementary uses and dual trips. This supports the variation of the parking rate in this instance.

- *A Transport Management Plan (TMP) accompanied the proposal in accordance with Appendix B of the WDCP Chapter. WDCP Chapter 2.11 Clause 3.2 requires that where a variation to the number of spaces required in Table 1 is proposed; a TMP is to be provided. The plan identifies measures aimed at promoting and encouraging sustainable travel and reducing reliance on the private car.*

Comment

The TMP has been reviewed by Council's Traffic and Transport Engineer, who supports the application subject to conditions. Specifically the engineer has recognised that there will be additional pedestrian desire in the locality in response to the dual use of the water front reserve and the retail options provided in the development. As such, conditions have been recommended requiring provision of a formalised pedestrian crossing facility.

The proposed shortfall is considered satisfactory in the local context of the site adjacent to the Canton Beach foreshore area. In relation to the residential component of the building, the shortfall is confined to only 1 visitor space. However, the primary shortfall is attributed to the 4 ground floor tenancies proposed as food and drink premises and a neighbourhood shop for which 14 spaces are provided within the basement and 1 loading space at ground level. As the details for the café seating has not been provided with the proposal, the DCP calculation for the spaces for the food and drink premises are based on floor area rather than seating.

It is acknowledged that the food and drink premises will likely be patronised in part by day visitors to the foreshore whose parking needs have been met elsewhere off the site and by people who reside in the locality and can walk to the site. Additionally, in consideration of the site constraints (which limits the potential provision of another level of basement parking) and the positive benefits of the redevelopment of the site to stimulate economic and social activity to the area, the merits of the proposal are deemed beneficial for the area. Despite the shortfall in parking, the proposal is considered consistent with the objectives of the WDCP Chapter and with the objective of Clause 3.2 to ensure that adequate off street parking is provided for new development.

Chapter 2.4 – Multiple Dwelling Residential Development

Chapter 2.4 of WDCP applies to the development and a summary of compliance with the relevant controls under the Chapter are outlined under the attached table (Attachment 1). Issues of interest and non-compliance are outlined below:

- **Solar Access**

Given the orientation of the site and the shape of the lot with longer boundaries facing east and west, obtaining 3 hours minimum mid-winter solar access to all apartments has not been able to be achieved. This is further amplified with the orientation of the water views which are primarily to the west. Under the proposal 55.5% of apartments obtain 3 or more hours of solar access, 33.3% of dwellings receive 2 hours of solar access and 11.1% achieve less than the 2 hours. In this regard, 89% of the apartments achieve a minimum of 2 hours solar access. The location of the site will afford future occupants a high level of amenity as it benefits from public open space (being foreshore reserve) located opposite the site.

Additionally, each of the apartments that do not achieve the minimum of 3 hours solar access are able to benefit from a scenic outlook enjoying significant views of the lake. The ADG indicates that solar access may be difficult to achieve where significant views are oriented away from the desired orientation for solar access. In this case, views are obtained to the south west which adds a further complication in providing solar access to those dwellings. However, the dwellings which don't comply are still able to benefit from a high level of amenity with water views, cross ventilation, privacy, an adjacent public foreshore reserve and high quality internal space. The level of solar access is therefore considered acceptable.

- *Setbacks*

The proposal includes a variation to the minimum setbacks required under Clause 4.3.3 (*Residential Flat Buildings – 3 or more storeys in height*). The setbacks proposed for the building are irregular and the proposed variations are not continuous for the length of the boundary (see figure 3).

Clause 4.3.3 requires a 7.5m front setback to all levels of the development. The proposal provides a minimum front setback of 7 metres at the ground floor level and a minimum of 2.4-3 metres setback above ground floor level for the residential component. This is a variation of between 7% - 69% but is limited in boundary length, relating only to three small sections of the site (occupying a limited frontage to Beach Parade of around only 15 metres or 20%).

The variation in part results from the WDCP's primary relevance to residential flat development rather than shop top housing. The latter generally includes zero setback to the street for ground level commercial development and minimum setbacks above this for residential development forms.

The proposal includes a variation to the 5th storey setback of 9 metres required to the rear and side elevations under Chapter 2.4 of the WDCP with 6 metres being proposed to the north (rear) and 3 metres to both the side boundaries. The proposal also includes a variation to the eastern side setback which requires 6 metres up to the 5th storey, however only 3 metres has been proposed.

The objectives for the building lines control under Chapter 2.4 of Clause 4.3 of WDCP include:

- *To maintain existing streetscapes*
- *To protect the privacy and solar access of adjacent properties*
- *To ensure the visual focus of a development is the dwelling, not the garage*
- *To maximise building separation to provide visual and acoustic privacy*

There is no potential adverse impact on the character of the streetscape as a result of the variations proposed. The extent of variation will not be readily discernable to the street. There is also no adverse impact on the existing residential amenity of adjoining properties as a result of the variations sought to the setbacks. The setbacks proposed for the building, despite the variations proposed, allow for sufficient articulation and visual relief of each building elevation and sufficient areas adjacent to the boundaries for screen planting. Shadowing and privacy impacts have been minimised through the design and orientation of the building and individual dwellings. The proposal is considered consistent with the intent of the WDCP setback control to minimise visual impacts of the development to the streetscape, to provide suitable building separation and to maintain and protect existing privacy, solar access and residential amenity.

The proposal also includes a minor variation to the recommended separation distances required to address visual and acoustic privacy (under Clause 6.4.1). A minimum separation distance of less than 12m is proposed externally to the existing buildings on the northern and eastern boundaries. The minimum distance provided is 8-9 metres but this is the closest point between the existing and proposed buildings. The majority of the elevation is well setback in excess of 12m and the majority of the building therefore complies.

The extent of variation is considered reasonable in the context of the site. Landscape screening will be provided to all site boundaries. The living areas within the development and window openings have been designed and oriented to avoid any direct overlooking of internal living areas and private open space to surrounding dwellings. The development has been designed to maximise the views to the foreshore and lake from each south facing unit and to the communal open space for the north facing dwellings without compromising visual privacy.

- *Open Space and landscaping*

Clause 6.1.2a of Chapter 2.4 of WDCP requires that the provision of private open space (POS) for shop top housing be in the form of balconies with a minimum area of 10m² and a minimum dimension of 2m. The proposal has been amended to demonstrate that compliance with the minimum has been achieved.

The WDCP requires the provision of communal open space at a rate of 20m² per dwelling with a minimum dimension of 5 metres with 75% of the area achieving a minimum of 3 hours solar access mid winter in a location outside the front setback area. The proposal exceeds the minimum provisions for communal open space with a minimum of 24m² per dwelling (with a minimum of 5 metres dimension) and 100% of the area achieving a minimum of 3 hours solar access in a position behind the building line and not within view of the street.

The proposal complies with the minimum required site coverage control comprising 30% natural landscaping at ground level. Of this area, 357.17m² of landscaped area will comprise deep soil which complies with Chapter 2.4 of WDCP. A landscape plan has been provided for the proposal that includes generous landscape treatments to all site boundaries.

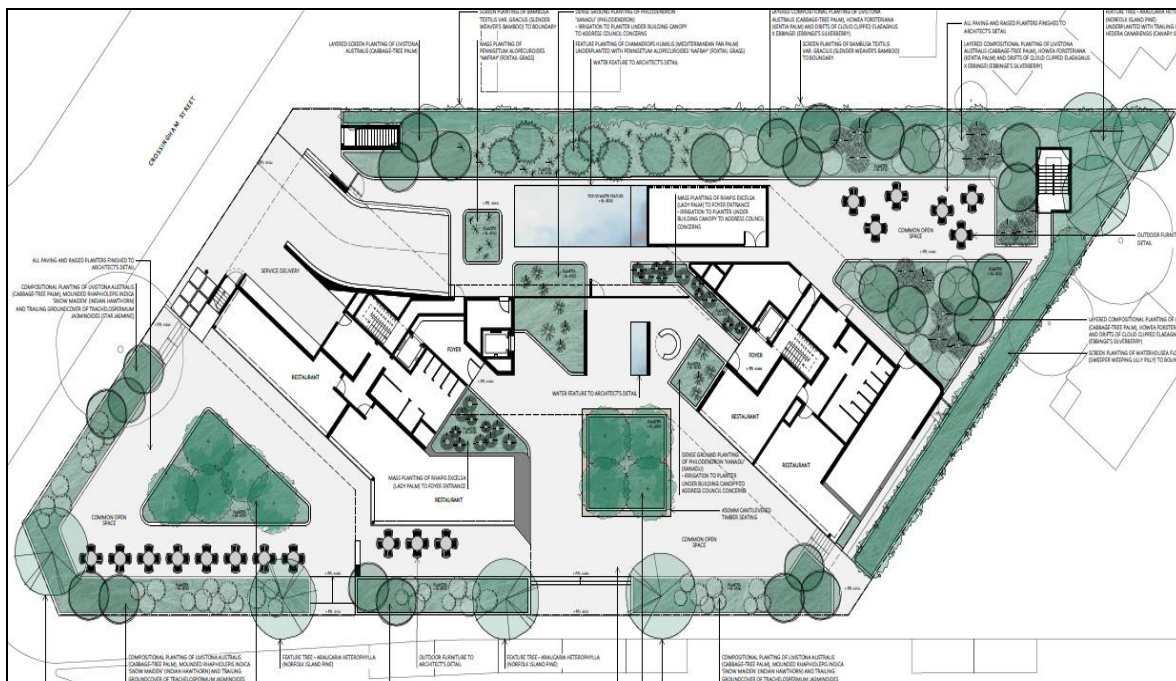


Figure 10 Landscape plan for the proposal.

Overall, the proposal is generally consistent with the relevant aims and requirements of WDCP Chapter 2.4 and despite the WDCP variations, is considered satisfactory subject to recommended conditions.

Chapter 3.3 - Floodplain Management

A small section of the site along the eastern boundary is identified as flood affected. The Northern Lakes Flood Study (Overland Flow Study) prepared by Cardno Consultants identify that the adjoining properties fronting Crossingham Street and Wallis Avenue are located in a natural low point where water ponds during high intensity flood events and when the ground water table is high. The estimated flood level during the 1% AEP storm event is 4.06m AHD. (see figure 11).



Figure 11 - Flooding mapping (1% AEP and PMF) and site outlined in red

Crossingham Street and Walls Avenue have a piped stormwater longitudinal stormwater drainage system which collects all stormwater flows generated from the road carriageways to discharge into the existing gross pollutant trap (GPT) within the Tuggerah Lake foreshore reserve. It is noted that the properties within the low point are approximately 500mm lower than the road carriageway and the existing piped drainage system.

The submitted survey levels indicate that stormwater flows from this low point do not flow over or onto the subject site.

To ensure no stormwater enters the basement the ramp is required to incorporate a driveway hump to 150mm above the flood level and this has been included under the recommended conditions. It is also recommended that the ground floor level be increased slightly from 4.03m AHD to 4.36m AHD to comply with the Northern Lakes Flood Study and WDCP 2013 Chapter 3.3 Floodplain Management. This includes a 300mm freeboard above the 1% AEP flood level as a recommended condition. The applicant has confirmed that this change can be accommodated within the proposed building height and as such will not result in any increase to the overall height of the building.

WDCP Chapter 3.6 – Tree & Vegetation Management

As discussed earlier in the report, a total of 23 trees (exotic and native) require removal under the proposal due to the footprint of the development and the need for basement parking. The report identified the most significant trees as being the two *Angophora costata* or Sydney Red Gums (trees 6 and 13 in the report) and one *Corymbia maculata* or Spotted Gum (tree 1). The possibility of retaining and protecting trees on the site was investigated by the applicant, particularly the *Angophora costata* (Tree 13) in the south eastern corner of the site. However, retaining this tree would have required substantial reduction in the size of the basement (and a reduction in the number of on-site parking spaces) without certainty regarding the long term health of the tree once retained.

A satisfactory landscape plan including a complete plant schedule with botanical and common names, plant numbers, mature height and diameter and pot sizes has been provided that includes replacement tree planting and boundary screen planting.

Chapter 5.1 Retail Centres

The proposed development is generally consistent with the design guidelines for Retail Centres under Clause 5 of Chapter 5.1 of WDCP. The proposal will contribute to the establishment of upgraded and activated streetscape. The building includes irregular and unusual setbacks in building form that will create visual interest along the street.

The new food and drink premises will contribute positively to the use of the public domain space within and around the foreshore and will generate increased pedestrian activity. Outdoor seating has been included within the common areas of the site facing the street. Awnings are proposed to extend along the ground level façade fronting the tenancies; however, these will not be over the public footpath but located within the site. This is due in part to the level difference between the street front and the common circulation areas fronting the ground floor tenancies of the development as a consequence of addressing the flooding constraint.

Chapter 6.1 – Key Sites

The proposed redevelopment of the site does not utilise the key site bonus height provisions under WLEP and WDCP. However, Clause 3.15 (Lakeside Caravan Park) of Chapter 6.1 (Key Sites) of WDCP identifies objectives and requirements specifically in relation to the redevelopment of the subject site (i.e. Lakeside Caravan Park) which are relevant to the current proposal. The first objective identified under Clause 3.15 is relevant to the redevelopment of the subject site and states:

- To stimulate development of the Canton Beach foreshore as a tourist precinct with tourist and residential accommodation and an active street-front of cafes and tourist uses along Beach Parade.

The proposal is consistent with the above Chapter objective for the envisaged redevelopment of the site. The relevant requirements under the clause state:

- “Development of the site is to be orientated with an active street frontage to Beach Parade.

-
- *Locate tourist related activities such as cafes, restaurants, and shops along the Beach Parade street frontage to activate the streetscape and improve amenity of the area. This activation may extend around the corner of No. 1 Beach Parade onto the Crossingham Street frontage.*
 - *The building is to be built to both street frontages with carparking at the rear to maximise continuous active street frontage. Additional floors should be used to not only increase density, but to achieve visual landmarks for pedestrians and accentuate the street corner as a place of pedestrian interaction.*
 - *Vehicular access to the development should be located in Wallis Avenue or in Crossingham Street at the eastern end of the property.”*

The proposed redevelopment of the site achieves compliance with the above requirements by proposing food and drink premises and neighbourhood shop at ground floor level along the Beach Parade frontage, activating the streetscape and improving the amenity of the foreshore area. The car parking is located out of view of the street with access via Crossingham Street away from the primary frontage of Beach Parade. The form and design of the building will present as a visual landmark for pedestrians and will accentuate the street corner as a place for pedestrian interaction.

Chapter 3.1 Site Waste Management

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

d) Relevant Regulations

There are no specific matters under the *Environmental Planning and Assessment Regulation* 2000 that require further discussion.

THE 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 WDCP compliance and in terms of the submissions received. The following relevant matters relating to site design and internal design, external impacts and construction activities are further discussed in detail below.

Overshadowing

Shadow diagrams have been prepared for the development at hourly intervals between 9:00am, midday and 3:00pm, on 21 June and also for 20 March at 9:00am, midday and 3:00pm. The diagrams indicate the scenario mid-winter on the shortest day of the year as well as the equinox in order to ascertain and assess shadowing impacts from the development throughout the year.

Chapter 2.4 (clause 6.3.1) of WDCP requires a minimum of 3 hours of unobstructed solar access to 75% of the private open space (POS) area for a dwelling on an adjoining site between 9:00am and 3:00pm midwinter. The POS for the adjoining dwelling to the north (1 Crossingham Street) continues to achieve the required 3 hours of solar access midwinter during 9:00am and 3:00pm unhindered by the development.

The POS for the adjoining dwelling to the south-east (8 Beach Parade) is impacted by shadowing from the proposed development during the afternoon period. During the morning and midday periods, the front setback of the existing dwelling is impacted by shadowing from the proposal but the rear yard (POS) remains unaffected. By 3:00pm, the shadowing has extended across the majority of the rear yard area.

However, under the proposal, the POS for the adjoining dwelling will continue to receive a minimum of 3 hours unobstructed solar access midwinter between 9:00am and midday. Solar access to each of the adjoining dwellings remains compliant with the WDCP.

Within the development, the proposed communal open space is located so as to receive unobstructed solar access between 9:00am and midday midwinter in compliance with the WDCP.

The design of the building allows for 89% of the dwellings to achieve 2 hours solar access. Within the 89%, there are 20 dwellings (55.5% of dwellings) which achieve 3 hours or more solar access and 12 dwellings (33.3% of dwellings) which achieve 2 hours solar access (midwinter between 9:00am and 3:00pm). There are 4 dwellings which do not achieve the minimum solar access required under the WDCP.

Council's WDCP Chapter 2.4 and the ADG require that a minimum of 70% of dwellings (living rooms and POS) shall receive a minimum of 3 hours unhindered solar access midwinter between 9:00am and 3:00pm. The proposal does not achieve strict compliance; however it is considered that the proposal achieves the objective (ADG 4A-1) to *optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space*.

It is noted that within the Sydney metropolitan areas, 2 hours is identified as the minimum under the ADG – and the proposal would achieve this for 89% of the units.

Under the ADG, the number of apartments in a building permitted to receive no direct sunlight is limited to a minimum of 15% (5 dwellings). The proposal complies with the requirement as all dwellings within the development receive some form of sunlight.

The outlook of the dwellings and the orientation and positioning of private open space (balcony) areas have been designed with the aim of optimising the views of the lake. The orientation of the lake views are on the southern side of the building and therefore subject to limited solar access. In other words, the dwellings that are not able to achieve a minimum of 3 hours solar access benefit from significant lake views. Contrary to the ADG recommendations, the design of the building does not seek to avoid south facing dwellings as these are the ones that capture the best views. In this regard, the building includes a number of proposed dual aspect dwellings to achieve solar access and capture the views.

The extent of shadowing impacts is not exacerbated by the variation proposed to the building height and any amenity impacts are confined to the winter months which represent the worst case scenario on the shortest day of the year. Every other part of the year results in more solar access than is depicted on the diagrams. The extent of additional shadowing is not deemed excessive given the increased density and nature of the development. The overall extent of shadowing impact resulting from the proposal is considered reasonable.

In consideration of the site constraints and the desired increased density of development on the site under Council's latest adopted planning controls, the proposed development is considered to be satisfactory in terms of impacts on the built environment.

Privacy and amenity

The orientation and outlook of dwellings has been designed to maximise views of the foreshore, the street and open space within the development. Balconies are separated by blade walls which limit overlooking between dwellings. Where possible the dwellings have been oriented to face towards the street. The east facing windows have been angled, restricted in size, and are offset from the development in the east in order to mitigate potential privacy impact.

The dwellings located towards the centre of the site have been substantially setback from the side boundaries, to provide sufficient separation distance. South facing windows and balconies are screened and are offset from adjacent development. Suitable landscaping and boundary treatments are included within the landscape plan to increase privacy and soften the appearance of the development to the surrounding properties and the street.

There is sufficient separation at ground level of the private residential areas of the development (communal open spaces areas) from the public areas associated with the food and drink premises. The design includes suitable separation of entries, storage and service areas.

Stormwater drainage

The site falls to Crossingham Street. The stormwater generated from the proposed building and all paved surfaces is proposed to be collected and ultimately discharged into the Beach Parade carriageway via a rainwater re-use system located within the development site. A pump out system is proposed for the basement and subsoil drainage. As the system is located in close proximity to the lake, the provision of an on-site detention system is not considered warranted. Council's Engineers have reviewed the system and support the proposal subject to conditions.

Noise and vibration

There are a number of potential noise sources under the proposal including plant and equipment and the future use of the ground floor tenancies. There are residential land uses adjoining the site boundaries, on the opposite side of Crossingham Street, and further surrounding the site.

Hours of operation have been imposed as recommended conditions for the use on the ground floor tenancies including the associated delivery/loading area and waste collection. Any future change to the operating hours will require an acoustic assessment to address any potential amenity impacts.

Recommended conditions have also been included in relation to the use and maintenance of plant and equipment.

There will be potential for construction noise for a limited duration as a consequence of the development. Conditions are recommended in relation to standard construction hours, adoption of sound attenuation measures during construction, and prior notice for potentially noise generating construction works.

Earthworks and groundwater

A geotechnical investigation accompanied the application which considered the proposed excavation for the basement level of the building. Excavation to these depths will be through the sandy soils and a shoring system will be required around the proposed basement and some dewatering will be likely. Council's Senior Development Engineer has reviewed the reports. A condition has been recommended to ensure the development is carried out in accordance with the Geotechnical Investigation Report prepared for the development.

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 development will provide for additional activities in the locality and promote passive surveillance of the public domain. The proposal includes a number of general design considerations and measures to be included with the proposal to discourage anti-social behaviour and minimise the opportunity for criminal activities. This has been discussed in detail earlier in the report under the design quality principles. A condition has been recommended to further address this matter.

Traffic and Vehicle Access

The proposal seeks the consent for a commercial / residential development accessed via a widened driveway crossing fronting Crossingham Street. Both frontages contain upright kerb and gutter, with only Beach Parade containing a pedestrian footpath.

The development will necessitate the completion of road infrastructure in accordance with the relevant provisions of Council's Civil Works Design Guidelines. Conditions have been recommended requiring the provision of a new industrial style driveway crossing and layback, reinforced concrete footpath for the Crossingham Street site frontage, removal of the redundant driveway crossing and layback and the provision of a new Beach Parade pedestrian formalised crossing facility.

The applicant prepared a traffic assessment for the proposal which outlined the potential traffic, parking and access impacts associated with the proposal. The submitted traffic report has concluded that traffic generated by the development will not have a significant impact on the adjoining road network.

Council's Engineers support the application subject to conditions.

Internal access parking

The proposed off-street parking dimensions and vehicle manoeuvrability appear to comply with AS/NZS 2890.1 (2004) - "Off-street car parking". The proposed loading areas, vehicle manoeuvrability and internal driveway grades appear to comply with AS 2890.2 (2002) – "Off-street commercial vehicle facilities". The clear height will restrict the service vehicle to a small rigid vehicle. The turning templates for the 7.2m rigid vehicle have been detailed in the submitted traffic report. The car wash bay is to be relocated as insufficient fall is available to the sewer main infrastructure servicing the area. A condition will be recommended to address this matter.

An accessible parking space has been provided for the ground level tenancies as required. Three of the proposed four accessible parking spaces for the residential component do not strictly comply with the required dimensions of the shared zone and a condition will be recommended requiring provision of accessible spaces for each of the required accessible dwellings prior to issue of a Construction Certificate.

Accessibility

An accessibility report accompanied the proposed development with regard to BCA access compliance and adaptable housing design. The report identifies that insufficient access is provided to and within some areas normally used by the occupants throughout the development. The report makes a number of comments and recommendations regarding access, sanitary facilities, circulation, adaptable unit design, handrails, ramp and door design and other matters in accordance with AS1428. A condition has been recommended to address this to ensure the development is carried out in accordance with the access report prepared for the development.

Lot Consolidation

The development site comprises multiple lots and lot consolidation will be necessary to ensure that the development is located entirely on a single allotment. A condition has been recommended to address this matter.

Waste removal

The applicant has advised that waste collection vehicles will not enter the basement areas. Waste collection will be from the Crossingham Street frontage. The residential levels will include waste chutes discharging to the basement where bins will be manually transferred to the street front for collection. Waste storage for the ground floor tenancies is located in a waste room at the rear of the loading dock and will be manually transferred to the street front for collection. A condition has been recommended to address this matter.

Overall

As a result, the proposed development is considered to be satisfactory in terms of impacts on the built environment subject to recommended conditions. The proposal will not adversely impact on the character and amenity of the locality and streetscape. The scale, form, character and density of the development are acceptable within the locality.

b) Natural Environment

There will be no significant impact upon the natural environment as a result of the proposal.

All other relevant issues regarding the likely impacts of the development have been discussed throughout this report. In general, it is considered that the property is suitable for the proposed development subject to conditions.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The design of the proposed development is of a high quality and is in an appropriate form, layout and scale that suitably balance the opportunities and constraints of the site. There are no significant site constraints or hazards that would render the location of the development as unsuitable.

The site is situated within a scenic location that will appeal to visitors to the area. The site context is undergoing a transition and the proposal is consistent with the planned future character and increased development density located along the Canton Beach foreshore. The proposal will not adversely impact on the character and amenity of the locality, streetscape and foreshore.

The proposed development will provide a number of social and tourist benefits to the area including additional housing and housing choice in the area and the provision of additional food and drink premises in the vicinity of the foreshore area which will complement and encourage the increased use of this area.

Any submission from public authorities.

Subsidence Advisory NSW (formerly Mine Subsidence Board)

The site is located within a mine subsidence district and the development constitutes integrated development requiring referral to Subsidence Advisory (formerly the Mine Subsidence Board) under Section 15 of the *Mine Subsidence Compensation Act 1961* and Section 91 of the *Environmental Planning and Assessment Act 1979* for their General Terms of Approval.

The Subsidence Advisor provided their approval in correspondence dated 22 December 2016. Although the site is no longer identified as being within a mine subsidence area, at the time of lodgement of the DA, the subject site was identified and approval was provided by Subsidence Advisory NSW.

INTERNAL CONSULTATION

The application has been referred within Council to:

- *Senior Development Engineer*

Council's Senior Development Engineer reviewed the supporting documentation for the proposal and raised no objection subject to recommended conditions of consent to address storm water, flooding, access and roadworks and other matters. These matters have been discussed in detail earlier in the assessment report under the likely impacts of the development.

- *Senior Environmental Health Officer (Environmental Protection)*

Council's Senior Environmental Health Officer has assessed the proposal and raised no objections subject to recommended conditions to address acid sulphate soils, potential contamination including the requirement for an Unexpected Finds Management Plan.

- *Traffic Transportation Engineer*

Council's Transportation Engineer has assessed the traffic generated by the development and advised that the development will not have a significant impact on the adjoining road network. However, the development has potential to generate significant pedestrian movements between the site and Canton Beach across Beach Parade.

Conditions have been recommended requiring the provision of a formalised crossing facility connecting the development and the existing shared path west of Beach Parade.

- *Contributions Officer*

There is no objection raised by Council's Contributions Officer subject to inclusion of a recommended condition in relation to the payment of Section 94 contributions.

- *Architect*

Council's Architect has provided architectural and landscaping comments particularly within the context of the SEPP 65 design principles and the Apartment Design Guide. No objection is raised in relation to the proposal the merits of which are satisfactory. Although there remains some height non-compliance, this is considered minor and does not result in detrimental impacts on adjoining sites and is consistent with likely future developments.

The building form is acceptable. The development is well articulated with landscaped courtyards between the wings to break up the length and disguise the scale. Building separation provides visual and acoustic privacy, solar access, view corridors, outlook and an area for significant landscaping. The path on the southern boundary has been relocated and now provides a deep soil zone capable of supporting some larger trees to provide screening to and from the adjoining site and provide visual separation between this and any adjoining development.

- *Water and Sewer Planning*

Council's Section Manager Water Services and Design has reviewed the proposal and raised no objection to the water and sewer servicing of the proposal. The proposed development is located outside the zone of influence for both the water and sewer mains servicing the area. Connection to the sewer is available to the existing property and sufficient capacity exists in Council's sewerage network for the proposed development. A possible upgrade of the 100mm AC water main within the frontage of Beach Parade has been identified and is dependent upon flow and pressure testing. Water and sewer contributions are applicable for the proposal.

The development will require a Section 307 Certificate under the Water Management Act and an application under Section 305 for a Section 307 Certificate of Compliance has been lodged (WMA/7/2017).

- *Waste Officer*

Council's Waste Officer (Waste Management) reviewed the proposal and provided comment regarding suitable waste servicing arrangements. No objection was raised and conditions have been recommended regarding waste management on the site.

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

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

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

While there are minor non-compliances with setbacks, parking and height, the development is considered supportable and in the public interest. The development includes restaurant and shop elements which will attract people to the locality and add to the amenity of the beachfront location.

There are no matters associated with the proposal that are contrary to the local or community interest.

OTHER MATTERS FOR CONSIDERATION

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. It is recognised that visitors to the restaurant will also visit the nearby open space area.

Rising Sea Level: The site is located within an area subject to flooding from overland flow rather than flooding from the lake, and conditions have been recommended to satisfactorily address this site constraint.

Section 94 Contributions

The property falls within the Toukley District s94 Contributions Plan & Shire Wide s94 Contributions Plan. Contributions are applicable for Open Space Works, Shire Wide Contributions, Community Facilities Land and Works. Credit has been given for the existing lot and for the approved long and short term caravan park sites. Conditions are imposed requiring payment of contributions.

Water and Sewer Contributions

Water and sewer contributions are applicable to the development and a Section 306 will be issued concurrently with the consent for the development under the *Water Management Act 2000*.

CONCLUSION

The application seeks approval for the construction of a mixed use, shop top housing development including food and drink premises a neighbourhood shop (4 ground floor tenancies), 36 dwellings and basement parking on the site. The Clause 4.6 exception to height is supported and strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. This variation will not be discernable and there are no unreasonable impacts associated with the exception. The other variations to planning controls are considered reasonable and acceptable in the circumstances.

The issues raised in submissions have been addressed under the details of the proposal and recommended conditions.

Although a variation to the building height is sought, the proposal demonstrates an appropriate scale in terms of bulk, height and building separation which contributes positively to the desired future character of the area. Aside from the proposed variations, the development is considered to be consistent with the objectives of the controls for the site and generally consistent with the WLEP and WDCP requirements.

The site is considered to be in a suitable context for the nature, scale and type of development proposed. Appropriate measures to address potential impacts have been recommended as conditions of consent in order to mitigate any short term negative impacts. It is generally considered the proposed development is suitable for the site and will represent a positive opportunity to provide additional tourist related cafes and take away food shops in the vicinity of the foreshore, in addition to employment opportunities and additional housing within the local area.

The proposal is recommended for approval subject to conditions.

ATTACHMENTS

Attachment 1 – Numerical Compliance Table

Attachment 2 – Residential Flat Design Code – Compliance Table

Attachment 3 – State Environmental Planning Policy No 71 – Coastal Protection

Attachment 4 – Applicant's Clause 4.6 Exception to development standard – height of building

Attachment 5 – Draft recommended conditions

Attachment 1 – Numerical Compliance Table

Control	Proposed	Required	Compliance
Site Area	3,263.6m ²	-	N/A
Site frontage - Crossingham Street - Beach Parade	41m 75.5m	- -	- -
Height (WLEP 2013)	18.41 metres (max) 5 above ground stories	16m (23m under key sites map not used)	No, Clause 4.6 variation.
FSR (WLEP 2013)	1.436:1	1.25:1 + 15% (bonus) = 1.4375:1	Yes
Gross Floor Area - Food & drink premises - Basements - Residential	4688m ² 385m ² 21m ² 4282m ²	4692	Yes
Setbacks - min - South - Front (Beach Parade) Ground - South – Front 1 st + storeys - Eastern - Side up to 4 th storey - Eastern - Side 5 th Storey - Northern – Rear up to 4 th storey - Northern - Rear 5 th Storey - Western ground(Crossingham St) - Western side up to 4 th storey - Western Side 5 th Storey - Corner sight preservation lines	7m 2.4-3m 3-3.6m 3m 6m 6m 3m 3m 3m Satisfactory	7.5m 7.5m 6m 9m 6m 9m 6m 6m 9m Splay for sightlines	No No No No Yes No No No No Yes
Building depth (SEPP 65)	18m max	18m max depth of a cross over or cross through apartment measures glass to glass. 10-18 metres if wider than 18 metres must demonstrate how satisfactory daylighting and natural ventilation are to be achieved.	Yes
Separation distances Between habitable rooms Between habitable and non-habitable rooms Between non habitable rooms. (WDCP Ch2.4 -Cl.6.4.1)	Externally 8 and 9m provided to existing adjoining at closest part of buildings but majority of elevation setback well beyond 12m. Future development can comply.	- 12m (up to 4 storey) - 18m (5 to 8 storey) - 9m (up to 4 storey) - 13m (5 to 8 storey) - 6m (up to 4 storey) - 9m (5 to 8 storey)	No, however separation is satisfactory due to design and orientation of openings.
Solar access (Ch 2.4)	Complies	Impacts to adjoining properties allow for 3 hours direct sunlight between 9am - 3pm mid-winter.	Yes

Solar access (Ch 2.4)	89% of apartments achieve 2 hours of solar access and 55.5% of apartments achieve 3 or more hours of solar access No single aspect southerly apartments	70% of apartments receive 3 hours direct sunlight between 9am - 3pm mid-winter. In dense urban areas a minimum of 2 hours. • Limit single aspect apartments with a southerly aspect to a maximum of 10% of total dwellings.	No but satisfactory Yes
Cross Ventilation (SEPP 65)	66% (24 dwellings direct ventilation) 33% (12 dwellings have indirect ventilation) 100% of kitchens have access to a window opening	60% of dwellings to be naturally cross ventilated. • 25% of kitchens to have access to natural ventilation	Yes Yes
Landscaping (Ch 2.4) Deep soil	983.06m ² (30%) 357.17m ² (11%)	25% ground level 7% site area (SEPP 65) = 230m ²	Yes Yes
Private open space Balconies: Min area Min dimension Directly accessible from living area Courtyards: Min Area Min dimension Directly accessible from living area Grade 1:14	- - 12m ² /3 bedroom 10m ² /2 bedroom N/A 2m Adjoins living area - N/A - - - - -	- - 12m ² /each 3bed dwelling 10m ² /each 2 bed dwelling 8m ² /1bed dwelling 2m Adjoining living area - - 10m ² /each dwelling 2m Adjoining living area 1:14	- - Yes Yes N/A Yes - N/A - - - -
Communal Open Space Min 20m ² /dwelling Min 5m dimension Min 3hrs solar access (WDCP Ch 2.4)	26% (851m ²) 24m ² /dwelling 5m 100% of area	25% 20m ² /dwelling Min 5m 75% of area	Yes Yes Yes Yes
Parking - Residential (36 dwellings) - 0 x 1Bed - 24 x 2 Bed - 12 x 3 Bed <u>Total</u> - Visitor (residential) (Unstacked) - Takeaway food and drink (385m ²) - Car washing space - Motorcycle parking - Bicycle parking - Servicing loading spaces - Accessible parking	68 47 zero 29 <u>18</u> 47 7.2 14 - 1 6 15 1 5 (but require redesign	102 47 1 x 1 Bed 1.2 x 2 Bed <u>1.5 x 3 Bed</u> 47 1 per 5 dwellings (7.2 but rounded up to 8) 47 - 1 1 space/50 spaces 1/3 dwellings & 1/10spaces 1	No Yes Yes Yes Yes Yes No (1 space as rounded up) - No (33 spaces shortfall) Yes Yes Yes

	to comply with dimensions)	4	Yes Addressed by condition
Adaptable Dwellings (WDCP Ch 2.4) Adaptable Parking	Recommended condition will address	10% dwellings (4 dwellings) 1space/unit (4 spaces)	Recommended condition
Laundries (Ch 2.4)	Internal laundry for each dwelling	1/dwelling	Yes
Storage (Ch 2.4) 1-2 bedrooms 3 or more bedrooms	- 12 x 3m ² 24 x 6m ²	- 3m ² 6m ²	- Yes Yes
Dwellings accessible from a single core (SEPP 65)	Max 5 dwellings	Max 8 dwellings	Yes
Meeting place (COS) or room WDCP 2.4 - CI12.2.1	N/A	Satisfactory communal open space provided	N/A
Transportation (Ch 2.11) Management Plan (TMP)	Yes	Encouraging alternative modes of travel other than private car	Yes
Basix Certificate Nathers (SEPP BASIX)	Provided	BASIX Certificate	Yes

Attachment 2 - Apartment Design Guide – Compliance Table & SEPP No. 65 (Design Quality of Residential Apartment Development)

Guidelines	Considerations	Comment
Building Height	WLEP 2013 Clause 4.3	No, Clause 4.6 variation
Floor Space Ratio	WLEP 2013 Clause 4.4 & SEPP ARH	Complies
Building Envelope	Setbacks satisfactory	No, but variation satisfactory
Building Depth	12-18m glass to glass Vary building depth relative to orientation, eg. buildings facing east-west capture sun from both aspects & may have apartments of up to 18m wide (if dual aspect), while buildings facing north-south should be narrower to reduce the number of south facing apartments that have limited or no direct sunlight access	Complies
Building Separation	<p>Minimum separation distances for buildings are:</p> <p><i>Up to four storeys (approximately 12m):</i></p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms <p><i>Five to eight storeys (approximately 25m):</i></p> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms <p><i>Nine storeys and above (over 25m):</i></p> <ul style="list-style-type: none"> • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms <p>At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.</p> <p>No building separation is necessary where building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within centres</p>	Satisfactory
Guideline objective	Design guidance	Comment
Orientation		
<ul style="list-style-type: none"> • Building types and layouts respond to the streetscape and site while optimising solar 	<p>Buildings along the street frontage define the street & include direct access from street.</p> <p>Street frontage east or west – rear buildings oriented to north.</p>	<p>Complies</p> <p>The building has been oriented and designed to minimise overshadowing and overlooking and to</p>

<p>access within the development.</p> <ul style="list-style-type: none"> • Overshadowing of neighbouring properties is minimised during mid winter 	<p>Street frontage north or south, minimise overshadowing & buildings behind street frontage be oriented to the east and west.</p> <p>Solar access to living rooms, balconies and private open spaces of neighbours should be considered</p> <p>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums.</p>	<p>maximise solar access and views.</p>
Public Domain Interface		
<p>Transition between private and public domain is achieved without compromising safety and security</p> <p>Amenity of the public domain is retained and enhanced</p>	<p>Terraces, balconies and courtyard apartments should have direct street entry.</p> <p>Upper level balconies and windows should overlook the public domain.</p> <p>Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy</p> <p>Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m</p> <p>Length of solid walls should be limited along street frontages</p> <p>Where multiple pedestrian entries and spaces- buildings/entries should be differentiated to improve legibility for residents.</p> <p>Minimise opportunities for concealment.</p> <p>Planting softens the edges of any raised terraces</p> <p>Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided</p> <p>Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view</p> <p>Ramping for accessibility should be minimised by building entry location and</p>	<p>Complies</p> <p>The development includes a good interface with the foreshore reserve opposite the site. The dwellings are predominantly oriented to the views of the lake and the foreshore. Upper level windows overlook the public domain. The proposal includes generous semi-public open space areas at ground level of the building for outdoor dining. The proposal will activate the street and increase pedestrian activity in the vicinity of the site including the public foreshore areas. Landscaping is included along the street frontage of the development to soften the appearance of the development. The servicing areas (plantrooms and loading areas) are located out of ready view of the primary street frontage and the vehicular access is from the secondary frontage.</p>

	<p>setting ground floor levels in relation to footpath levels</p> <p>Durable, graffiti resistant and easily cleanable materials should be used</p> <p>Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions:</p> <ul style="list-style-type: none"> • street access, pedestrian paths and building entries which are clearly defined • paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space • minimal use of blank walls, fences and ground level parking 	
Communal and public open space		
<p>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p> <p>Communal open space is designed to maximise safety</p>	<ul style="list-style-type: none"> • Communal open space has a minimum area equal to 25% of the site (see figure 3D.3) • Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am & 3 pm on 21 June (mid winter). • Communal open space should be consolidated into a well designed, easily identified and usable area. • Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions. • Communal open space should be co-located with deep soil areas. • Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies. • Where communal open space cannot be provided at ground level, it should be provided on a podium or roof. <p>Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 	<p>Complies Communal Open Space 26%</p> <p>100% of area receives 3 hours solar access mid winter between 9am - 3pm.</p> <p>COS in one area at ground level with deep soil area. Readily visible from habitable rooms and well sheltered from winds.</p>

<p>Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood</p>	<p>Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4FCommon circulation and spaces), incorporating some of the following elements:</p> <ul style="list-style-type: none"> • seating for individuals or groups • barbecue areas • play equipment or play areas • swimming pools, gyms, tennis courts or common rooms <ul style="list-style-type: none"> • The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts. • Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks <p>Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include:</p> <ul style="list-style-type: none"> • bay windows • corner windows • balconies <ul style="list-style-type: none"> • Communal open space should be well lit Where communal open space/facilities are provided for children and young people they are safe and contained • The public open space should be well connected with public streets along at least one edge. The public open space should be connected with nearby parks and other landscape elements. Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid. <p>Solar access should be provided year round along with protection from strong winds. Opportunities for a range of recreational activities should be provided for people of all ages.</p> <p>A positive address and active frontages should be provided adjacent to public open space</p> <p>Boundaries should be clearly defined between public open space and private areas</p>	
---	---	--

Deep soil zones														
Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	<table> <tr> <th>Site Area</th><th>Min dimensions</th><th>Deep Soil (%of site)</th></tr> <tr> <td><650m²</td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m² – 1500m²</td><td>3m</td></tr> <tr> <td>>1500m²</td><td>6m</td></tr> <tr> <td>>1500m² with significant tree cover</td><td>6m</td></tr> </table>	Site Area	Min dimensions	Deep Soil (%of site)	<650m ²	-	7%	650m ² – 1500m ²	3m	>1500m ²	6m	>1500m ² with significant tree cover	6m	Complies Deep soil = 357.17m ² (11%)
Site Area	Min dimensions	Deep Soil (%of site)												
<650m ²	-	7%												
650m ² – 1500m ²	3m													
>1500m ²	6m													
>1500m ² with significant tree cover	6m													
Visual Privacy	<p>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> <p>1. Minimum required separation distances are to be provided as set out in Design Criteria 3F-1</p> <hr/> <p>Min. requirement</p> <table> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </table> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	Satisfactory
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
Pedestrian access and entries	<ul style="list-style-type: none"> - Connects to and addresses the public domain - Accessible and easy to identify. - Large sites provide pedestrian links for access to streets and connection to destinations. 	Satisfactory												
Vehicle access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Complies												
Bicycle and car parking	Parking and facilities are provided for other modes of transport. Car park design and access is safe and secure. Visual and environmental impacts of underground car parking are minimised. Visual and environmental impacts of on-grade car parking are minimised. Visual and environmental impacts of above ground enclosed car parking are minimised	Complies Bicycle and motorcycle parking is accommodated in the basement												
Solar & Daylight Access	<ul style="list-style-type: none"> • Living rooms and private open spaces of at 	Satisfactory but not strict compliance to 3 hours.												

	<p>least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</p> <ul style="list-style-type: none">• In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter.• A maximum of 15% of apartments in a building receive no direct sunlight between 9am-3pm midwinter.• Daylight access is maximised where sunlight is limited.• Design incorporates shading and glare control, particularly for warmer months.	<p>89% of apartments achieve 2 hours of solar access and 55.5% of apartments achieve 3 or more hours of solar access</p> <p>No single aspect southerly apartments</p>										
Natural Ventilation	<ul style="list-style-type: none">• At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. <p>Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <ul style="list-style-type: none">• Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	<p>Complies 66% (24 dwellings direct ventilation)</p> <p>33% (12 dwellings have indirect ventilation)</p> <p>100% of kitchens have access to a window opening</p> <p>18m max depth</p>										
Ceiling Heights	<p>Ceiling height achieves sufficient natural ventilation and daylight access. Ceilings are to comply with minimum ceiling heights set out under 4C-1.</p> <table><tr><td>Habitable rooms</td><td>2.7 m</td></tr><tr><td>Non-habitable rooms</td><td>2.4 m</td></tr><tr><td>For 2 storey apartments</td><td>2.7 m for main living area floor 2.4 m for second floor where area does not exceed 50% of the apartments area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed-use areas</td><td>3.3 m ground and first floor to promote future flexibility of use</td></tr></table>	Habitable rooms	2.7 m	Non-habitable rooms	2.4 m	For 2 storey apartments	2.7 m for main living area floor 2.4 m for second floor where area does not exceed 50% of the apartments area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed-use areas	3.3 m ground and first floor to promote future flexibility of use	<p>Complies</p>
Habitable rooms	2.7 m											
Non-habitable rooms	2.4 m											
For 2 storey apartments	2.7 m for main living area floor 2.4 m for second floor where area does not exceed 50% of the apartments area											
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope											
If located in mixed-use areas	3.3 m ground and first floor to promote future flexibility of use											
Apartment size & layout	<p>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</p> <ul style="list-style-type: none">• Apartments are required to have the minimum internal areas as set out under 4D-1.	<p>Complies</p>										

	<table><tr><td>Apartment Type</td><td>Minimum internal area</td></tr><tr><td>Studio</td><td>35 sqm</td></tr><tr><td>1 Bedroom</td><td>50 sqm</td></tr><tr><td>2 Bedroom</td><td>70 sqm (+5sq add bathroom)</td></tr><tr><td>3 Bedroom</td><td>90 sqm (+5sq add bathroom)</td></tr></table> <p>additional bathroom 5m² 4th bedroom and further bathroom – extra 12m²</p> <ul style="list-style-type: none">Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms. <p>Environmental performance of the apartment is maximised.</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <p>Apartment layouts are designed to accommodate a variety of household activities and needs.</p> <p>Bedrooms have minimum area of</p> <table><tr><td>Bedroom type</td><td>Min area</td><td>Min dimension</td></tr><tr><td>Master bedroom</td><td>10m²</td><td>3m</td></tr><tr><td>Other bedroom</td><td>9m²</td><td>3m</td></tr></table> <p>(both measurement excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <table><tr><td>Dwelling type</td><td>Min width</td></tr><tr><td>Studio</td><td>3.6m</td></tr><tr><td>1br</td><td>3.6m</td></tr><tr><td>2br</td><td>4m</td></tr><tr><td>3br</td><td>4m</td></tr></table> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	Apartment Type	Minimum internal area	Studio	35 sqm	1 Bedroom	50 sqm	2 Bedroom	70 sqm (+5sq add bathroom)	3 Bedroom	90 sqm (+5sq add bathroom)	Bedroom type	Min area	Min dimension	Master bedroom	10m ²	3m	Other bedroom	9m ²	3m	Dwelling type	Min width	Studio	3.6m	1br	3.6m	2br	4m	3br	4m	
Apartment Type	Minimum internal area																														
Studio	35 sqm																														
1 Bedroom	50 sqm																														
2 Bedroom	70 sqm (+5sq add bathroom)																														
3 Bedroom	90 sqm (+5sq add bathroom)																														
Bedroom type	Min area	Min dimension																													
Master bedroom	10m ²	3m																													
Other bedroom	9m ²	3m																													
Dwelling type	Min width																														
Studio	3.6m																														
1br	3.6m																														
2br	4m																														
3br	4m																														
Private Open Space & Balconies	<p>All apartments are required to have primary balconies with minimum area and depth as setout under 4E-1.</p> <table><tr><td>Dwelling type</td><td>Min pos area</td><td>Min pos depth</td></tr><tr><td>Studio</td><td>4</td><td>-</td></tr><tr><td>1br</td><td>8</td><td>2m</td></tr><tr><td>2br</td><td>10</td><td>2m</td></tr><tr><td>3br</td><td>12</td><td>2.4m</td></tr></table> <p>The min balcony depth to be counted as contributing to balcony is 1m</p> <ul style="list-style-type: none">For apartments at ground level or on a	Dwelling type	Min pos area	Min pos depth	Studio	4	-	1br	8	2m	2br	10	2m	3br	12	2.4m	Complies 12m ² /3 bedroom 10m ² /2 bedroom														
Dwelling type	Min pos area	Min pos depth																													
Studio	4	-																													
1br	8	2m																													
2br	10	2m																													
3br	12	2.4m																													

	podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m.											
Common circulation & spaces	<ul style="list-style-type: none">• The maximum number of apartments off a circulation core on a single level is 8.• For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Complies Two cores with a maximum of 4 and 5 dwellings off the core.										
Storage	<p>Adequate, well designed storage is provided in each apartment. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided as setout under 4G-1.</p> <hr/> <p>Minimum volume requirement for storage</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1br</td><td>6m³</td></tr><tr><td>2br</td><td>8m³</td></tr><tr><td>3br</td><td>10m³</td></tr></table> <ul style="list-style-type: none">• At least 50% of the required storage is to be located within the apartment.• Additional storage is conveniently located, accessible and nominated for individual apartments.	Dwelling type	Storage size volume	Studio	4m ³	1br	6m ³	2br	8m ³	3br	10m ³	Complies
Dwelling type	Storage size volume											
Studio	4m ³											
1br	6m ³											
2br	8m ³											
3br	10m ³											
Acoustic Privacy	Noise transfer is minimised through the siting of buildings and building layout. Noise impacts are mitigated within apartments through layout and acoustic treatments.	Satisfactory										
Noise Pollution	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings. Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	Satisfactory										
Apartment mix	A range of apartment types and sizes is provided to cater for different household types now and into the future. The apartment mix is distributed to suitable locations within the building.	2 and 3 bedroom										
Ground floor apartments	Street frontage activity is maximised where ground floor apartments are located. Design of ground floor apartments delivers amenity and safety for residents.	No ground floor apartments										
Facades	Building facades provide visual interest along the street while respecting the character of the local area. Building functions are expressed by the façade.	Satisfactory										
Roof Design	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Roof design incorporates sustainability features.	Flat roof										

Landscape Design	Landscape design is viable and sustainable. Landscape design contributes to the streetscape and amenity.	Satisfactory
Planting on structures	Appropriate soil profiles are provided. Plant growth is optimised with appropriate selection and maintenance. Planting on structures contributes to the quality and amenity of communal and public open spaces	Satisfactory
Universal Design	Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are provided. Apartment layouts are flexible and accommodate a range of lifestyle needs.	Conditioned
Adaptive Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. Adapted buildings provide residential amenity while not precluding future adaptive reuse.	N/A
Mixed use	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement. Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.	Satisfactory
Universal design	Awnings are well located and complement and integrate with the building design. Signage responds to the context and desired streetscape character.	No street front awnings but internal awnings
Energy Efficiency	Development incorporates passive environmental design. Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer. Adequate natural ventilation minimises the need for mechanical ventilation.	Satisfactory
Water Management & Conservation	Potable water use is minimised. Urban stormwater is treated on site before being discharged to receiving waters. Flood management systems are integrated into site design.	Satisfactory
Waste Management	Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. Domestic waste is minimised by providing safe and convenient source separation and recycling.	Satisfactory
Building Maintenance	Building design detail provides protection from weathering. Systems and access enable ease of maintenance. Material selection reduces ongoing maintenance costs.	Satisfactory

Attachment 3 – State Environmental Planning Policy No 71 – Coastal Protection

Cl.8	Matters for Consideration	Proposed	Satisfactory
a	<p>The aims of the Policy</p> <p>(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and</p> <p>(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and</p> <p>(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and</p> <p>(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and</p> <p>(e) to ensure that the visual amenity of the coast is protected, and</p> <p>(f) to protect and preserve beach environments and beach amenity, and</p> <p>(g) to protect and preserve native coastal vegetation, and</p> <p>(h) to protect and preserve the marine environment of New South Wales, and</p> <p>(i) to protect and preserve rock platforms, and</p> <p>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and</p> <p>(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of</p>	<p>The proposal will not undermine the protection or management of the coast.</p> <p>The proposal will not detract from the existing public access to or along the foreshore.</p> <p>The proposal does not adversely impact on any opportunity for public access along the foreshore through to the site.</p> <p>The proposal will not undermine this aspect.</p> <p>The proposal will not adversely impact on the visual amenity of the coast particular when viewed from foreshore public open space areas around the lake.</p> <p>The proposal does not impact on any existing beach.</p> <p>The proposal will not impact on the preservation or protection of coastal vegetation or any marine environments.</p> <p>The proposal does not impact on any rock platforms.</p> <p>The proposal does not undermine any management of the coastal zone in accordance with ESD principles.</p> <p>The bulk, scale and size of the</p>	<p>√</p> <p>√</p> <p>√</p> <p>√</p> <p>√</p> <p>√</p> <p>√</p> <p>√</p> <p>√</p> <p>√</p> <p>√</p>

	the surrounding area, and (l) to encourage a strategic approach to coastal management.	development is appropriate for the location. The proposal will not undermine the protection and improvement of the natural scenic quality of the surrounding area and will not adversely impact on the scenic amenity of the area. The proposal does not undermine this aspect.	√ √
b	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.	Existing public access to the foreshore is available opposite the site or along this section of the foreshore. Therefore, such access is not diminished, under the proposal.	√
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	Access to the foreshore is not diminished under the proposal.	√
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The proposed development will be readily visible to the foreshore areas surrounding the lake. However, landscape screening is proposed to assist in sensitively integrating the proposal with the minimise the visual impacts	√
e	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.	The proposal will not result in overshadowing of surrounding coastal areas including the foreshore reserve. The proposal will be readily visible from the immediately adjoining coastal foreshore areas. However, the potential for visual impacts to more distanced foreshore areas around the lake are minimised by the existing trees and vegetation along the foreshore areas of the lake.	√
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will not have any potential adverse impacts on the scenic qualities of the coastline due to its bulk scale and minimal landscape screening	√
g	Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.	The proposal does not adversely impact on any threatened species or habitat.	√
h	Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and	The proposal has no adverse impacts on the conservation of fish and marine vegetation.	√

	marine vegetation (within the meaning of that Part), and their habitats.		
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.	√
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The subject site is not identified within the Draft Wyong Shire Coastal Hazard Management Plan as being subject to coastal hazards.	√
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal has no adverse impact on water-based coastal activities.	√
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain known aboriginal objects or relics.	√
m	Likely impacts of development on the water quality of coastal waterbodies.	Sediment and erosion controls will be adopted during construction and there is no likely adverse impact on water quality.	√
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The proposal does not contain any known heritage items or aboriginal objects.	√
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.	Not applicable.	√
p(i)	The cumulative impacts of the proposed development on the environment.	There are no potential significant or unreasonable cumulative impacts associated with proposal.	√
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	The application includes water and energy efficiency fixtures.	√
Cl.4	Development Control	Proposed	Satisfactory
Cl.13	A provision of an environmental planning instrument that allows development within a zone to be consented to as if it were in a neighbouring zone, or a similar provision, has no effect.	The application does not propose to utilise any flexible zone provisions.	√
Cl.14	A consent authority must not consent to an if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.	There is no existing public access to or along the foreshore via the site. Public access along the foreshore is opposite the site and is not diminished under the proposal.	√
Cl.15	The consent authority must not consent to a development application in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will,	The development can be connected to the existing reticulated sewer system.	√

	or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.		
CI.16	The consent authority must not grant consent to a development application if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.	Stormwater management is satisfactory and will not impact on the coastal environment	√

Attachment 4 – Applicant's Clause 4.6 Exception to development standard – height of building

See Attached document – GSA Planning dated September 2017

Attachment 5 – Draft recommended conditions

Draft Conditions

Approved Plans

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

Title	Drawing No.	Issue/ Amendment	Date	Drawn By
Site Plan	0-01	2A	1.08.17	X.Pace
Basement Floor Plan	1-00	7C	1.08.17	X.Pace
Ground Floor Plan	1-01	5D	1.08.17	X.Pace
Level 1 Floor Plan	1-02	4C	1.08.17	X.Pace
Level 2 Floor Plan	1-03	3B	1.08.17	X.Pace
Level 3 Floor Plan	1-04	3A	1.08.17	X.Pace
Level 4 Floor Plan	1-05	2B	1.08.17	X.Pace
Roof Plan	1-06	4A	1.08.17	X.Pace
Sections	2-01	2	1.08.17	X.Pace
			1.08.17	X.Pace
Elevations - North	3-01	2A	1.08.17	X.Pace
Elevations - South	3-02	2A	1.08.17	X.Pace
Elevations - East	3-03	2A	1.08.17	X.Pace
Elevations - West	3-04	2A	1.08.17	X.Pace
Sections	2-01	2	1.08.17	X.Pace
Landscape DA Plan	LDA-01	A	28.07.17	Christopher Owen Landscape Design
Landscape DA Plan	LDA-02	A	28.07.17	Christopher Owen Landscape Design
Landscape Plan	LDA-03	A	28.07.17	Christopher Owen Landscape Design
Finishes/Materials	-	-	04.11.17	X.Pace

Certificates – Application and Approval

2. A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
3. Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.

-
4. Where conditions of this consent require approval from Council under the Roads Act 1993, Local Government Act 1993 or Water Management Act 2000, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

Subsidence Advisory NSW

5. The development is to be carried out in accordance with the General Terms of Approval issued by Subsidence advisory NSW (formerly Mine Subsidence Board) in correspondence dated 21 June 2016 (as attached).

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

Payment of Contributions

6. Prior to the issue of any Construction/Subdivision Certificate, the payment to Council of developer contributions as calculated in the formula below:

$$\text{Developer contribution} = \$130,083.19 \text{ (as at 7/8/17)} \times \text{Current CPI} \div \text{Base CPI}$$

where "Current CPI" is the *Consumer Price Index (All Groups Index)* for Sydney as published by the Australian Statistician at the time of payment of developer contributions pursuant to this condition, and "Base CPI" is the *Consumer Price Index (All Groups Index)* for Sydney as published by the Australian Statistician at the date of this consent.

This condition is imposed pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979*.

Acid Sulphate Soils – Investigation and Reporting Requirements

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

Flooding Design Requirements

8. Prior to the issue of a Construction Certificate, design drawings must be provided for the approval of the Accredited Certifier detailing the following requirements: -
- A minimum floor level of RL 4.36 metres Australian Height Datum (AHD) for all habitable rooms, as defined within the Building Code of Australia.
9. Prior to the issue of a Construction Certificate, design drawings and specifications must be submitted for the approval of the Accredited Certifier for the following flooding characteristics applicable to the development:

-
- All electrical outlets and fixtures below the 1% AEP flood level (of RL 4.06m AHD) protected by a residual current device (safety switch).
 - Flood compatible materials must be used for all building materials used or placed below the flood planning level.

Roadworks - Design Requirements

10. Where conditions of this consent require approval from Council as the Roads Authority, a Subdivision Construction Certificate application must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.
11. The submission to Council of Civil Works design drawings and specifications detailing the following design requirements:
 - Beach Parade – Pedestrian crossing and 2.5m wide path connecting the frontage footpath to the shared path on the western side of Beach Parade. The crossing shall be located on the south-eastern side of the existing Beach Parade blister.
 - Crossingham Street - Concrete footpath 1.5 metres wide for the full street frontage of the development.
 - Pavement marking & signage.
 - Street trees at a maximum of 15.0 metre spacing.
 - Industrial style vehicle access crossing(s). An additional splay may be required to accommodate the reverse in manoeuvre to the service delivery area.
 - The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation.
 - Any associated works to ensure satisfactory transitions to existing infrastructure.
 - The submission to Council as the Roads Authority of street lighting and reticulation design drawings. The design shall be prepared in accordance with AS/NZS 1158 and AS 4282-1997, including the provision of current best practice energy efficient lighting, documentation confirming a minimum of twenty (20) year design life and be approved by the Council as the Roads Authority prior to issue of a Construction Certificate.
 - Adjustment of services as required.

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

-
12. The submission of a comprehensive road signage and pavement marking design drawings identifying parking restrictions, accesses and traffic management facilities to Council for approval by the Local Traffic Committee prior to issue of the Construction Certificate.
 13. Prior to the commencement of detailed design works within any public road, contact should be made with the National Community Service “*Dial before you Dig*” on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries should provide the property details and the nearest cross street/road.
 14. The submission to the Council as the Roads Authority of a detailed design Road Safety Audit for the external driveway crossings. An audit team with at least one (1), Level 3 Road Safety Auditor (recognised on the NSW Register of Road Safety Auditors) shall prepare the audit report. Any deficiencies identified within the audit must be resolved in consultation with Council prior to the approval of design drawings.

Stormwater Drainage - Design Requirements

15. The submission to the Accredited Certifier of a detailed stormwater management plan featuring:
 - Stormwater disposal to Crossingham Street.
 - Drainage pits at the boundary line.
 - Provision of a maximum 4 discharge outlets (also refer Section 10.3.4) into the existing Beach Parade kerb and gutter as opposed to an upgraded street drainage system. Beach Parade is noted as containing significant sewer infrastructure.
 - No on-site detention system.
 - Full details of the holding tank capacity, pump type and system, discharge rate and the delivery line size for the basement drainage.
 - The provision of stormwater quality control facilities to treat stormwater in accordance with the Engineers Australia publication *Australian Runoff Quality – A Guide to Water Sensitive Urban Design* prior to entering Council’s stormwater drainage system.

The plans must be prepared in accordance with *AS/NZS3500.3:2004* and Council's *Civil Works Design Guidelines*, and be approved by the Accredited Certifier prior to issue of the Construction Certificate. The plans shall be generally in accordance (with required amendments) with the submitted concept stormwater drainage plans by ITM Design (refer Job No. 15/224, Revision A, dated 18/11/2016), which are to be advanced as necessary for Construction Certificate issue purposes.

-
16. Stormwater drainage works external to the site and discharging into a public system or public land requires approval from Council under Section 68 of the Local Government Act 1993. Detailed design drawings prepared in accordance with Council's *Civil Works Design Guidelines* must be approved by Council prior to the issue of a Construction Certificate. All other stormwater management works must be approved by the Accredited Certifier.

Vehicle Access and Parking - Design Requirements

17. The submission to the Accredited Certifier of a detailed car parking design. The design shall include:
- An internal driveway crest at a minimum 4.16m AHD to prevent inundation of stormwater from the frontage localised sag point.
 - Revised longitudinal driveway profiles through the inner edge of the driveway incorporating the above driveway crest. The grades through part of the straight ramp section (currently 20%) shall be increased to 25% in order to provide a compliant profile. The profile shall be certified by a suitably qualified civil / traffic consultant.
 - Details for the service delivery area.
 - Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway and circulation roads.
 - Appropriately placed convex mirrors to provide vision through the southern one-way parking aisle.
 - Pavement design able to withstand anticipated vehicle loading.
 - Wheel stops for parking spaces
 - The placement of clearance signage above the basement entry.

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

Water and Sewer Services - Design Requirements

18. All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. **Note:** The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

Waste Management

19. Prior to issue of the Construction Certificate, revised ground floor plans shall be submitted for approval by the appointed Certifying Authority, demonstrating the following:
- connectivity between the southern and northern (service deliveries) commercial garbage areas.
 - area identified along Crossingham Street for the provision of residential bulk waste collection bins. The necessary bulk bin sizing requirements are available in Council's Waste Control Guidelines 2016.

Adaptable housing and parking

20. Prior to issue of a Construction Certificate a minimum of 10% of all dwellings within the development are to be designed as suitable for adaptation for occupation by disabled/aged persons as outlined in AS 4299: Adaptable Housing. The adaptable housing should include a mix of dwelling size, a mix of outlook and include adaptable dwellings with a courtyard. Satisfactory plans demonstrating compliance are required to be provided. The plans are to demonstrate compliance including satisfactory circulation space and good layout design requiring minimal changes in accordance with the Australian Standard. An associated parking space is to be provided for each of the adaptable dwellings in accordance with AS 4299 and is to be shown on the plans.

Access Report

21. The development is to be carried out in accordance with the comments and recommendations of the Access Assessment Report (prepared by BCA Logic Reference 107503-Access-r1 dated 13 September 2016).

Car wash bay

22. The plans are to be amended to show one (1) residential visitor space as designed and available for car washing. The car wash bay must be bunded in accordance with AS 1940–1993 and AS/NZS 4452–1997, covered and discharges directed to sewer in accordance with Council's Trade Waste requirements. A separate trade waste approval must be obtained prior to connection to the sewer. The bay shall have a tap and a power outlet.

Contamination

23. An Unexpected Finds Management Plan must be developed and implemented prior to the issue of any Construction Certificate for the discovery of any asbestos fragments, or any other unexpected contamination during any future construction works at the site.

Tree protection

24. All works and services, including water and electricity, must be located, designed and installed to minimise or prevent damage (roots or canopy) to retained trees on immediately adjoining properties.

PRIOR TO COMMENCEMENT OF WORKS

Erosion and Sediment Control Requirements

25. Prior to the commencement of construction an initial Erosion and Sediment Control Plan (ESCP) prepared in accordance with the latest edition of the Landcom Publication "Managing Urban Stormwater: Soils and Construction" - *Volume 1'* (The Blue Book) shall be provided to the Principal Certifying Authority. This plan shall be modified and updated during construction to reflect any changes due to the on-ground/site conditions. A copy of any modifications or updates to the ESCP shall be provided to the PCA and provided to Council upon request.

Erosion and sediment controls shall be monitored, maintained and adapted in accordance with the most recent ESCP throughout construction until the site is fully stabilised and landscaped. Failure to comply with this condition may result in fines under the provision of the Protection of the Environment Operations Act 1997. Discharge of sediment from a site may be determined to be a pollution event under the Act. Enforcement action may commence where sediment movement produces a pollution event.

Protection of Adjoining Property Requirements

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

Roads - Preconstruction Requirements

28. Prior to commencing any works upon public roads the developer and their contractor will be required to:
- Obtain a copy of the Council approved Civil Works plans and pavement design (if applicable).
 - Obtain a copy of Council's *Civil Works Design Guidelines*. This is Council's Specification for Civil Works and is available on Council's web site.
 - Arrange a meeting on-site with Council's Principal Development Construction Engineer on (02) 4350 5555.

-
29. Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.

Construction Traffic Management Plan

30. Prior to the commencement of any works, the Applicant shall prepare a Construction Traffic Management Plan for the development. The plan shall include Traffic Control Plans prepared by a suitably qualified and experienced consultant with necessary construction management measures identified during the excavation, delivery and construction phases. All works must ensure the safety of all vehicles and pedestrians.

Site Requirements

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

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

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

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

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

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

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

Food Act Requirements

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

Geotechnical

36. The development is to be carried out in accordance with the comments and recommendations in the Geotechnical Investigation Report (Ref. 29151Prpt prepared by JK Geotechnics dated 29 Feb 2016).

DURING WORKS

Approved Plans

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

Site Requirements

38. Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.

Flooding - Construction Requirements

39. The minimum floor level of the proposed building is to be RL 4.36 metres AHD. Certification from a Registered Surveyor confirming that the minimum floor levels have been achieved must be submitted to the Principal Certifying Authority when the structure reaches floor level stage. **Note:** Framework associated with the building is not to be erected until such time as the floor level certification is received.

Services/Utility Requirements

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

Site Requirements

42. Construction or demolition works involved with the development may only be carried out between the hours of 7.00 am and 5.00 pm Monday to Saturday with no construction or demolition works associated with the development permitted to be carried out at any time on a Sunday or a public holiday.
43. During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
44. During the construction phase of the development, any excavation below the level of footings of buildings upon adjoining allotments requires the preservation and protection of the adjoining buildings from damage resulting from subsidence. Should it be necessary, the excavation is to be supported and the adjoining buildings underpinned in a manner certified by a suitably qualified Structural Engineer.

Waste Management Requirements

45. During the demolition and construction phases of the development, all building materials must be re-used, recycled or disposed of in accordance with the adopted Waste Management Plan and documentation.

Soil Management (contamination and acid sulphate soils)

46. Implement all recommendations specified in the geotechnical report titled "Preliminary Waste Classification And Acid Sulfate Soil Assessment Proposed Residential Development 5-7 Beach Parade, Canton Beach, NSW", prepared by Environmental Investigation Services Dated 1/03/2016, EIS ref: E29151Klet.

Silencing Devices

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

Noise

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

Aboriginal Cultural Heritage

49. If Aboriginal Cultural Heritage sites or material is discovered, work should cease, the area should then be avoided and the Office of Environment and Heritage (OEH) and Darkinjung LALC be notified immediately.

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

Building Code of Australia – Compliance Requirements

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

Basix Requirements

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

Consolidation

52. The consolidation of all lots comprising the site by registered subdivision prior to the issue of any Occupation Certificate. Documentary evidence of the Consolidation Plan registration with the Land and Property Management Authority must be submitted to the Accredited Certifier prior to the issue of any Occupation Certificate.

Dilapidation Rectification Requirements

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

Other Authorities – Compliance Requirements

55. Prior to the issue of an Occupation Certificate, the developer must comply with the requirements (including financial costs) of any relevant utility provider (for electricity, water, sewer, drainage, gas, telecommunications, roads, etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

Roads – Compliance Requirements

56. All road signage and pavement marking works must be completed in accordance with the plans approved by the Local Traffic Committee and approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.

-
57. All works within the public road must be completed in accordance with the approved Civil Works design drawings and Council's *Civil Works Construction Specification* and be approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.

Stormwater – Compliance Requirements

58. The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.
59. The construction of stormwater drainage works external to the site and discharging into a public system or public land in accordance with the approved Stormwater Management Plan and Council's *Civil Works Construction Specification*. All works must be approved by Council under Section 68 of the Local Government Act 1993 prior to issue of the Occupation Certificate. All other stormwater management works must be approved by the Principal Certifying Authority.
60. Prior to the issue of the final Occupation Certificate, a 'Positive Covenant' shall be created on the title of the land requiring the registered proprietor to ensure the continued maintenance and performance of the stormwater pump-out facilities. The terms of the positive covenant are to be prepared to Council's standard requirements. Central Coast Council shall be nominated as the party to release, vary or modify the covenant.
61. The original completed request forms (Department of Lands' standard forms 13PC and 13RPA) must be submitted to Council for authorisation. A copy of the work-as-executed plan (details overdrawn on a copy of the approved stormwater management plan) and Civil Engineer's certification must accompany the completed request forms. Documentary evidence of the registration of the Positive Covenant and 'Restriction on the Use of Land' shall be provided to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Vehicle Access and Parking – Compliance Requirements

62. The construction of the carpark and accesses in accordance with AS/NZS 2890 - Parts 1, 2 & 6. Certification of the construction of the carpark and associated accesses by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Water and Sewer Services/Infrastructure – Compliance Requirements

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

Statutory Certificate Requirements

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

Waste Management Requirements

67. For safety, amenity and maintenance reasons, the waste storage area must be constructed to the following standards prior to the issue of an Occupation Certificate:
 - Floors must be constructed of concrete, graded and drained to an approved drainage outlet connected to the sewer and finished to a smooth even trowelled surface;
 - Walls must be constructed with solid impervious material and shall be cement rendered internally to a smooth even steel trowelled surface;
 - All intersections between the walls and floors shall be coved with coving having a minimum radius of 25mm;
 - All entry points into the room must be bunded to prevent the escape of liquid waste. Bunding shall be for 110% of the likely liquid storage waste and constructed in such a manner that does not obstruct the removal of waste receptacles from the room or create a safety risk to users;
 - Adequate ventilation shall be provided;
 - Adequate lighting shall be provided;
 - The ceiling must have a minimum height of 2.1 metres from floor level and be finished with a smooth faced non-absorbent material capable of being easily cleaned;
 - Waste storage areas shall prevent the access of vermin;
 - Waste receptacles used shall be compatible with Wyong Council's waste collection service;
 - The door to the storage area shall be weatherproof and shall be openable from the inside at all times; and

-
- Hot and cold water hose cocks shall be located inside or within close proximity to the waste storage areas to facilitate cleaning.

Landscaping Requirements

68. Prior to the issue of an Occupation Certificate, to ensure landscaping works are properly completed, the landscape designer must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent.

Car wash bay

69. One (1) residential visitor space is to be available for car washing. The car wash bay is to be covered, linemarked and identified, and must be bunded in accordance with AS 1940–1993 and AS/NZS 4452–1997, and discharges directed to sewer in accordance with Council's Trade Waste requirements. A separate trade waste approval must be obtained prior to connection to the sewer. The bay shall have a tap and a power outlet.

Accessible path of travel

70. An unrestricted and convenient accessible path of travel is to be available between the dwellings and the communal open space.

Bicycle Parking Requirements

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

Food Act Requirements

72. No food handling, (as defined by the NSW Food Act 2003), is permitted in the food premises prior to the issue of the Occupation Certificate.
73. All liquid trade waste is required to pass through a basket arrestor with fixed screens, fitted to all floor wastes and sinks, before being discharged into the sewerage system.
74. Compliance with the requirements of the New South Wales Food Act 2003, the Food Regulation 2015, and AS4674–2004 – Design, Construction and Fitout of Food Premises, and AS1668, Part 11 – Mechanical Ventilation, for all food preparation and food storage areas, including liquor areas.
75. The installation of hand wash facilities with a minimum dimension of 500mm x 400mm providing warm running water through a common mixing spout with hands-free tap operation (consisting of elbow or wrist operated tap levers, foot or hip operated tap levers, or electronic sensor tap operation).

Management Plan for waste collection

76. A management plan for waste collection (for the tenancies and the residential dwellings) is to be prepared and adopted for the site to ensure safe, orderly and efficient management of waste on the site and to mitigate adverse impacts to the street and residential amenity.

ONGOING OPERATION

Restrictions on Use – Ongoing Requirements

77. The non-habitable rooms such as garages, storerooms or outbuildings must not be adapted or used for habitable purposes.

Stormwater – Ongoing Maintenance Requirements

78. All stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective.

Use of ground floor tenancies

79. The use of each of the ground floor tenancies is to comply with the definition of a 'food and drink premises' under Wyong LEP 2013. The use of the ground floor tenancies as a 'shop' as defined under Wyong LEP 2013 is not permitted.

Site Appearance, Maintenance and Security Requirements

80. To minimise the opportunity for crime and in addition to the applicant's supporting information and CPTED principles, the development shall incorporate the following:
- i. In order to maintain a safe level of visibility for pedestrians within and around the development, adequate lighting to AS1158 is to be provided to all common areas including parking, and any pedestrian routes to these areas. All lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties.
 - ii. Ensure that the development minimises the opportunities for concealment or entrapment spaces.
 - iii. The means to isolate the various areas of the site shall be incorporated into the development, including measures for after-hours access.
 - iv. Ensure the development management adopts an ongoing policy of rapid repair of vandalism and graffiti and ensuring that all lighting is in working order.
 - v. Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
81. The owner/operator(s) of the site must maintain the external finishes of the building(s), structures, walls and fences for the life of the development and any graffiti must be removed in a timely manner.

-
82. The owner/operator(s) must effectively manage any incidences of anti-social behaviour or nuisance on the site by implementing appropriate responses to such incidences if they occur. The owner/operator(s) must also take appropriate measures after any such incident to reduce the likelihood of such incidences reoccurring on the site.

Landscaping

83. All site landscaping is to be maintained for the life of the development in accordance with the approved landscape plan, as amended by the conditions of this consent, and with the approved maintenance schedule.

Noise – plant maintenance

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

Hours of Operation Requirements

85. For the purposes of preserving the amenity of neighbouring occupants and residents, hours of operation of the commercial tenancies are restricted to between:

- 7.00am and 6.00pm Monday to Friday
- 8.00am and 4.00pm Saturdays
- 10.00am – 4.00pm Sunday and Public Holidays.

Deliveries to and from the site, and waste collection must only take place between:

- 7.00am to 6.00pm Monday to Fridays
- 8.00am to 4.00pm on Saturdays
- No deliveries are permitted on Sundays or public holidays.

Any extension to the operating or delivery hours will need to be accompanied by an acoustic assessment report which addresses any potential impacts.

Noise and Amenity

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

Loading

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

Parking provision

88. The parking spaces are to be provided for the development in accordance with the plans and allocated (in accordance with WDCP Ch2.11 Cl.3.2) as follows:
- The commercial parking spaces are to be identified and line marked as available for parking for the staff and customers of the ground floor tenancies.
 - Visitor spaces are to be identified and line marked as available for visitors.
89. All on-site vehicle parking areas, markings, driveways and manoeuvring areas are to be maintained for the life of the development.