

COUNCIL ASSESSMENT REPORT

Panel Reference	2017HCC010
DA Number	DA/675/2017
LGA	Lake Macquarie City Council
Proposed Development	Mixed Use Development (Residential Flat Building, Commercial Premises and Associated Works)
Street Address	482 The Esplanade, WARNERS BAY (Lot 122 DP 578045, Lots 1 & 2 DP 1116535) 486 The Esplanade, WARNERS BAY (Lot 3 DP 32518) 488 The Esplanade, WARNERS BAY (Lot 4 DP 32518) 12 King Street, WARNERS BAY (Lot 2 DP 155951) 14 King Street, WARNERS BAY (Lot 1 DP 155951) 16 King Street, WARNERS BAY Lot 122 DP 578045, 1 Howard Street, WARNERS BAY (Lot 3 DP 155951)
Applicant	YPI Yahav Property Investments (Warners Bay) Pty Ltd
Owner	YPI Yahav Property Investments (Warners Bay) Pty Ltd
Date of lodgement	3 January 2017
Number of Submissions	20 Submissions from 14 Authors
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	The development has a CIV of \$44 million therefore being above the \$20 million threshold for Regional Development (at time of lodgement).
List of all relevant s79C(1)(a) matters	• Lake Macquarie Local Environmental Plan 2014 • Lake Macquarie Development Control Plan 2014 • State Environmental Planning Policy 71 – Coastal Protection • State Environmental Planning Policy (Infrastructure) 2007
List all documents submitted with this report for the Panel's consideration	Documentation to amend the Application (Appendix A) Plans for the Amended Application (Appendix B) RMS and Water NSW response (Appendix C) SEPP65 Design Review Panel Endorsed recommendations (Appendix D) Apartment Design Guide Assessment (Appendix E) Public Submissions (Appendix F) Planning response to issues raised in public submissions (Appendix G) Recommended Conditions (Appendix H)
Report prepared by	Brian Gibson, Senior Development Planner, Lake Macquarie City Council
Report date	26 April 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.32)?

Not Applicable

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Executive Summary for Supplementary Report

Date Lodged:	24 April 2017
Submission Period:	20 May 2017 to 21 June 2017*
	* At the time of lodgement the development was Nominated Integrated Development in relation to the Water Management Act 2000. Accordingly the application was Advertised Development being Advertised Development under the <i>EP& A Act 1979</i> .
	10 November 2017 to 21 November 2017#
	# Re-notification of the amended proposal
	19 January 2018 to 5 February 2018#
	# Re-notification of the amended proposal
Zoning:	B2 Local Centre (Lake Macquarie Local Environmental Plan 2014)
Approval Bodies:	RMS NSW Water (Department of Industry)
Referral Agencies:	Hunter Water Corporation Ausgrid NSW Police
CIV:	\$44,025,000

Background

The development application was lodged on 24 April 2017 and was reported to the Hunter & Central Coast Joint Regional Planning Panel (JRPP) meeting of 7 December 2017.

At the meeting the JRPP resolved to defer the application with the applicant invited to submit revised plans and supporting information in response to the matters listed in the Record of Deferral dated 7 December 2017.

Amended Proposal

The amended Application is for a Mixed Use Development (Commercial Premises & Residential Flat Building) including demolition of existing structures (the documentation for the amended application is attached as Appendix A, with the plans for the amended application attached as Appendix B).

The amended development largely retains the concept as reported to the JRPP in December 2017 with the exception of The Esplanade tower having an increased setback from the southern boundary. Other changes include:

- The gross floor area of the ground floor commercial premises has been reduced from 1390m² to 1336m² (862m² in the Lakefront Building and 474m² in the Howard Street building). This is as a result of reconfiguring to accommodate the increased boundary set back from the southern boundary;

- Recessing of the glazing of the commercial units fronting The Esplanade;
- The unit numbers within the residential flat building comprising both towers (Upper Ground to Level 7) has been maintained at 110. The makeup of units is now:
 - o 23 x 1 bedroom;
 - o 56 x 2 bedrooms; and
 - o 30 x 3 bedrooms.

Of the 110 units, 11 are provided as Adaptable Dwellings;

- Additional car parking is provided at the Basement 1 level with the allocation of car parking at the Lower Ground being reconfigured. Car parking now consists of 137 residential spaces within Basement 1, whilst the lower ground level incorporates 47 residential spaces, 1 parking space per commercial unit (total 7) and 36 co-use spaces for the commercial units and visitors, equating to a total of 227 (an increase from 212) car parking spaces. The number of parking spaces for each of bicycles and motorbikes is maintained;
- Changes to the building detailing in relation to external materials;
- Reconfiguring of the waste enclosure and services/substation cupboards off Howard Street;
- Provision of amenities to each of the commercial units (therefore removing public toilets in the Howard Street tower);
- Securing/Separating the residential and public zones;
- Increased landscaping along the southern boundary and other minor changes.

Legislative Clauses:

State Environmental Planning Policy 55 – Remediation of Land

Under Clause 7(1)(c) of the SEPP, a consent authority must not grant consent for development of land identified as contaminated land unless it is satisfied the land can be remediated to be made suitable for the purpose for which development is proposed to be carried out.

The development site contains an existing service station, commercial development and low density residential dwellings. A Remediation Action Plan submitted by the applicant confirms the site is contaminated and provides recommendations for the site to be remediated to enable it to be used for the proposed commercial and residential purposes.

State Environmental Planning Policy 71 – Coastal Protection

Under Clause 21(1) *Savings and Transitional Provisions* of the SEPP (Coastal Management) 2018, the SEPP does not apply to a development application lodged but not finally determined prior to commencement of the policy. Therefore the provisions of SEPP71 continue to apply to the assessment of the development application.

The development site is located within the Coastal Zone under SEPP71. The application is to be assessed having regard to the aims of the SEPP and the matters for consideration as listed under Clause 8.

It is expected the proposed development will not be contrary to the provisions of

SEPP 71 noting the site is not subject to flooding or Sea Level Rise, and is separated from the Lake foreshore by the existing foreshore reserve and The Esplanade.

State Environmental Planning Policy (Infrastructure) 2007

Division 5 Electricity Transmission or distribution

Clause 42 *Notification of Electricity Substation Development* requires written notice from the electricity supply authority with regard to the intention to install a substation.

The matter was referred to Ausgrid who provided a reply dated 14 August 2017 advising no objection to the development subject to conditions being imposed.

Division 17 Roads and Traffic

Clause 101 requires the consent authority not to grant consent to development on land that has a frontage to a classified road unless it has considered the point of access and other traffic performance and safety issues.

The development fronts King Street and The Esplanade, both of which are designated as classified Roads.

Clause 104 requires the consent authority when considering traffic-generating development to consult with the Roads & Maritime Service and to take into consideration any of its requirements.

In correspondence dated 20 April 2018 from the RMS provides conditions of consent.

Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)

Part 1 Preliminary

Part 4 Principal development standards

Clause 4.6 Exceptions to development standards

A clause 4.6 variation has been submitted for the development with regard to the contravention of the maximum height of building development standard under Clause 4.3 of LEP 2014. The maximum height permitted for the site by LEP 2014 is 22m.

The amended development proposes a building height of 22.9m for the western tower (The Esplanade) and a building height of 22.6m for the eastern tower (Howard Street Building).

An assessment determined the exceedance of the maximum height of building as proposed by this development be supported.

Part 5 Miscellaneous provisions

Clause 5.5 Development within the coastal zone

The land is mapped as being within the coastal zone. The proposed development is a redevelopment of an existing (low density) urban area within the Warners Bay Town Centre and fronts the Lake although is separated by a foreshore park and The Esplanade. The land is not subject to flooding or sea level rise.

Consent must not be granted unless the consent authority has considered public access, the development's relationship with the surrounding area and its impact on the natural scenic quality, the amenity of the foreshore and the cumulative impacts on the coastal catchment through stormwater discharge, etc.

The amended proposal will have no impact on existing public access along the coastal foreshore, its amenity, nor have an impact on biodiversity or ecosystems. The

amended development is deemed to be a suitable design having regard to the desired future character under the Warners Bay Town Centre Plan, and the scenic quality of Warners Bay.

Part 7 Additional local provisions

Clause 7.1 Acid Sulfate soils

The site is mapped as being affected by Class 5 Acid Sulfate Soils. Additionally the development will intercept the water table with construction off the basement car park.

The consent authority must not grant consent unless an acid sulphate soils management plan has been considered. In this regard, an Acid Sulfate Soils Assessment undertaken for the site found no actual or potential acid sulfate soils.

Clause 7.2 Earthworks

The consent authority must consider before granting consent the implications of the proposed development on the environment/locality in relation to earthworks.

The amended development involves significant earthworks in the form of excavation/cut up to 6.5m (adjoining Howard Street).

An assessment identified no issues with the proposed cut noting further testing of the soils in the vicinity of the BP Service Station for contamination is required once the material has been excavated. A Remediation Action Plan has been submitted and reviewed by Council's Environmental officers, who support the findings subject to the imposition of consent conditions.

Clause 7.10 Residential development in certain business zones

The development is for a mixed use development incorporating commercial/retail and a residential flat building. The development is located within a B2 zone and the consent authority must not grant consent unless it is satisfied part of the building facing the primary street frontage has an active frontage and is used as a commercial premises.

An assessment of the amended development application in terms of commercial activation of the streetscape found the development provides suitable active ground floor frontage to the three street frontages.

Clause 7.21 Essential Services

The consent authority must not grant consent unless it is satisfied the required essential services are available to serve the development.

The site has available to it the required essential services and infrastructure to accommodate the development.

Assessment Report

Assessment Report Contents

1. JRPP Deferral: 7 December 2017
2. Building Separation
3. SEPP65 / Apartment Design Guide (updated)
4. Car Parking Provisions
5. Section 79C: Potential Matters for Consideration (updated)
6. Conclusion
7. Recommendation

Appendix:

- A. Documentation to amend the application
- B. Plans for the amended application
- C. RMS and Water NSW responses
- D. SEPP65 Design Review panel Endorsed Recommendations
- E. Apartment Design Guide Assessment
- F. Public Submissions
- G. Planning response to issues raised in public submissions
- H. Recommended Conditions

1. JRPP DEFERRAL: 7 DECEMBER 2017 MATTERS FOR CONSIDERATION

The JRPP at its meeting of 7 December 2017 resolved to defer the matter subject design amendments and additional information being provided. The matters raised in the deferral are listed below with assessment comment following.

The determination of the development application was deferred and the applicant is invited to submit revised plans and supporting information in response to the following matters, as soon as practicable:

- a. *Increasing the southern side setback of both building forms to The Esplanade and Howard Street to achieve a minimum of 3m for the lowest two levels, 6m to 4 levels above ground (to the edge of the building, avoiding side balconies and generally retaining the approach of orienting outlook to the streets or within the site) and 9m above 4 levels (which may include openings and some side return balconies generally oriented to the street(s) or within the site);*

Comment: The amended application provides a 3m building setback from the southern boundary for the first four storeys for The Esplanade tower. The fifth storey has its balcony setback at 3m, with the building wall setback greater than 6m. The balconies for the sixth and seventh storeys are setback 6m, with the building wall setback greater than 6m.

The Howard Street tower has no increased setback at the southern boundary.

Refer to Appendix A for documentation and Appendix B for plans detailing changes to the building separation at the southern boundary, and Sections 2 and 3 of the report for discussion regarding the changes made.

- b. *Inclusion of landscaping within the revised southern side setbacks and associated details and planting depth to provide effective visual screening between buildings;*

Comment: The increased building setback at the southern boundary for The Esplanade tower and the communal area for residents has been landscaped. The increased setback provides a contiguous deep soil and landscaped area along the southern boundary with the adjoining development at 492 The Esplanade.

Refer to Appendix A for documentation and Appendix B for plans detailing landscaping along the southern boundary. Refer to Sections 2 and 5 for discussion regarding the changes.

- c. *Revision of the parking allocation to achieve a minimum of 37 shared spaces, 7 spaces for commercial tenancies and the remainder for residents;*

Comment: The amended application provides 36 shared spaces (inclusive of 1 accessible parking space) and 7 spaces for commercial tenancies. The remaining 184 parking spaces (inclusive of 11 accessible parking spaces) are provided for the residential component of the development.

Refer to Sections 4 and 5 for analysis of the parking requirements under DCP2014.

- d. *An appropriate management plan for the allocation of parking and access thereto;*

Comment: The applicant has requested a condition be imposed requiring the submission of a Plan of Management for the co-shared parking spaces. Refer to Appendix H for a recommended condition.

- e. *Revision of the glass-line to The Esplanade to align with the landscaped beds provided, increasing the setback to encourage outdoor dining;*

Comment: The amended application details the glazing line of the commercial units fronting The Esplanade as being recessed.

Refer to Appendix A for documentation and Appendix B for plans detailing changes to the glass-line to The Esplanade.

- f. *Details of glazing (which should be clear, not tinted green); and*

Comment: The amended application includes plans detailing clear glazing for the glazed balustrades.

The contentions put forward by the JRPP for the balustrade glazing to be clear is not agreed with by Council and the SEPP65 Design Review Panel. Arguments in favour of retaining coloured glazing for the purposes of building aesthetics and privacy are outlined in Section 3.

- g. *Provision for kitchen exhaust to be vented internally to the roof via the building core.*

Comment: Refer to Appendix A for documentation and Appendix B for plans detailing the location of kitchen exhausts being vented internally to the roof of each tower.

Council staff shall consider the plans and information provided and provide the Panel with a further assessment report. This shall also provide advice on:

- o *Applicable draft SEPPs;*

Comment: Refer to comment under Section 5.

- o *SEPP 55*

Comment: Refer to comment under Section 5.

- o *Advice from all public authorities (and any change in RMS position regarding pedestrian barriers, for which the Panel concurs with staff is undesirable); and*

Comment: Refer to Appendix C regarding submissions made by external authorities and assessment comment under Section 5.

- o *Appropriate conditions including hours of operation and advice on operating hours within the centre nearby.*

Comment: In the vicinity of the development at Warners Bay the following hours of operation apply:

Shearwater Development – 6 King Street

Condition 21 of DA1459/2005/J and condition 10 of DA/888/2009/A

Following commencement of occupation, the supermarket, commercial and retail components of the development shall operate or trade only between the times stated as follows:

7:00am to 10:00pm seven days per week

Servicing, loading and unloading associated with all aspects of the development shall not be undertaken outside of the hours of:

7:00am to 10:00pm Monday to Friday

8:00am to 10:00pm Saturday, Sunday and Public Holidays

Heavy service vehicles shall not use the Queen Street egress between 8:00am and 9:30am, and 2:30pm and 4:00pm on school days.

Warners Bay Village – 32 John Street

The trading hours under DA/913/2002 are:

Day	Opening times
Monday	9:00 AM – 5:30 PM
Tuesday	9:00 AM – 5:30 PM
Wednesday	9:00 AM – 5:30 PM
Thursday	9:00 AM – 9:00 PM
Friday	9:00 AM – 9:00 PM
Saturday	9:00 AM – 5:00 PM
Sunday	10:00 AM – 4:00 PM

Coles Trading Hours

Open 6am – 10pm, 7 days a week.

Refer to additional comment in relation to the proposed hours of operation under Section 5 and Appendix H regarding the recommended conditions.

2. BUILDING SEPARATION

The JRPP at its meeting of 7 December deferred determination of the application by requiring amendments to increase the southern side setback of both building forms to The Esplanade and Howard Street to achieve a minimum of 3m for the lowest two levels, 6m to 4 levels above ground (to the edge of the building, avoiding side balconies and generally retaining the approach of orienting outlook to the streets or within the site) and 9m above 4 levels (which may include openings and some side return balconies generally oriented to the street(s) or within the site).

In response the applicant provided amended plans that increase the setback of the ground level of The Esplanade building at the southern boundary to 3 metres for levels 1 to 4. Level 5 provides 3 metre setback to the balcony, and a 7 metre setback to the building wall, whilst levels 6 and 7 provide a 6 metre setback to the balcony and similarly a 7 metre setback to the building wall. These setbacks are shown visually below in Figure 1, whereby the building setbacks for the DCP, ADG and JRPP are compared.

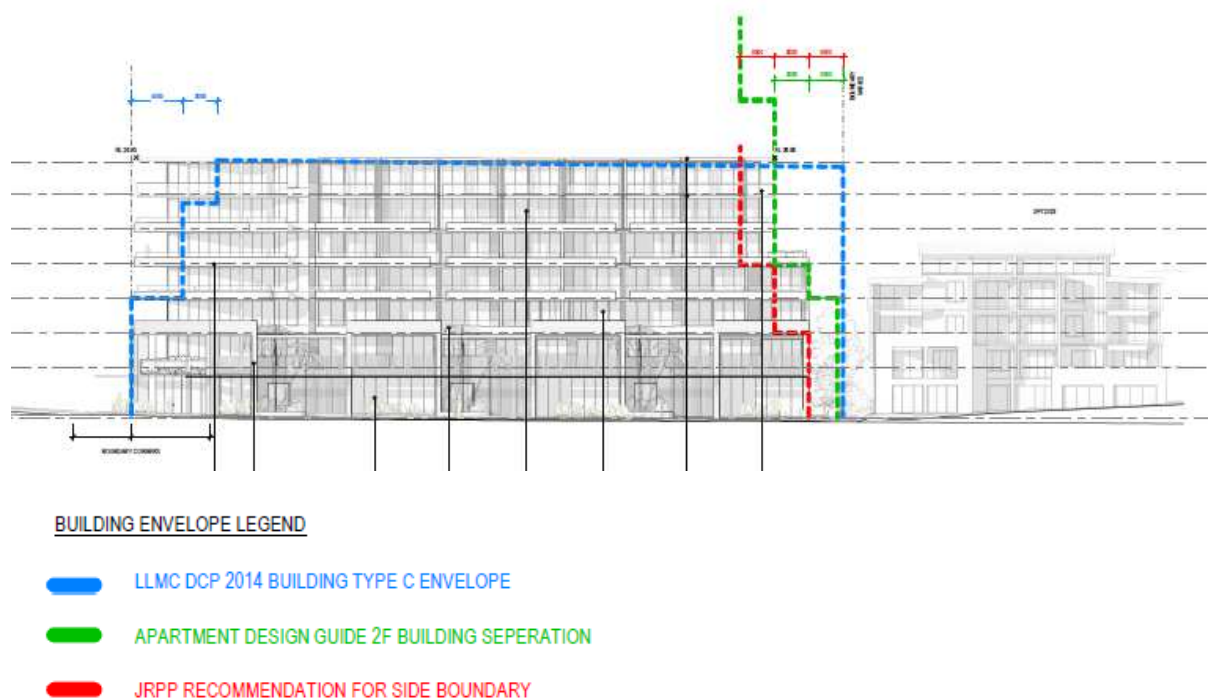
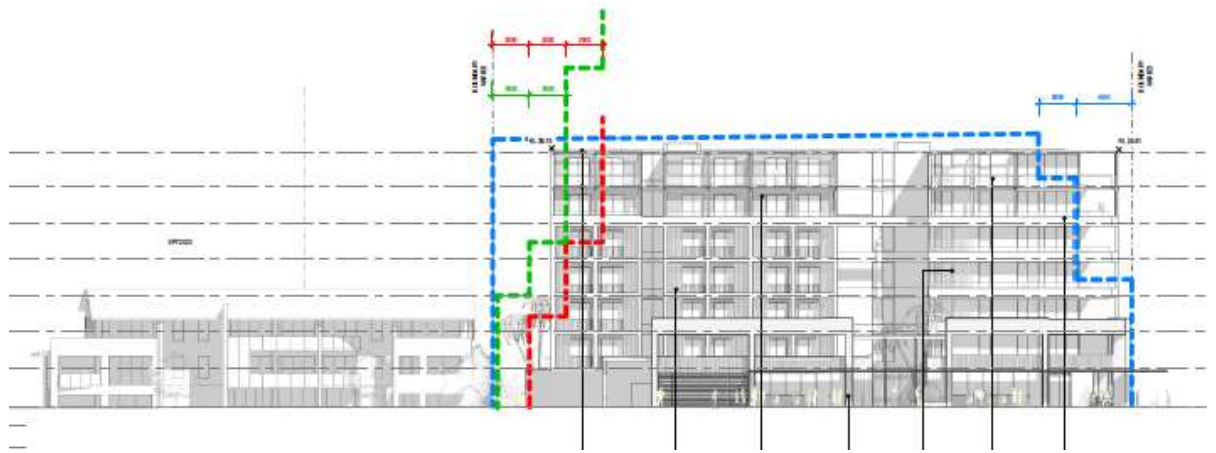


Figure 1: Setbacks at the southern boundary for The Esplanade tower

The amended development does not provide an increased setback to the southern boundary for the Howard Street tower. A comparison of the setbacks under the DCP, ADG and JRPP are compared relative to the Howard Street building in Figure 2.



BUILDING ENVELOPE LEGEND

- LLMC DCP 2014 BUILDING TYPE C ENVELOPE
- APARTMENT DESIGN GUIDE 2F BUILDING SEPERATION
- JRPP RECOMMENDATION FOR SIDE BOUNDARY

Figure 2: Setbacks at the southern boundary for the Howard Street tower

In support of the amendments the applicant provides:

- o an 'Envelope Analysis'

The permitted form by the ADG and DCP is compared to the amended form relative to the JRPP nominated setbacks (refer to Figure 3 below). This analysis identifies that a greater building form could be accommodated by the development site, which would have significantly different outcomes for the streetscape of King Street and the amenity for the existing development at 492 The Esplanade.

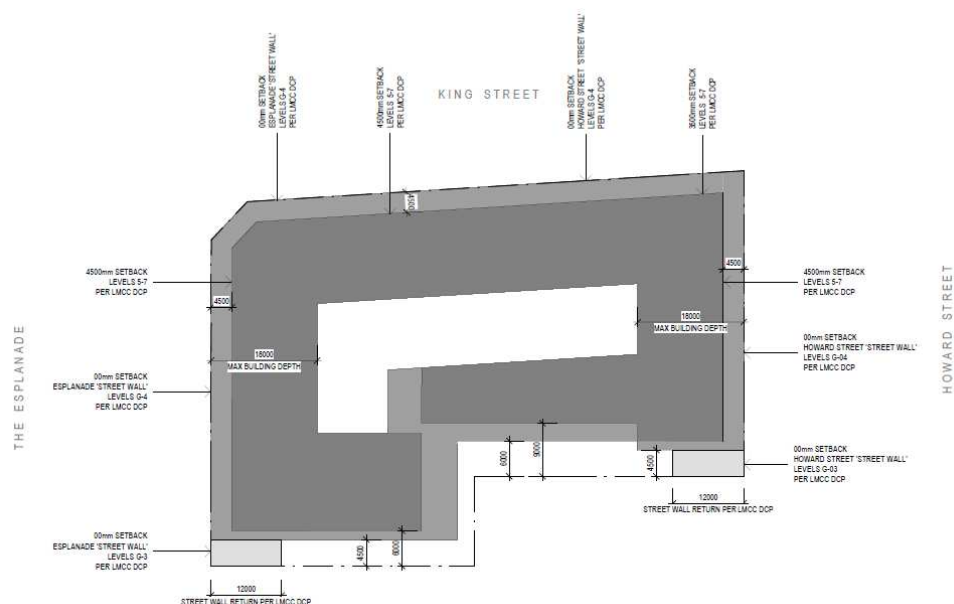


Figure 3: Permitted building envelope

o an 'Overlooking Study'

The overlooking study analyses the building setbacks/separation of the proposed development at 482 The Esplanade and the existing development at 492 The Esplanade, the floor levels of the relevant storeys of each building and the use of the internal rooms of 492 The Esplanade.

At level 1 the separation will be 5-6 metres, with the solid wall of the proposed development limiting any overlooking. At levels 2 and 3 a floor level difference of approximately 1 metre combined with a blade wall at 492 The Esplanade restricts overlooking to the forward half of the existing balcony. At level 4 a similar floor level difference exists, with a building separation of approximately 10 metres from the balcony and 14 metres from the building wall to the existing level 4 unit and balcony at 492 The Esplanade. Refer to Figure 4 below:

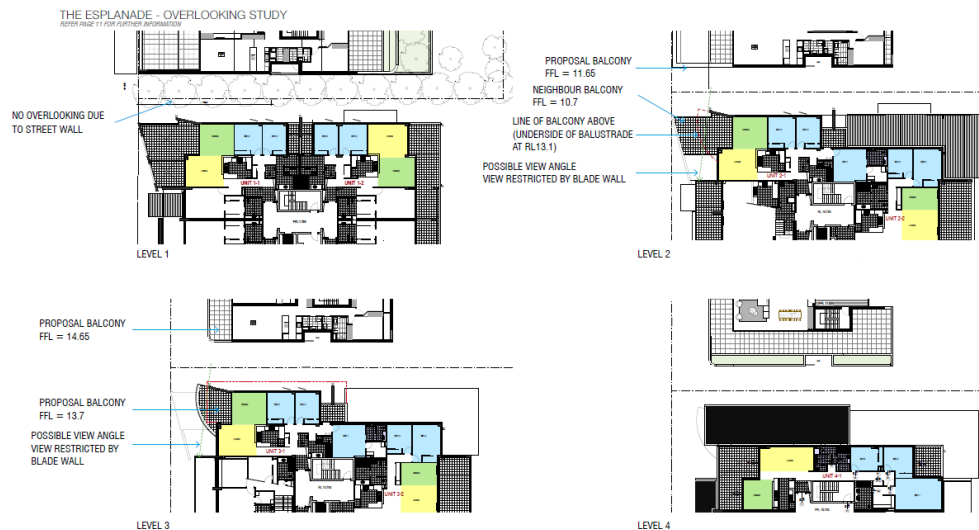


Figure 4: Overlooking analysis for The Esplanade

With regard to the Howard Street tower, limited privacy concerns exists due to the orientation, separation distance and level changes between the development, and screening of balconies for the existing residential units fronting Howard Street . Refer to Figure 5 below:



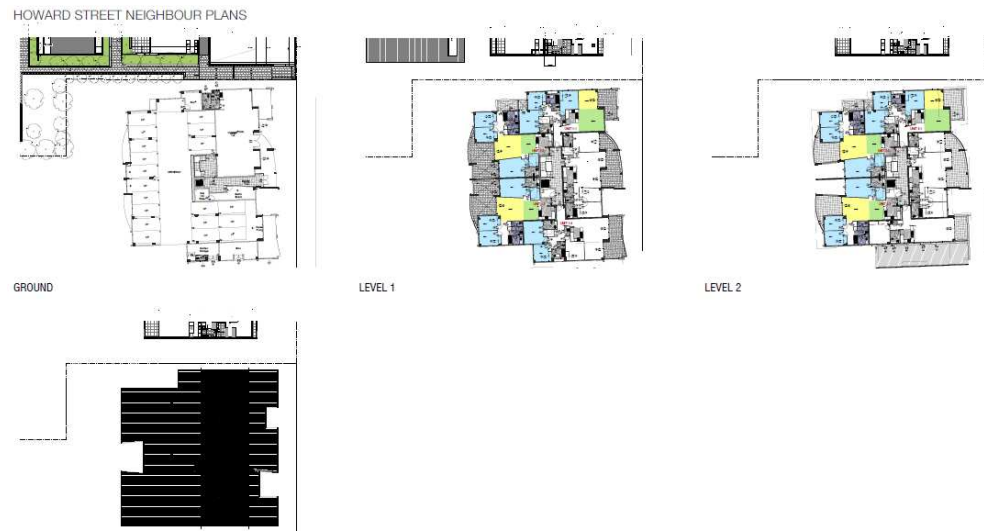


Figure 5: Overlooking analysis for Howard Street

- o an analysis of the 'Solar Views'

The solar access analysis for 492 The Esplanade details the existing solar access, solar access afforded by an ADG and DCP permitted form, and of the amended proposal. The analysis demonstrates that the amended application provides increased solar access to 492 The Esplanade whereby it has less overshadowing impact to the living spaces and private open spaces of the neighbouring dwellings. All dwellings maintain greater than 2 hours solar access to the living room of each dwelling at 492 The Esplanade as confirmed in the table below contained in Appendix B.

Refer to Appendixes A and B for details of the applicant's submissions.

For Design Review Panel (DRP) comments in relation to the amendments, refer to Section 3 and analysis under the LEP2014 and DCP refer to Section 5. The endorsed recommendations of the DRP are attached as Appendix D, whilst an assessment of the amended proposal under ADG is attached as Appendix E.

3. SEPP65 DESIGN REVIEW PANEL

Council's SEPP65 Design Review Panel (DRP) considered the original proposal at its meeting of 14 June 2017 and a further amended application at its meeting of 13 September 2017. Following the deferral by the JRPP at its meeting of 7 December 2017 the further amended application (January 2018) was considered by the DRP at its meeting of 14 February 2018. The endorsed recommendations of the DRP are provided in Appendix D, with an assessment of the development against the Apartment Design Guide (ADG) attached as Appendix E.

At its February 2018 meeting the DRP specifically considered the issues raised by the JRPP being:

- building separation and related impacts in terms of landscaping, relocated building massing/bulk and solar access to development to the south
- repositioning of the glass line of the commercial tenancies fronting The Esplanade
- changes to the tinting of the glass balustrade

The DRP comments are summarised below:

Built Form and Scale

The DRP noted the changes to the proposal to address the JRPP directions. In assessing the previous DA scheme, the DRP expressed the view the southern setbacks provided reasonable interface in terms of privacy separations and bulk and scale/streetscape considerations.

In considering the amendments of a 3 metre landscaped setback at ground level, with an additional 3 metre setback to all floors above, the DRP noted the increase in setback with minimal loss of units was achieved by 'sliding' all floors above ground level to the north. The DRP acknowledged the amendments, whilst not fully achieving the JRPP recommended setback at the upper levels which is in excess of the ADG recommendations, were sufficient to provide a comfortable relationship between the proposal and its neighbour.

The DRP further considered the impacts of the 'sliding' of the block to the north in so far as this affects the buildings presentation at the street corner and King Street. Whilst not fully compliant with recommended setbacks in the Warners Bay Town Centre Plan at the upper three levels, it was the DRP's view that this slightly more assertive expression of the built form was appropriate and had no adverse impacts.

The DRP recommended Relative Levels (RL's) be provided at the upper floor for both internal ceiling heights and the upper roof level to ensure ceiling heights comply with the ADG recommended 2700mm.

Landscape

The increased ground level setback to the southern boundary provides an opportunity for additional tree planting. Trees attaining a mature height of approximately 4-6 metres should be included within the setback for The Esplanade tower, whilst the larger deep-soil zone further to the east could be used for planting of 1-2 large forest scale trees. The additional 1 metre wide strip created on the southern boundary should preferably be planted with smaller clean-trunked trees or large shrubs and climbing plants to soften the walls.

The former stepped-slab planter between the two buildings and close to King Street

has been changed to a shallow podium level, therefore this planter should be treated in some form to provide growth conditions for a number of medium scale trees.

Amenity

The issue of privacy and overlooking of the southern-most units of The Esplanade tower on levels 4, 5 and 6 was raised by the JRPP. The DRP advised its previous comments in respect to amenity levels provided within apartments are reiterated however considered the applicant's potential design responses to addressing the JRPP concerns.

It considered the proposed 1400mm wide garden planter at the balcony of level 4, subject to appropriate plantings, as generally acceptable in achieving amenity for the interface.

For levels 5 and 6, the DRP advised the southern balconies provide an articulation to the building's façade as desirable and considering the narrowness and orientation of the balcony, results in an unlikely space residents will linger in. The DRP advised in relation to the applicant's proposal for a vertical louvered screen on top on the balustrades as in excess of the level of screening warranted for privacy in this location, given the substantial setback from the southern boundary, the setback distance of the neighbouring property and the difference in levels between habitable spaces of the adjoining developments. The DRP however suggested the screening be visually lighter and less intrusive.

Safety

The DRP noted the ADG requirement that residential corridors should only be accessible to residents and their invited visitors and therefore recommended design amendments to resolve this issue.

Aesthetics

The DRP noted the JRPP direction for the deletion of green tinting to the glass balustrades of the buildings. The DRP previously considered this inclusion, determining the tinted glass as beneficial both for practical reasons (heat reduction and visual screening to the balconies) and for building aesthetics. The DRP supports the tinting of the glass noting the ADG calls for balconies to be provided with visual screening rather than extensive areas of clear glazing.

At the meeting the DRP concluded:

Subject to the design development of the landscaping, and modification to the DA documents to reflect issues identified under the above headings, the panel was of the view that the modifications to the previous design met the concerns raised by the JRPP, and resulted in a more amenable outcome for the neighbouring properties. The revised design, with the exception of clear balustrade glazing, was supported by the panel.

The design amendments raised by the DRP have been incorporated in further amended architectural plans lodged March 2018 (RLs, Sliding Batten Screens, separation of residential and public access, tinted glazing) and amended landscape plans lodged April 2018 (Lilly Pilly plantings in the 3 metre setback, large deciduous trees in the deep soil zone, medium sized trees in the podium planter and climber and shrubs along the 1m setback on the southern boundary).

4. CAR PARKING PROVISIONS

The JRPP at its meeting of 7 December deferred the application, in part requiring the revision of the parking allocation to achieve a minimum of 37 shared spaces, 7 spaces for commercial tenancies and the remainder for residents.

The amended application provides 36 shared spaces (inclusive of 1 accessible parking space) and 7 spaces for commercial tenancies. The remaining 184 parking spaces (inclusive of 11 accessible parking spaces) are provided for the residential component of the development.

In accommodating the increased number of shared spaces and the dedicated commercial spaces on the lower ground level, the applicant increased the parking within the basement level (the footprint of the basement level has been increased through additional excavation).

The additional parking is considered to achieve the intent of the JRPP requirements, providing additional shared parking as well as residential parking. Whilst the shared parking is 1 space below the directions of the JRPP and 17 spaces below the minimum required under the DCP, the shortfall is offset through parking for the residential component being above the minimum (thus minimising residents using the visitor spaces) and provision of a parking management plan as a condition.

For details of the breakdown of the car parking in terms of the DCP car parking requirements refer to Section 5.

5. SECTION 4.15(1): MATTERS FOR CONSIDERATION – GENERAL

An assessment in relation to Section 4.15(1) of the Environmental Planning & Assessment Act 1979 is as follows:

(1)(a)(i) the provisions of any Environmental Planning Instrument (EPI)

State Environmental Planning Policy 55 – Remediation of Land

The development site contains an existing service station, commercial development and low density residential dwellings. The development involves the demolition of all existing structures and excavates the site up to 6.5 metres to accommodate two basement levels.

In accordance with Clause 7(3) of the SEPP, a detailed investigation of the site is required to determine the extent of site contamination in relation to the service station.

A number of environmental reports have been prepared for the development site. A Ground Water Monitoring Event Report by Aurora dated May 2015 was undertaken for the two sites over which the service station is located. The report identified contaminated water is (centrally) confined within the site. The report concluded the site required a more detailed assessment is required to consider alternative uses such as commercial/residential.

An Environmental Site Assessment Report by Aurora in August 2015 again related solely to the service station sites. This report identified no visible signs of stressed vegetation, and concluded that the contaminated water is confined to the boundaries of the service station, with an absence of hydrocarbon impacts to soil and groundwater. The report concluded remediation works are required to clean up the site, including excavation, to validate the site for alternative land uses.

An Excavated Natural Material (ENM) report by Aurora, dated 7 September 2015, assessed the development site other than the service station sites and concluded the soils meet the criteria for NSW EPA ENM Order (2015) for use/disposal as ENM.

A Remediation Action Plan (RAP) prepared by Coffey dated 28 March 2017, was prepared for the development site. The RAP outlines the remediation and validation activities to be undertaken to complete remediation of the site to a level suitable for residential land use. The RAP provides for either the remediation of contaminated soils on site or excavation and removal for remediation offsite. The RAP took account of the previous reports by Aurora, and considered data gaps.

Council's Contaminated Land Working Group (CLWG) and Principal Environmental Officer reviewed the proposed development and related excavation with regard to contamination and the contamination investigations undertaken. This review included consideration of the third party contaminated site RAP by Coffey. A 'Contaminated Land Remediation and Validation' condition was recommended in the report to the JRPP meeting of 7 December 2017.

Council's Principal Environmental Officer attended the briefing prior to the JRPP meeting of 7 December 2017 and provided further verbal advice as to the adequacy of the contamination assessments in relation to the development.

The amended application was referred to the CLWG for assessment noting the increase in excavation adjoining The Esplanade. At its meeting of 23 January 2018 the CLWG advised the previously applied condition is satisfactory.

Should development consent be granted the recommended 'Contaminated Land Remediation and Validation' condition (refer to Appendix H) requires a contaminated

site validation sign off prior to the issue of an Occupation Certificate.

State Environmental Planning Policy (Coastal Management) 2018

The development site is located within the mapped coastal environment area and the coastal use area of the SEPP. Clause 21(1) *Savings and transitional provisions* states the policy does not apply to a development application lodged but not finally determined prior to its commencement. Therefore the provisions of SEPP71 continue to apply to the assessment of the development application.

State Environmental Planning Policy 71 – Coastal Protection

The development site is located within the Coastal Zone as shown in Figure 6:



Figure 6: Land mapped under SEPP 71 Coastal Policy

The application has been assessed having regard to the aims of the SEPP. The development is not foreseen as having an adverse impact on achieving the aims of the SEPP, noting the development is generally compliant with planning controls under LEP2014 and DCP2014, is separated from the Lake by a foreshore park and The Esplanade, is not flood prone nor is it subject to Sea Level Rise, will have no direct impact on the amenity of the foreshore or related coastal processes and is not identified/constrained with regard to heritage or natural environs/ecology.

The application will provide high density residential accommodation in proximity to the Lake. The existing site is elevated and separated from the lake foreshore, and presently contains low density development. The new built form has been reviewed by Council's DRP who generally concurred with the urban design outcome, inclusive of consideration of the aesthetics and visual impacts.

Therefore in terms of the matters for consideration (Clause 8) it is expected the proposed development will not be contrary to the provisions of SEPP 71.

State Environmental Planning Policy (Infrastructure) 2007

Ausgrid

Ausgrid provided a response (attached as Appendix D to the report to the JRPP meeting of 7 December 2017) under Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid raised no objection to the development subject to the proponent consulting further with regard to the development needs in relation to existing infrastructure and network capacity. Should development consent be granted, it is appropriate to include the matters as raised by Ausgrid as a condition of consent.

The amended application was not referred to Ausgrid based on its previous comments.

State Environmental Planning Policy (State and Regional Development) 2011

The development qualifies as Regional Development, based on the proposal having a capital investment value of more than \$20 million (Clause 3 of Schedule 4A under Environmental Planning and Assessment Act, 1979).

Lake Macquarie Local Environmental Plan 2014 (LEP2014)

Part 1 Preliminary

Clause 1.2 Aims of Plan

The aims of the Plan are:

- a) to recognise the importance of Lake Macquarie and its waterways, including the coast, as an environmental, social, recreational and economic asset to Lake Macquarie City and the Hunter and Central Coast regions,
- b) to implement a planning framework that protects areas of significant conservation importance, while facilitating development and public facilities in appropriate areas, that are accessible to a range of population groups, to accommodate Lake Macquarie City's social and economic needs,
- c) to promote the efficient and equitable provision of public services, infrastructure and amenities,
- d) to facilitate a range of accommodation types throughout Lake Macquarie City so that housing stock meets the diversity of community needs and is affordable to as large a proportion of the population as possible,
- e) to apply the principles of ecologically sustainable development,
- f) to encourage development that enhances the sustainability of Lake Macquarie City, including the ability to adapt to and mitigate against climate change.

Comment: An assessment of the proposed development has found it to be consistent with the aims of LEP2014.

Clause 1.9A Suspension of Covenants, Agreements and Instruments

There are no agreements, covenants or other similar instruments that restrict the carrying out of the development.

Part 2 Permitted or Prohibited Development

Clause 2.3 Zone Objectives and Land Use Table

Zoning

The land is zoned B2 – Local Centre as per Figure 7 below.

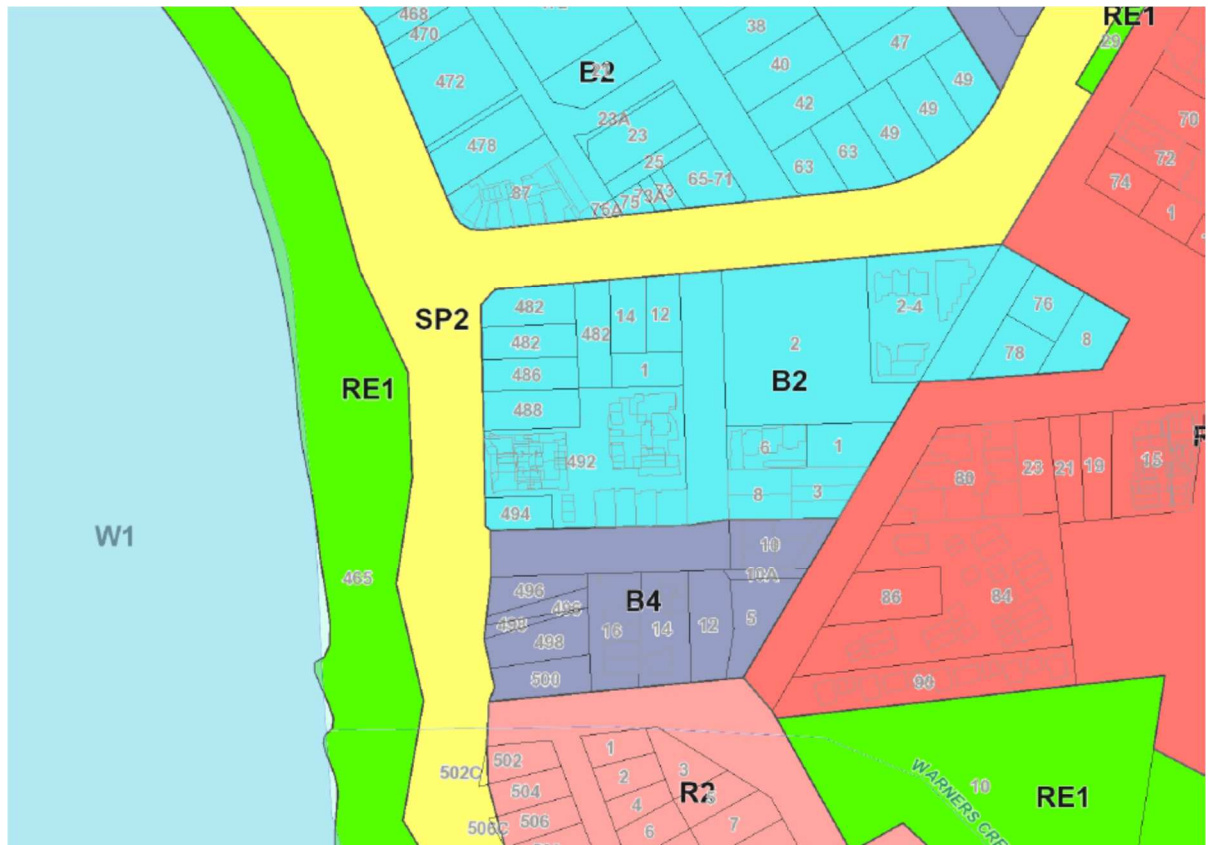


Figure 7: Land Zoning map under LMLEP 2014

Zone Objectives

The following zone objectives apply:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To create spaces that are accessible and are a central focus for the community.
- To provide for housing as part of mixed use developments.

Comment: The proposed development is considered to achieve/support the zone objectives as follows:

- The proposal provides a higher end land use for the amalgamated sites, with increased densities and gross leaseable floor area, enhanced street frontages and improved aesthetics for the Warners Bay Town Centre.
- The proposed development incorporates commercial premises in the form of seven separate tenancies having frontage to Howard Street, King Street and The Esplanade. The design provides opportunity for al fresco areas in King Street, and outdoor dining in Howard Street and The Esplanade. These commercial premises are ideally located and presented to serve the needs of residents, employees and visitors to Warners Bay Town Centre.

- The development supports and enhances use of public transport, being located in proximity to the Warners Bay Bus interchange and the lakeside shared pathway. The development also has regard to connecting with the existing footpath network and pedestrian crossing points in King Street, thus providing accessible connections to the foreshore and other services within the Warners Bay Town Centre.
- The improvements on the southern side of King Street will enhance the attraction of that part of the Warners Bay Town Centre, thus creating a greater central focus for the community.
- A significant increase in housing supply for Warners Bay Town Centre is provided by the proposed development, including a mix of dwelling types.

Permissibility

The development is for demolition of existing structures and erection of commercial premises and a residential flat building. These land uses and related works are permissible within the B2 zone subject to development consent.

Clause 2.5 Additional Permitted Uses for Particular Land

The land is not identified in Schedule 1 of the LEP2014.

Clause 2.6 Subdivision – Consent Requirements

Subclause 1 provides that land may be subdivided but only with development consent.

The development proposes to consolidate the eight parcels of land. It is recommended a condition be imposed regarding the subdivision of the land should development consent be granted.

Clause 2.7 Demolition Requires Development Consent

This clause provides that demolition may only be carried out with development consent.

The development proposes demolition of all existing structures located on the eight lots. It is recommended a condition be imposed regarding the demolition of the structures should development consent be granted.

Clause 2.8 Temporary Use of the Land

The proposed development does not incorporate any temporary use of the land.

Part 3 Exempt and Complying Development

The part of LEP2014 is not applicable to the development.

Part 4 Principal Development Standards

Clause 4.1 Minimum Subdivision Lot Size

The development site is not mapped as requiring a minimum lot size on the Lot Size Map.

Clauses 4.1A to 4.2C

Clauses 4.1A to 4.2C are not applicable to the development.

Clause 4.3 Height of Buildings

The Height of Building Maps under Clause 4.3 of LEP 2014 permit a maximum height of 22m for the site. An excerpt of the map is shown in Figure 8 below.

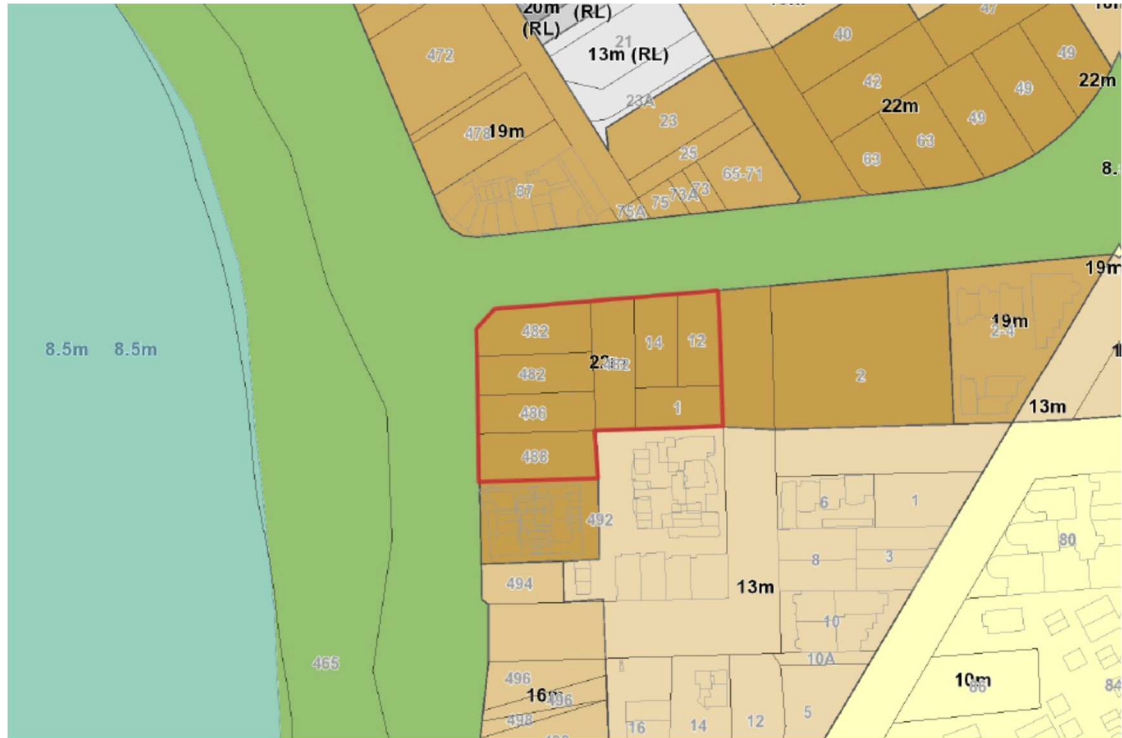


Figure 8: Height of Building excerpt from the LEP 2014 Maps

The objectives of clause 4.3 are as follows:

- (a) *to ensure the height of buildings are appropriate for their location,*
- (b) *to permit building heights that encourage high quality urban form.*

The development proposes to exceed the maximum height of 22m as follows:

- The lift over run on The Esplanade tower up to 900mm. Other lift overruns on both towers exceeding the height (by 800mm, 600mm, 200mm and 100mm).
- The roof structure for the Howard Street tower up to a maximum of 300mm over approximately one third of the roof area.
- The roof structure for The Esplanade tower up to a maximum of 200mm over approximately 10% of the roof area.

These exceedances are centrally located within the roof areas of both towers and equate to a variation to the 22m maximum height of building by 0.9m or 4.1%. For the Howard Street tower the area of the roof (987m²) which exceeds the height limit is approximately 30% or 296m², whilst for The Esplanade tower the area of roof (1240m²) which exceeds the height limit is approximately 10% or 124m². Note the total site area is 5,093.9m².

Figure 9 below provides a graphic of the exceedances in both plan form and building envelope:

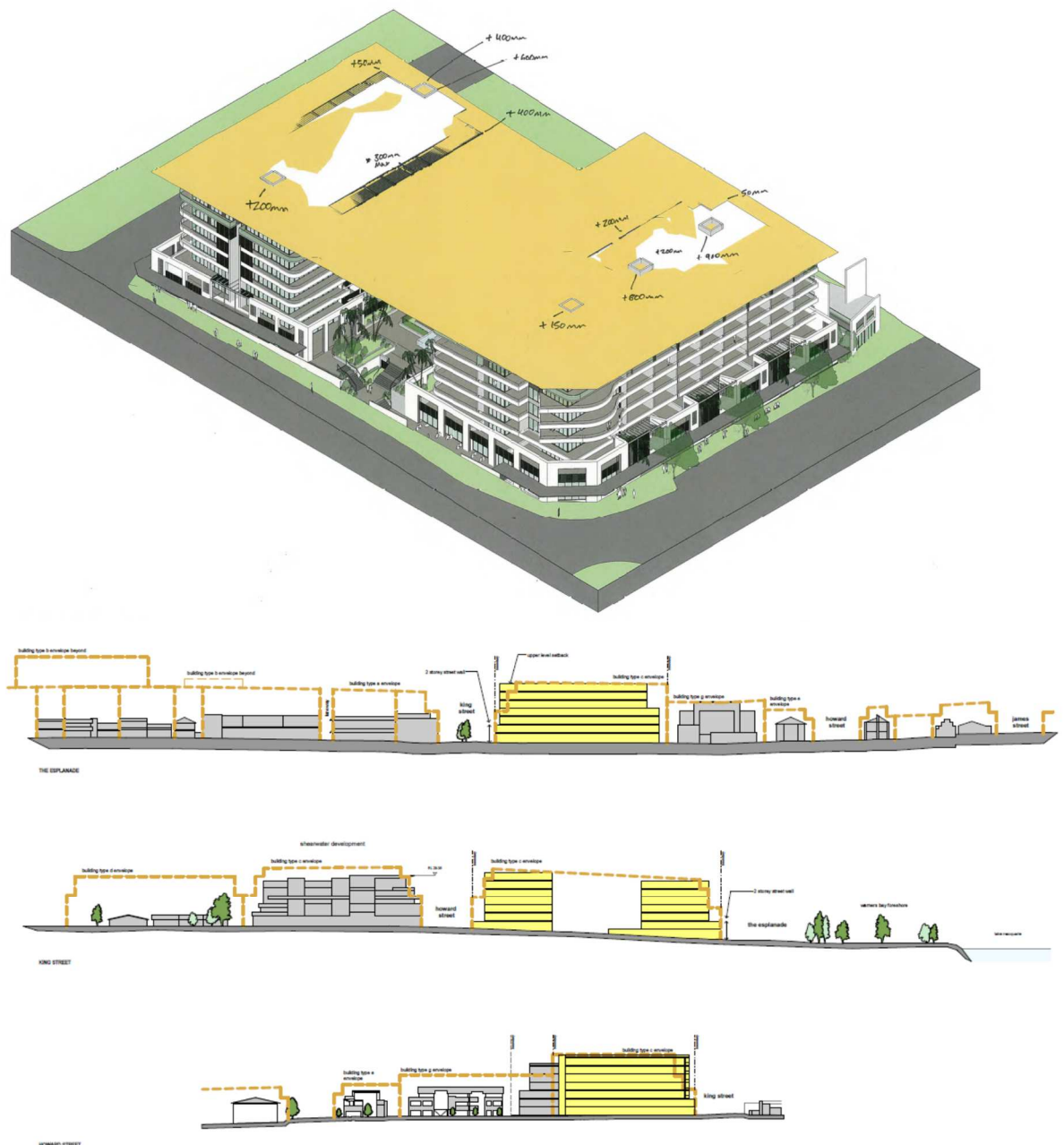


Figure 9: Details of encroachments *

* - the height exceedance shown above in plan form is based on the proposal as considered at the JRPP meeting of 7 December 2017. The above calculations are however based on the roof forms submitted as part of the amended proposal .

A submission under Clause 4.6 of LEP2014 has been submitted in relation to the development exceeding the maximum height under Clause 4.3 of the LEP2014. Refer to comment under Clause 4.6 of the LEP2014.

Clauses 4.4 to 4.5

Not adopted.

Clause 4.6 Exceptions to development standards

Under Clause 4.3 of the LEP2014 it is identified the development exceeds the 22m maximum height of building. Figure 9 above details the areas of exceedence which

include parts of the roof and lift overruns.

The applicant has requested a variation to the development control under Clause 4.6 of the LEP2014 via a written submission (refer to Appendix A of the report to the JRPP meeting of 7 December 2017 for a copy of the submission).

Clause 4.6 provides the following objectives:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Subclause (3) provides:

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

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

The applicant's written request under subclause 4.6(3) commented as follows:

Compliance with the development standard in this instance is unnecessary because the extent of the exceedance of the standard is minor and will not have any significant impact particularly as the majority of the proposed building sits below the height limit. The building design takes into consideration, the varied street levels at Howard Street and The Esplanade. The footpath in Howard Street is a low level footpath which needs to be raised to slope towards the street. This effectively reduces the available height envelope for the building.

The proposed development delivers on the vision of the Warners Bay Area Plan adopted by Council in December 2016. A minor exceedance of the height limit for part of the building is considered justified having regard to the development outcome proposed. The height of the building is not higher than the roof of adjoining development to the east when viewed from the Lake and sits below the ridgeline that frames The Warners Bay Town Centre.

The proposed development is a form that is consistent with the objectives of the zone and Part 10 Town Centre Area Plans – Warners Bay of Council's Development Control Plan. The building is in context and it is clear the negligible exceedance in building height will not be discernible when viewed from major view corridors. Further, the elements of the building, when viewed from close range cannot be seen as they are set back from the street frontages and no additional overshadowing will occur to neighbouring properties as a result of the minor building exceedance.

Contravention of the development standard does not raise any matter for State or regional planning. The proposal will achieve efficient delivery of additional housing in the area and achieves strategic goals for the town centre and satisfies zone objectives.

There is no significant public benefit in maintaining the development standard given the negligible impact of the minor extent of non-compliance. It is considered in the public interest to encourage development of the site as proposed.

Given the limited impact of the minor non compliance with the development standard the contravention of the development standard is considered justified.

The development seeks flexibility with regard to the maximum height of building limit by arguing the non-compliance is minor and the development affords an outcome consistent with the planning controls.

The development presents two distinct towers, each seven storeys. One tower fronts The Esplanade, the other Howard Street, with the frontage to King Street incorporating the end of each tower and the void in between. The design to maximises the built outcomes, whereby each tower is generally compliant with the maximum height of building limit of 22 metres which affords the option to create the large central void.

This void provides for building separation and a break-up of the building mass, creates a dynamic communal space for residents, allows significant solar access to the development site and development to the south at 492 The Esplanade, and enhances the urban design of the Warners Bay Town Centre. Additionally, the building separation provided along the southern boundary of the site in relation to the adjoining development to the south at 492 The Esplanade provides a visual break to reduce the building massing presenting to the streetscape, and softens the appearance of the building height.

In terms of considering flexibility to allow the encroachment the alternative design should be considered. With the development having three road frontages, a building up to 22 metres could be constructed along each full frontage subject to compliance with setbacks. This outcome would have a more significant visual impact at the streetscape level, within the town Centre and from vistas around the lake.

Additionally the 4m fall across the site (east to west) constrains the ability to maximise the built outcome in terms of the building envelope without exceeding the height limit, see Figure 10. Even with the narrow building alignment perpendicular to the slope, minor height exceedences have occurred. Note, the development has compliant floor to ceiling heights and slab thickness with the exception of the Tenancies 5, 6 & 7 which have a varying internal height of 2.7 to 3.6m.

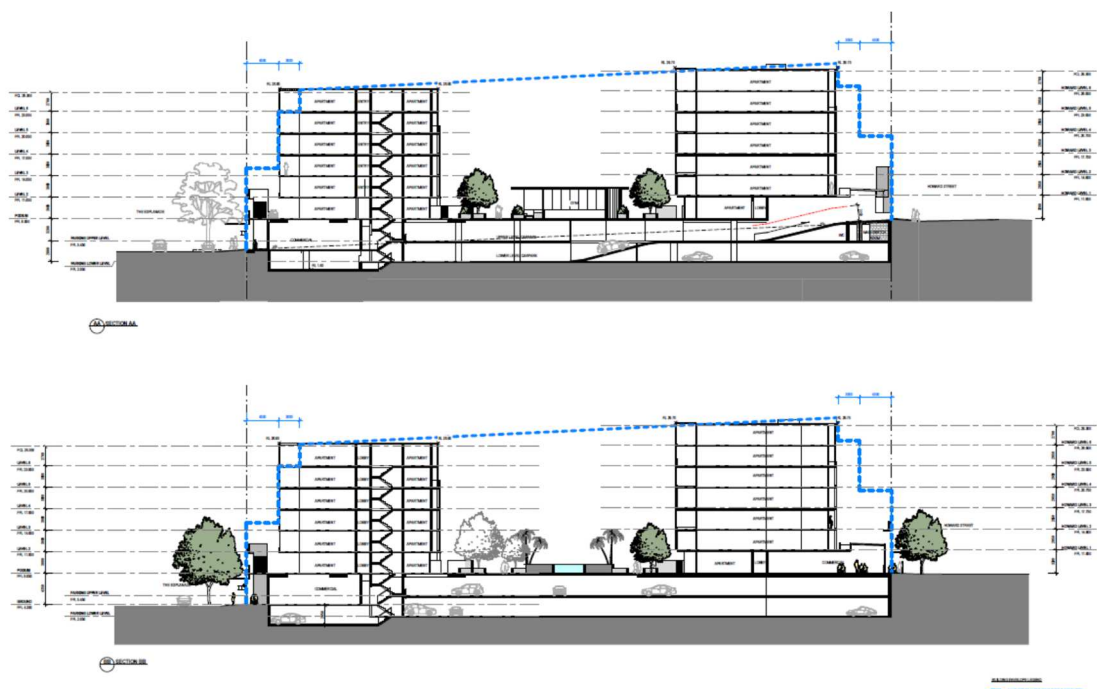


Figure 10: Cross section of encroachments *

Therefore a flexible approach is required to enable consideration of the proposal having regard to the site constraints, planning controls and urban design outcomes.

In terms of outcomes from the development, the proposal will enhance the Town Centre through the attractive design, commercial outcomes and accessible residential development in proximity to services and amenities. Having regard to adjoining development (492 The Esplanade), whilst the proposal will reduce solar access currently available compliant solar access is provided in accordance with the ADG. Additionally, although the building separation is not strictly compliant with setbacks under DCP2014 and the ADG, the development presents an urban form which is supported by the Council's DRP with regard to these policies.

Therefore having regard to the above compliance with the development standard is deemed unreasonable and unnecessary noting the future desired context of the Town Centre, the site constraints, the proposed built form/outcome and its endorsement by the DRP. In particular, the development is permissible within the B2 zone, meets the zone objectives, and is generally compliant with DCP2014 and the ADG.

Clause 4.6 further states under subclause (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 submission adequately addresses the matters under subclause 4.6(3).

The proposed development is deemed to satisfy the objectives of the development standard, is identified as being consistent with the zone objectives (refer to Section 4.15(1)(a)) and is therefore in the public interest.

Assumed concurrence is provided by Planning Circular PS 18-003 dated 21 February 2018.

Part 5 Miscellaneous provisions

Clauses 5.1 and 5.4

Clauses 5.1 and 5.4 are not applicable to the development.

Clause 5.5 Development within the coastal zone

As shown in Figure 11, the land is mapped as being within the coastal zone.



Figure 11: Coastal Zone map

The proposed development is a redevelopment of an existing urban area within the Warners Bay Town Centre. The land is not subject to flooding or sea level rise, and although it fronts the Lake is separated by a foreshore park and The Esplanade. Refer to additional comment under SEPP71.

Clause 5.6 Architectural roof features

The development does not propose any architectural roof feature to address the lift overruns, refer to Clause 4.3 above for additional comment.

Clauses 5.7 & 5.8

Clauses 5.7 and 5.8 are not applicable to the development.

Clause 5.9 & 5.9AA

Repealed.

Clause 5.10 Heritage Conservation

The development site is not mapped as a heritage site nor as being part of the Sensitive Aboriginal Landscape.

Clauses 5.11 to 5.13

Clauses 5.11 to 5.13 are not applicable to the development.

Clauses 5.14 and 5.15

Not adopted.

Part 7 Additional local provisions

Clause 7.1 Acid Sulfate soils

The site is mapped as being affected by “Class 5” within the Acid Sulfate Soils Map of

LEP2014. Additionally the development will intercept the water table in order to construct the proposed basement car park.

Subclause 2 requires development consent for the carrying out of works on land shown on the Acid Sulfate Soils Map.

Subclause 3 provides that development consent must not be granted unless an acid sulfate soils management plan has been prepared for the proposed works on accordance with the Acid Sulfate Soils Manual.

Subclause 4 however provides that development consent is not required whereby a preliminary assessment of the proposed works identifies an acid sulfate management plan is not required for the works.

In this regard, an Acid Sulfate Soils Assessment has been prepared for the site by Aurora Environmental Consulting dated 7 September 2015. The assessment identified samples tested over the site as not being consistent with actual or potential acid sulphate soils.

Therefore an Acid Soils Sulfate Management Plan is not required and no further consideration of Clause 7.1 is required.

Clause 7.2 Earthworks

Earthworks, up to 6.5 metres of cut, is required to construct the proposed two levels of basement car parking.

Subclause 2 requires development consent for earthworks. Subclause 3 requires before granting development consent matters be considered as follows:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Council's Development Engineer has assessed the excavation (including the additional excavation under the amended application) with regard to stormwater and geotechnical issues. The applicant's stormwater management plan and geotechnical report have been endorsed by the Development Engineer.

Council's Contaminated Land Working Group and Principal Environmental Officer reviewed the amended development which involves the additional excavation with regard to contamination. This review included consideration of a third party contaminated site Remedial Action Plan dated 28 March 2017 by contaminated site consultants Coffey Environmental Management as lodged with the original application.

The Contaminated Land Working Group recommended the condition as

recommended for the original application be included in any Development Consent granted requiring a Contaminated Site Validation occur prior to the issue of an Occupation Certificate.

The excavation will enable the redevelopment of the land, generally consistent with the planning controls under LEP2014 and DCP2014.

Clause 7.3 Flood Planning

The development site is not mapped as being flood prone.

Clause 7.4 Coastal Risk Planning

The site is not mapped as being part of the Coastal Risk Zone.

Clause 7.5 Terrestrial Biodiversity

The development site is not mapped on the Terrestrial Biodiversity Map.

Clause 7.6 Limited Development on Foreshore Area

The development site is not mapped as containing any foreshore area under LEP2014.

Clause 7.7 Development on Sensitive Aboriginal Landscape Areas

The development site is not mapped as being part of the sensitive Aboriginal landscape.

Clause 7.8 Air Space Operations

The development does not penetrate the limitation or operations surface for Lake Macquarie airport.

Clause 7.9 Service Stations in Certain Zones

The proposed development does not incorporate a service station.

Clause 7.10 Residential development in certain business zones

Subclause 2 states development consent must not be granted for the purposes of a residential flat building on land in Zone B2 Local Centre unless it is part of a mixed use development in which most of the ground floor of the building facing the primary street has an active frontage and the consent authority is satisfied it is to be used for the purposes of commercial premises or a health services facility.

The development site is zoned B2 Local Centre and incorporates commercial premises (seven tenancies) at the street front of The Esplanade, King Street and Howard Street. Interspersed between the tenancies are access foyers to the residential units and the communal areas for residents, and access to the basement car park and utilities/waste room. Located between the two towers in King Street is the communal open space for the residential flat building, landscaping and access stairs from the street level to the al fresco area for tenancy 5.

The original development had adequate active street frontages in terms of commercial activity/glazing providing a connection between pedestrian and vehicle traffic and the building interiors. Additional amendments were incorporated at the behest of Council to enhance the design and the activation of the commercial spaces, ie. bar windows, alfresco areas, and improved public domain areas/landscaping.

At the JRPP meeting in 7 December 2017, the Panel required changes to the commercial frontage to The Esplanade to improve the streetscape outcome and

outdoor dining opportunities through increasing the setback of the glazing line for the commercial units.

The amended plans have increased the line of the glazing from a 1m setback to a setback of 3m which affords the opportunity for outdoor dining as evident in Figure 12 below.



Figure 12: Comparison of the setback of glazing from The Esplanade

Clauses 7.11 – 7.19

Clauses 7.11 to 7.19 are not applicable to the development.

Clauses 7.20 Development on Environmentally Sensitive Land

The development site is not identified as Environmentally Sensitive Land.

Clause 7.21 Essential Services

Subclause 1 requires services essential for the development are available or adequate arrangements have been made to make them available.

In this regard, the required essential services and infrastructure are available to accommodate the development as demonstrated by:

- Hunter Water has endorsed the plans on 13 April 2017, advising the development can be serviced with regard to water and sewer.
- Ausgrid provided correspondence dated 22 May 2017 confirming the development can be serviced with regard to electricity.

- Stormwater management will occur in accordance with DCP2014 requirements. Council's Development Engineers are satisfied subject to conditions of consent, with the stormwater design.
- The RMS advised on 15 June 2017 of no objection to the proposed site access in relation to the classified road network, subject to conditions requiring work in King Street.
- No objection is raised to the point of access regarding the local road network.

Clause 7.22 – 7.23

Clauses 7.22 to 7.23 are not applicable to the development.

(1)(a)(ii) any draft EPI

The following draft environmental planning instruments are relevant to this development:

SEPP 44 – Koala Habitat

Amendments to SEPP 44 – Koala Habitat were exhibited from 18 November 2017 – 3 March 2018. The proposed amendments relate to updating definitions of koala habitat, the list of tree species and applicable Council areas as well as the development assessment process. Based on the development site characteristics, the amendments do not have any implications for the proposal.

Draft SEPP Environment

The draft SEPP Environment was exhibited from 31 October 2017 – 31 January 2017. The proposed new SEPP relates to the protection and management of the natural environment, with a particular focus on water catchments, urban bushland and Waterways.

With regard to water catchments, Lake Macquarie City Council is not included in Sydney Water Drinking Catchment and therefore the draft provisions do not apply.

The development site is mapped as part of the 'Urban Bushland Land Application Map' under the draft SEPP (note, Lake Macquarie City Council is currently an area to which SEPP 19 applies). The site does not meet the provisions for 'land zoned or reserved for public open space' under SEPP 19 nor does it meet the new 'public bushland' term under the draft SEPP.

For Waterways, the provisions of the draft SEPP mainly apply to Sydney Harbour and Canal Estates. These provisions have no implications for the proposal based on what it is or do not apply to the Lake Macquarie City Council area.

(1)(a)(iii) any Development Control Plan (DCP)

Development Control Plan 2014

The following sections of Development Control Plan 2014 (DCP 2014) are relevant to this proposal.

Part 4 - Development in Business Zones

Part 1 – Introduction

Section 1.15 – Development Notification Requirements

At the time of lodgement the development was Nominated Integrated Development in relation to the Water Management Act 2000. Accordingly the application was Advertised Development being Advertised Development. The advertisement dates were:

20 May 2017 to 21 June 2017

An amended application was renotified for the following period:

10 November 2017 to 21 November 2017

With the submission of amended plans on 16 January 2018, the application was renotified for the following period :

19 January 2018 to 5 February 2018

1.5 – B2 Local Centres

Refer to comment under Part 10.3 Warners Bay Town Centre Area Plan of DCP 2014.

Part 4 – Development in Business Zones

Section 2 – Context & Setting

2.1 - Site Analysis

An adequate Site Analysis Plan has been submitted.

2.2 - Scenic Values

A Visual Impact Assessment (VIA) in accordance with the Scenic Management Guidelines (SMG) and DCP2014 was submitted with the application.

Under the SMG Warners Bay is described as a lake foreshore suburb curving around a narrow bay, 2km wide, between the promontories of Speers Point and Eleebana. The Esplanade is the major road around the lake in the north and provides the main transport to the residential and commercial areas. Parkland lines the foreshore of the lake. The Esplanade and parkland provide a close appreciation of the Lake experience and valuable open space adjoining it.

The SMG identifies Scenic Management Zone 5 (lake surround, high settlement) as being applicable to the site. This Zone has a desired future character of encouraging development appropriate for town centres. This includes compact, higher density development with a mix of retail, business and residential uses, active street frontages, and a pleasant atmosphere for pedestrians and attractive streets. The character of buildings and the surrounding landscape should reflect the lakeside location and the popularity of these areas as social and recreational destinations. Physical and visual connections to the lake are important and should be preserved and enhanced.

Initially there were reservations with the design as lodged, particularly its heavy monolithic design accentuating the street wall effect, combined with the uniformity and scale of the residential levels, and the lack of landscaping to break up the massing. Refinement of the design following a review by Council's DRP against the ADG, and by Council regarding the Warners Bay Town Centre Area Plan resulted in an improved design in context with the desired higher density outcomes, visual impact and activation of the streetscape.

In submitting the amended design to the 7 December 2017 meeting of the JRPP it was recognised the development impacted on lake views enjoyed by the adjoining

Shearwater development. Views from the Shearwater will be retained to the north-west and down the King Street corridor, however views over the development site will be lost. The units on the Howard Street elevation were likely purchased on the basis of the unimpeded views. It should however be recognised the planning controls for the development site provide a maximum height of building limit of 22m (6 to 7 stories) since 2016 and 3 to 4 stories (with additional storey for design excellence) since 2006, and prior to the approval of the Shearwater development.

Generally the amended development (see perspective at Figure 13) is consistent with the planning controls and the desired future character. The building is a significant increase in density and built form which raises visual impact concerns regarding its setting in terms of views from the lake, relationship with the vegetated ridge lines and transition to adjoining development. Whilst there will be a loss of views afforded to adjoining development, a development of this scale has been indicated in Council's planning controls since 2006.



Figure 13 – Perspective from Cnr King Street and The Esplanade (Amended Design)

As outlined in Section 3 of this report and more particularly in Appendix D, the DRP supports the development.

2.3 - Geotechnical

Refer to comment under Clause 7.2 of LEP 2014.

2.4 - Cut and Fill

Refer to comment under Clause 7.2 of LEP 2014.

2.5 - Mine Subsidence

The site is not located within a proclaimed Mine Subsidence District.

2.6 - Contaminated Land

The development site contains an existing service station, commercial development and low density residential. The proposal is to demolish all existing structures and excavate the site up to 6.5 metres to accommodate two basement levels.

Environmental reports have identified the site contains contaminated soils in the vicinity of the operational area of the service station. For detailed comment regarding

contamination refer to the assessment under Section 5, 4.15(1), SEPP55 of this report.

2.7 - Acid Sulphate Soils

Refer to comment under Clause 7.1 of LEP2014.

2.8 - Stormwater Management

A stormwater management plan has been submitted and generally endorsed by Council's Development Engineer as being in accordance with DCP2014 requirements with the exception of the provision of bio retention measures. Council's Development Engineer has advised the bio retention requirements for the development can be achieved however the design submitted is deemed unsatisfactory and it is required an amended design be submitted. The Development Engineer has advised the matter can be satisfied by condition of consent.

2.9 – 2.13

Sections 2.9 to 2.13 have been considered and are not relevant to this development.

2.14 - Preservation of Trees and Vegetation

All existing vegetation is to be removed by the development. The site has no registered or otherwise significant trees that require further consideration.

2.15 - European Heritage

The site is not mapped as nor is in the vicinity of a Heritage Item under LEP2014. The site does not contain any existing structures that warrant further consideration.

2.16 - Aboriginal Heritage

The site is not mapped as part of the sensitive Aboriginal landscape under LEP2014. The site does not contain any existing structures that warrant further consideration.

2.17 - Natural Heritage

The site does not contain nor is in the vicinity of any natural heritage items under LEP2014.

2.18 - Social Impact

The development is identified as being generally consistent with the zone objectives, the Warners Bay Town Centre Area Plan (Part 10.3 of DCP2014).

In this regard the development has been assessed against the ADG, and an access report was submitted. The development was found to be generally compliant in terms of accessibility, providing community benefits through improved streetscape outcomes and consequently generate a sense of community, as well as providing significant communal benefits to the residents of the development. Accordingly it was deemed a formal Social Impact Assessment was not warranted in this circumstance.

2.19 - Economic Impact

The development is identified as being generally consistent with the zone objectives, the Warners Bay Town Centre Area Plan (Part 10.3 of DCP2014).

The development provides economic benefits to the City and more particularly Warners Bay through construction by employment within the construction industry. Post construction the development will provide an increase in commercial floor space within the Warners Bay Town Centre, along with residents occupying the 110 units

further strengthening the dynamism of commercial activity in the centre.

2.20 - Lot Amalgamation

The development amalgamates eight lots, which is consistent with the block controls under Warners Bay Town Centre Area Plan (refer to Part 10.3 of the DCP2014). Consequently, no lots are isolated by the development.

2.21 - Utility Infrastructure

Site infrastructure such as kiosks and fire hydrants have been detailed on site, adjoining the Howard Street frontage (a secondary street). This infrastructure has been discreetly designed into the front façade of the development, thus minimising impacts on the streetscape and building aesthetics.

The development proposes underground electricity services for the full length of the frontages of the development.

2.22 - Sites where a Concept Plan is required

Refer to comment under Part 10.3 Warners Bay Town Centre Area Plan of DCP 2014.

Section 3 – Streetscape and Public Space

3.1 - Pedestrian Lanes

No pedestrian lanes are proposed as part of the development.

3.2 - Pedestrian Links through Buildings

Pedestrian links are not proposed through the development.

3.3 - Footpath Dining

Footpath dining is not proposed under this application, however provisions have been incorporated into the design to allow for such use, which will subsequently support activation of the streetscape. Note, outside dining is accommodated within the development site fronting commercial spaces in King Street and The Esplanade.

3.4 - Streetscape Improvements

Refer to comment under Part 10.3 Warners Bay Town Centre Area Plan of DCP 2014.

3.5 - Non-Discriminatory Access

The Access Report provided with the application demonstrates general compliance with various Australian Standards, the Liveable Housing Guidelines and DCP2014.

3.6 - Lighting

Lighting of the entries and adjoining footpath areas is required. A condition is recommended requiring compliance with DCP2014 and Australian Standards.

Section 4 - Active Street Frontage

Refer to comment under Part 10.3 Warners Bay Town Centre Area Plan of DCP 2014.

Section 5 – Access and Parking

5.1 - Traffic and Vehicle Access

The driveway is located off a secondary road in Howard Street, which will serve all residents and patrons of the commercial tenancies. Similarly delivery and waste collection vehicles will utilise a kerbside loading zone in Howard Street.

5.2 - Design of Parking and Service Areas

The amended plans have been reviewed by Council's Development Engineer and separately by Council's Traffic Engineer, with a number of issues identified. To address the concerns conditions have been recommended, including compliance with AS 2890.

A condition is also recommended to address the proposed loading zone in Howard Street requiring approval through Council's Traffic Facilities and Road Safety Committee.

5.3 - Bike Parking and Facilities

The development provides 2 bicycle parking spaces (see table below under 5.5). A condition will apply requiring bicycle parking and related facilities in compliance with DCP2014.

5.4 - Motor Bike Parking

The development provides 2 motor bike parking spaces (see table below under 5.5). A condition will apply requiring bicycle parking and related facilities in compliance with DCP2014.

5.5 - Car Parking Rates

At the JRPP meeting of 7 December 2017 it was required the parking allocation be revised to achieve a minimum of 37 shared spaces, 7 spaces for commercial tenancies and the remainder for residents.

The amended development provides a total of 227, 184 as parking for residents, 36 shared spaces for commercial/visitor and a further 7 spaces dedicated to the commercial units. The table below provides a breakdown of the required parking under the Warners Bay town Centre Area Plan in comparison to the provided parking:

	No. Units/Area	Rate	Required	Provided
1 Bed Unit	24	0.5 per Unit	12	184* * parking to be allocated at 1 per unit, with remaining 64 spaces to be commercially sold to unit owners
2 Bed Unit	56	0.75 per Unit	42	
3 Bed Unit	30	1.0 per Unit	30	
Commercial	1302m ²	1 per 40m ²	32.5	36 shared spaces plus 7 dedicated to commercial tenancies (1 per tenancy)
Visitor (Units)	110	0.25 per Unit	27.5	
Accessible spaces				12 (1 for Com/Vis and 11 for residents) Note, included in above calculations
Motor Cycle		1 per 20 parking commercial spaces	2	2

Total			144	227
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The development requires a total of 144 car parking spaces. The number provided is 227 (inclusive of 12 accessible parking spaces) and 2 motor cycle spaces.

The development meets the minimum requirements under DCP2014 with the exception of the commercial tenancies/visitor spaces which individually require 32.5 and 27.5 spaces respectively, or a combined total of 60 parking spaces however provides 36 shared use spaces and a further 7 dedicated to the commercial tenancies.

Having regard to the directions of the Panel, the development falls short of the stipulated requirement by 1 space. In considering the shortfall, the development has provided additional parking within Basement 1 to address the loss of resident parking within the Lower Ground level which has been transferred to the shared use of commercial/visitor parking. Therefore the development maintains a high number of resident parking which should ensure there is no over flow of resident parking into the visitor parking spaces

Section 6 – Development Design

This section has been addressed on Part 10 – Warners Bay Town Centre Area Plan & SEPP65.

Section 7 – Landscape

This section has been addressed on Part 10 – Warners Bay Town Centre Area Plan & SEPP65.

Section 8 – Operational Requirements

Waste

A Site Waste Minimisation and Management Plan for the demolition, construction and operational phases has been provided. The waste management regime designed for the development is deemed suitable.

The intended use does not warrant consideration of liquid trade waste or chemical storage.

Any future use of the commercial premises which requires a trade waste application will be considered as part of the development application or complying development certificate.

Note, a car wash bay is proposed which will be required to connect to Hunter Water Corporation sewer. A condition is recommended in this regard.

Erosion and Sediment Control

The application requires a soil and water management plan. An assessment of the application has found the erosion and sediment control information provided as being inadequate/deficient.

A condition is recommended requiring submission of a revised soil and water management plan to Council for approval prior release of the construction certificate.

Air Quality

The development is for commercial premises and a residential flat building. The intended uses are not expected to create air quality issues however the basement car

park exhaust is located adjacent to the gym in the communal courtyard. The applicant has advised the car park exhaust has been designed to ensure it complies with all Australian Standard and NCC Requirements. Furthermore, the design team believe the car park exhaust is optimally located to avoid impacts to both the basement and podium levels.

With regard to provision of kitchen exhausts, the development provides facilities for an exhaust adjacent to and to the east of each lift shaft for both towers.

Noise and Vibration

A Noise Impact Assessment, dated April 2017 been prepared by Spectrum Acoustics providing Project Specific Noise levels. Conditions are recommended regarding acoustic certification of the design at the completion of construction, and an operational compliance after occupation.

In terms of conflicts between the commercial units and residential units, as the specific land uses of the commercial spaces is unknown it is not possible to assess at this time. Note, approval is being sought for the units to be approved as 'commercial premises', the definition under the LEP2014 includes business premises, office premises and retail premises. Where a proposal involves a restaurant or the like, further assessment can be carried at the time of the assessment of the individual application for first use of premises, ie. pub, small bar, entertainment facility, registered club, food and drink premises with capacity for more than 50 seats.

In addition, the hours of operation have been reviewed and it is recommended a condition impose the following hours:

Mondays to Fridays

7am to 10pm (inclusive of outdoor dining)#

Saturdays

7am to 10pm (inclusive of outdoor dining)#

Sundays and Public Holidays

8am to 6pm (inclusive of outdoor dining)*

7am to 8am and 6pm to 9pm (internal operations)*

All customers are to have completed dining and the outdoor dining furniture is to be removed prior to 10pm.

* Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs.

The hours of operation for outdoor dining have been increased to 10pm in the evening from Monday through to Saturday in comparison to the hours recommended at the JRPP meeting of December 2017. Council's Environmental Department has advised the acoustic criteria for evening hours is to 10pm, with there being no objection to the proposed change to outdoor dining hours noting the high background noise levels as considered in the Acoustic report.

These hours provide flexibility for the range of likely uses typical at Warners Bay, ie. restaurants and cafes. The hours also provide clear parameters for which prospective purchasers of residential units can be aware of and consider as part of the decision to buy into the premises. Any request to change the hours will require an application accompanied with an acoustic assessment.

Further the assessment evaluated potential noise impact to residents and commercial

occupants within the development, who will be potentially affected by road traffic noise and noise/vibration generated by mechanical plant and equipment. The selection of various mechanical plant and equipment at this planning stage has not yet been determined, apart from the collective noise generation from air conditioning split systems proposed to be used for individual units. Conditions of consent are considered appropriate to address any concern at this stage.

Construction site noise and vibration has not at this stage has not been addressed by the acoustic consultant, and a condition should be imposed on any consent requiring the submission of a Construction Site Noise Management Plan prior to the commencement of works, including demolition on site.

Part 9.13 – Residential Flat Buildings

13.1 – Site Requirements

The amalgamated site has an area greater than 800m² (has an area of 5,093.9m²), with direct frontage to a public road (Howard Street, King Street and The Esplanade) and a minimum width of 20 metres (each road frontage is greater than 50m²).

13.2 – Housing Mix

The controls state a maximum studio apartments maximum 15%, one-bedroom apartments maximum 30%, two-bedroom apartments minimum 40% and three-bedroom apartments minimum 15%. The development provides 110 Units with the following mix of dwelling types:

One bedroom apartments - 24 being 22%

Two bedroom apartments - 56 being 51%

Three bedroom apartments - 30 being 27%

It is considered this mix of apartments is appropriate for Warners Bay and generally align with the quantum for one, two and three bedroom apartments.

13.13 – Adaptable Dwellings

The development incorporates 110 units, therefore a minimum of 11 adaptable units are required. The development provides a compliant number of 11 adaptable units each with an accessible parking space, which complies with the DCP.

It is recommended a condition be imposed requiring a compliant path of travel, appropriate dimensions to facilitate wheel chair access and essential features listed in AS 4299.

Part 10.3 – Warners Bay Town Centre

The site is not identified as a 'concept plan site' however the proposal was considered by Council at a Pre-lodgement meeting and a SEPP 65 Pre-lodgement meeting.

The development site is identified as Building Type C as per Figure14 below:



Figure 14 – Block Control Plan

The Block controls (height, setbacks, built form and elevation treatment) for the Type C building are detailed on the figures 15 and 16 below.

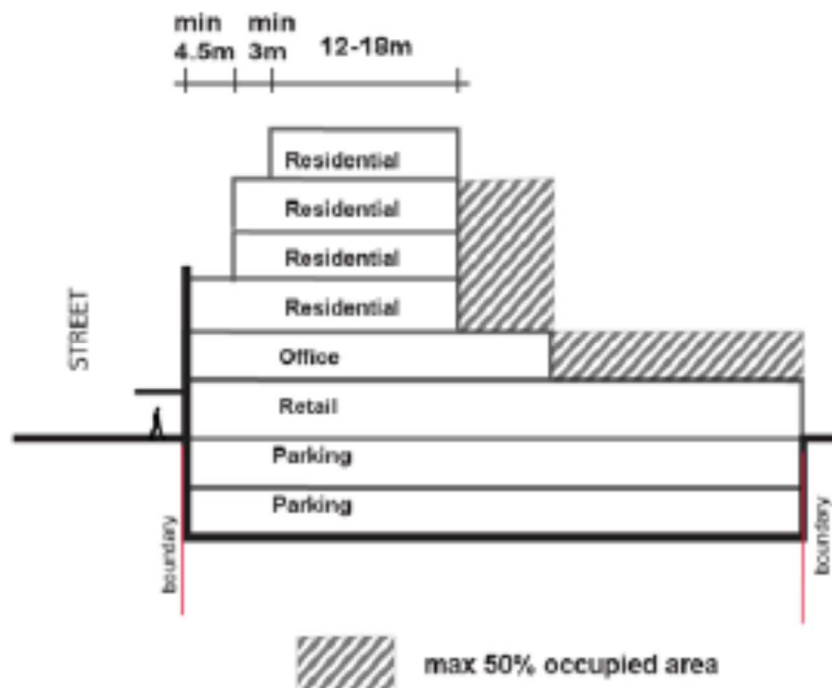


Figure 15 – Building Type C Cross Section

The Type C building identifies the number of storeys as (6), with retail on the ground floor and office space above. Residential units are then located on the remaining upper floors. A maximum occupied area is specified.



Figure 16 – Building Type C Street Elevation

The desired elevation requires the façade to incorporate a three storey high parapet form at street level, with upper levels recessed behind the parapet. The street form is to incorporate narrower façades, predominantly masonry with punched voids and expressed openings for doors and windows.

The proposed built form is generally consistent with the Type C Block controls as follows:

- The development proposes seven storeys yet achieves the height.
- The Commercial space is setback behind a solid masonry facade, with the glazing recessed into alcoves. The glazing achieves the 70-90% frontage width.
- Only one level of Commercial floor space is provided at street level on the Lower Ground and the Upper Ground. The solid masonry provides a two storey form with the Residential Units recessed behind the commercial floor below.
- The facades fronting all three streets are broken such that each element is less than 10m in width.
- The Residential Units at Level 2 are recessed behind the lower two storeys. The built form of the Residential Units on Levels 2-7 are generally the same, with external treatment providing variation in detail to afford a lighter horizontal form when progressing through the street, mid and upper levels.
- For maximum occupied area the development raises no issues as it does not incorporate a built form along the entire street frontage, ie. mid block break along King Street.

In relation to Street Improvements the development will provide a significantly improved streetscape outcome that generally meets the desired character, refer to comment by Council's DRP under Section 3 and Appendix D.

Car parking is proposed in the basement (two levels), sleeved by the Commercial Premises where site levels cause the car park to be ground level. With regard to car parking rates under the Warners Bay Town Centre Area Plan refer to Section 5.

Landscape treatment of the King Street frontage between the two towers includes masonry walls, deep soil zones and landscaping to create an attractive break between the buildings and effectively fence the public realm from the residential communal space.

At the rear (southern boundary adjoining 492 The Esplanade) a black batten colorbond fence is proposed. The side access off Howard Street will also utilise a black batten gate to control access for residents to the communal space directly from

the street.

The measures identified in the CPTED report regarding surveillance, access control, territorial reinforcement, activity and space management, building design, lighting, access, car parking, fencing, landscaping are concurred with and it is recommended they be included as a condition of consent.

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

There is no planning agreement that has been entered into, and no draft planning agreement that a developer has offered to enter into that relates to this development.

(1)(a)(iv) any matters prescribed by the regulations

The application was advertised development as Nominated Integrated Development in relation to the Water Management Act, in accordance with the Regulations.

(1)(b) the likely impacts of the development

The likely impacts of the development have been considered in detail under an assessment of DCP2014.

(1)(c) the suitability of the site for development

Does the proposal fit the locality?

Refer to assessment comment under DCP2014 which demonstrates the development is compatible with the locality.

Are the site attributes conducive to development?

Refer to assessment comment under DCP2014 which demonstrates the site attributes are conducive to the development.

(1)(d) any submissions made in accordance with this Act or the Regulations?

Public submissions:

The application and was advertised and notified to adjoining properties from 20 May 2017 to 21 June 2017.

The amended application was notified to the same properties as originally notified as well as the authors of the submissions, from 10 November 2017 to 21 November 2017.

From the advertisement and notification of the application Council received 18 submissions from 13 authors, copies of which were attached as Appendix G of the report to the JRPP meeting of 7 December 2017. A summary of the issues/concerns raised in the submissions along with planning comment was included as Appendix H to the JRPP report of 7 December 2017.

The application was further amended on 16 January 2018, and was re-notified to the same properties as originally notified as well as the authors of the submissions, from 19 January 2018 to 5 February 2018.

From the notification of the amended application Council received 1 submission from an existing submitter. A further submission from the adjoining owners corporation was received outside of the notification period. A copy of the submissions are attached as Appendix F.

A summary of the issues raised in the submission is provided below:

- The development will increase pedestrian traffic and therefore exacerbate pedestrian safety. The application does little to address this issue, noting the lack of data or evidence in relation to the misleading/unrealistic conclusions.
- Lack of safe crossing on The Esplanade or King Street, warranting signals.
- The development will impact on the already deficient parking in the locality.
- The revised setbacks provide minimal improvement in the impact of the building.
- The proposed development is contradictory to the 2015 Warners Bay Town Centre Master Plan.
- Sets a precedence for grossly oversized and tall developments on The Esplanade.
- Request the fencing on the southern boundary be a solid fence rather than a batten screen, using a 1.8m high colorbond fence.

Appendix G provides planning comment as a response to the issues raised.

Submissions from public authorities:

Roads and Maritime

The application was referred as Integrated Development to the NSW Roads & Maritime (RMS) on 19 May 2017 with regard to the Section 138 of the Roads Act 1993. In correspondence dated 15 June 2017 (refer to Appendix D of the report to the JRPP meeting of 7 December 2017) the RMS advised of having no objection to the proposed development subject to the following conditions being included within the conditions of consent:

- Infill the existing landscaped median with concrete (or coloured concrete to Council's specifications) on King Street, between The Esplanade and John Street.
- Install an RMS rated pedestrian fence on the median between the existing pedestrian refuge at The Esplanade and the existing signalised pedestrian crossing at John Street.

Council subsequently wrote to the RMS on 13 October 2017 requesting a review of the conditions, as the works for the centre median in King Street were not supported.

An RMS response dated 20 April 2018 advised the following be included in Council's conditions of consent

In lieu of installing concrete in the median and pedestrian fencing in King Street, the developer is to further slow traffic in King Street between The Esplanade roundabout and the pedestrian signals near John Street by installing traffic calming devices, such as speed cushions.

Ausgrid

Ausgrid raise no objection to the development in its response dated 22 May 2017 (refer to Appendix D of the report to the JRPP meeting of 7 December 2017) subject to the proponent consulting further with regard to the development needs in relation to existing infrastructure and network capacity.

NSW Police

No response has been received to Council's referral dated 19 May 2017.

Subsidence Advisory NSW

The application was referred as Integrated Development to Subsidence Advisory NSW (SA) on 19 May 2017 with regard to the Mine Subsidence Act 1963. In

correspondence dated 3 July 2017 (refer to Appendix D of the report to the JRPP meeting of 7 December 2017) SA advised the property is not within a proclaimed Mine Subsidence district and is not subject to any building restrictions imposed by the SA.

Note: At lodgement the application form was ticked in relation to being Integrated Development in relation to the Mine Subsidence Act, 1963. The development site remained within a proclaimed Mine Subsidence District until new provisions came into effect on 1 July 2017 whereby the development site was no longer within a proclaimed Mine Subsidence District.

NSW Water

The application was referred as Integrated Development to Water NSW on 19 May 2017 with regard to Section 90 of the Water Management Act 2000. Water NSW provided its General Terms of Approval (GTAs) on 7 December 2017 (refer to Appendix D of the report to the JRPP meeting of 7 December 2017).

With regard to the amended application, Water NSW advised on 13 February 2018 the original GTAs are sufficient to address the proposed changes to the development. A copy of the Water NSW advice is attached as Appendix C.

The GTAs are therefore to be included as a condition should consent be granted.

(1)(e) the public interest

The development application has been assessed with regard to the LMLEP2014, the DCP2014, SEPP55, SEPP 65 and SEPP 71, SEPP (State and Regional Development) 2011 and the ADG. Additionally the application has been considered with regard to the Roads Act 1993 and advertised in accordance with the EP and A Regulation 2000. Overall the development is well designed and provides accessible accommodation in a desirable and suitable location.

Consequently the development is in the public interest.

6. CONCLUSION

An assessment of the amended development identifies it to be consistent with the zone objectives and satisfactory in terms of relevant clauses of the LEP2014, generally compliant with DCP2014 and the ADG, and is supported by the DRP. The supplementary assessment focusses on the revisions to the plans to address the matters raised at the JRPP meeting of 7 December 2017 for 2017HCC010, in particular building separation at the southern boundary, car parking (co-sharing of visitor and commercial parking spaces, management plan), detailing of the building (commercial glazing of the commercial units fronting The Esplanade, and the balustrades of the residential units), changes to landscaping.

The development is well designed and meets the desired future character of the Warners Bay Town Centre Area Plan, and will support the community through providing accessible housing in a desirable and convenient location.

In context the variation to the maximum building height limit is deemed to be well founded based on the applicant's Clause 4.6 submission, its review by Council's DRP and the assessment by Council's planning staff.

7. RECOMMENDATION

It is recommended Development Application DA/675/2017 for Commercial Premises and a Residential Flat Building be granted consent subject to conditions as listed in Appendix H.

Endorsement

The staff responsible for the preparation of the report, recommendation or advice to any person with delegated authority to deal with the application has no pecuniary interest to disclose in respect of the application.

The staff responsible authorised to determine the application have no pecuniary interest to disclose in respect of the application. The report is enclosed and the recommendation therein adopted.



Brian Gibson
Senior Development Planner
Lake Macquarie City Council

I have reviewed this report and concur with the recommendation.



Elizabeth Lambert
Chief Development Planner
Lake Macquarie City Council