

JRPP ASSESSMENT REPORT

Panel Reference	2017HCC012DA
DA Number	521/2017
LGA	MidCoast (Great Lakes)
Proposed Development	Mixed use development containing a range of uses including civic/community, commercial, residential, tourist and strata subdivision.
Street Address	34-36 West Street, Forster
Applicant/Owner	Enyoc Pty Ltd (Applicant) Midcoast Council (Owner)
Date of DA lodgement	15 May 2017
Number of Submissions	Fourteen (14)
Recommendation	Approval with Conditions
Regional Development Criteria (Schedule 4A of the EP&A Act)	Capital Investment greater than \$5m – Council Interest Capital Investment greater than \$20m
List of all relevant s79C(1)(a) matters	• relevant environmental planning instruments SEPP 44 – Koala Habitat SEPP 55 – Contaminated Lands SEPP 65 – Residential Flat Buildings SEPP71 – Coastal Protection SEPP (Seniors Housing) SEPP (Infrastructure) • proposed instrument that is or has been the subject of public consultation under the EP&A Act and that has been notified to the consent authority Draft Coastal Management SEPP • relevant development control plan Great Lakes DCP 2014 • relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F None applicable • coastal zone management plan None applicable • relevant regulations e.g. Regs 92, 93, 94, 94A, 288 Clause 92 – Coastal Policy
List all documents submitted with this report for the Panel's consideration	Appendix A – Draft Conditions of Consent Appendix B – Documents submitted with the application (as amended) Appendix C – Seniors Housing SEPP Checklist Appendix D – ADG checklist / detailed assessment
Report prepared by	City Plan Strategy and Development on behalf of MidCoast Council
Report date	30 August 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C 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

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

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? Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? Not Applicable
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? Yes

Note: in order to reduce delays in determinations, the Panel prefers that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Assessment Report and Recommendation to the JRPP

Report Author Chris Speek, Associate Director, City Plan Strategy & Development
File No. / ECM Index <<File Number / ECM Index>>
Date of Meeting 7 September 2017

DETAILS

Date Received: 15 May 2017
Applicant: **Enyoc Pty Ltd**
Owner: MidCoast Council
Land: Lots 11-13 DP 47987, 34-36 West Street, Forster
Property Key: <<Select Field and type Property Key>>
Zoning: B4 Mixed Use, GLLEP 2014

EXECUTIVE SUMMARY

Proposed Development

Development Application No. 521/2017 has been lodged with MidCoast Council, seeking development consent for the erection of four towers over a podium base to accommodate 139 self-contained seniors housing units, 4 penthouse residential apartments, an 84 suite hotel, 18 serviced apartments, a supermarket, an 800 seat cinema, restaurants and retail space, a childcare centre, a nightclub, and community facilities comprising of a new library, visitor information centre, flexible community spaces and a public car park.

Referral to the Joint Regional Planning Panel

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Part 4 'regional development' of State Environmental Planning Policy (State and Regional Development) 2011 as the proposed development is listed within Schedule 4A of the EP&A Act, being general development over \$20 million, as well as Council related development over \$5 million. The proposed development has a capital investment value of \$80 million. Council is also the landowner and is party to an agreement with the applicant / developer. City Plan Strategy & Development (CPSD) has been engaged by the Council to independently review and assess the development application.

The application is to be determined by the Hunter and Central Coast Joint Regional Planning Panel.

Permissibility

The application proposes a range of uses within a mixed-use development that includes residential accommodation, seniors housing, commercial / retail uses, cinemas, a library, an information centre, a hotel and a nightclub.

The site is zoned B4 – Mixed Use under the Great Lakes Local Environmental Plan 2014 (GLEP2014) and all proposed uses are permissible with development consent.

On 4 August 2017, the Minister amended the GLEP2014 in respect of the maximum building height and Floor Space Ratio for this site. The proposed development complies with these development standards.

Consultation

Notification of the development application involved a multi-phased public consultation process, in excess of the requirements of the EP&A Act and Council's policy.

The development application was placed on public exhibition for 30 days from 17 May 2017 to 16 June 2017. During the exhibition period, Council undertook three community consultation drop-in sessions. A large-scale model has been constructed of the proposal and still resides in the foyer of the Council.

During the exhibition period, Council received a total of 14 public submissions including 2 in support and 12 by way of objection. No late submissions were received. The following main points were raised in the submissions.

- The development scheme is not representative of a civic precinct, being heavily focused on commercial uses and luxury housing;
- Community spaces are inadequate and poorly located;
- Residential aspect is dominated by seniors housing and has inadequate supporting infrastructure;
- Cinema is unfeasible and will affect local businesses;
- Increase in traffic congestion;
- High rise not suitable for the site; and
- Overshadowing of adjacent properties.

These matters have been considered in this assessment report.

79C Assessment

The site was purchased by MidCoast Council to facilitate the opportunity to construct new community facilities in Forster. Requiring only a proportion of the site, Council subsequently entered into a partnership with Enyoc to provide for an integrated development opportunity that would increase the value of the public investment and create a more vibrant destination incorporating private development with a public domain interface. In this respect, it is noted that the site is classified as Operation Land pursuant to the Local Government Act

A detailed assessment of the development proposal has been undertaken and examines the following key issues:

- Whether the proposal provides for a suitable provision of housing opportunities suited to the local social demographic demand;
- Whether the proposed public aspect of the proposal is suitably designed and located;
- Whether the design and layout of the development as a whole is appropriate in the context of current development controls and SEPP 65;
- Whether the development provides for an acceptable level of accessibility in accordance with accessibility standards;
- Whether the proposal provides for adequate safety and security;
- Whether the development has an acceptable environmental impact; and
- Whether the development provides for appropriate traffic management.

Overall, it is considered that the proposal provides for a positive addition to the Forster Commercial Centre. The development responds to the desired future character of the area by providing a catalyst for future development in the area and an opportunity to improve linkages within the town centre.

The assessment acknowledges and examines the applicant's intention to create a form of housing that has a heavy focus on able-bodied seniors. Whilst intended for independent living, the applicant has demonstrated that the proposed units could meet adaptable and accessibility

standards, a requirement of the GLEP2014, and has the option to expand the opportunity to support ageing-in-place accommodation.

Aspects of the residential towers challenge the standards in the Apartment Design Guide. However, it is concluded that the amended scheme would meet the principles of SEPP65.

The proposal is therefore suitably designed and located to provide for a positive addition within the Forster town centre. It offers a suitable scheme on a large site and represents a limited opportunity to provide for a catalytic development in this location representative of the area's desired future character.

Referral bodies have raised no objection to the proposal in general subject to suitable recommended conditions. Aspects of the development with regard to traffic and food and drink entertainment uses provided aspects of concern to the RMS and the Local Police. However, it is considered that with appropriate conditions, these aspects can be suitably resolved.

Recommendation

The application is recommended for conditional approval as the proposed development will provide for a substantial mixed use development opportunity that will support the commercial core and objectives of the Forster town centre. It is additionally envisaged that the proposal would provide for a range of uses in a central location that would complement the Forster Centre and create a form of development that would be integral in linking the different parts of the Centre.

1. INTRODUCTION

A development application was made to MidCoast Council (Great Lakes) in association with a well progressed Planning Proposal to construct a mixed-use development on the subject site.

The development proposal involves the erection of four towers over a multi-level podium base to accommodate:

- self-contained seniors housing units (139 units);
- 4 penthouse residential apartments;
- 84 suite hotel;
- 18 serviced apartments;
- 841m² supermarket;
- 800 seat cinema;
- 903m² GFA of restaurants and retail space;
- 50 place childcare centre;
- nightclub; and
- community facilities comprising of a new library, visitor information centre, flexible community spaces and a public car park.

MidCoast Council is the current owner of the subject site and has entered into a partnership with Enyoc to deliver the project. The application has been made by Enyoc, a local development and investment group, with an intention to develop the project.

The land is classified as *operational land* under the Local Government Act.

The site is zoned B4 – Mixed Use and the range of land uses proposed are all permissible with consent and are appropriate to meet the objectives of this zone.

The partnership created between the applicant and Council enables additional funding to be incorporated into the public element of the proposal. The integrated approach has provided an additional opportunity for the public and private aspects of the development to operate in an integrated manner.

2. BACKGROUND

The site is located within the Forster City Centre Precinct which is identified in the Council's master planning documents for the purposes of delivering a Civic Precinct.

The subject site, including the adjacent Lot 2 in DP 46697, was used for the purposes of a public school until the 1980s. The site was subsequently sold, while Lot 2 was retained by the Department of Education & Communities and continues to be used for administrative purposes by the Department for Public Schools NSW. Consent was granted for a residential flat development on the site in 2007; however, construction was never commenced.

In 2008, a Forster Civic Precinct Master Plan was created for redevelopment of the site and the adjacent civic precinct to deliver community facilities (on the land located on the opposite side of West Street), integrated with commercial and residential development on the subject site.

In May 2014, the former Great Lakes Council began exploring public land uses and buildings to relocate a visitor centre and provide a new library and cultural facilities. Due to funding constraints, Council resolved to examine the relocation of the civic facilities to the subject site, and to engage with a private partner to fund the development of the facilities.

MidCoast Council successfully secured \$6 million in additional funding from the Federal Government to deliver a new library, visitor information centre and community related facilities on part of the site. Council believes that the incorporation of the land uses into the broader site would be beneficial in facilitating a more inclusive development and Civic-type precinct.

Council went to tender to seek interest from a developer to enter into a partnership to deliver a combined project. This process resulted in the design and layout of the current proposal to assist in the delivery of additional community benefit by securing further funding for the community spaces.

The development application was submitted alongside a progressed Planning Proposal for which a Gateway determination had been issued. The Planning Proposal identified the site's suitability for additional building height and Floor Space Ratio in the context of the town centre location. The LEP amendment incorporating the proposed additional building height and Floor Space was published on 4 August 2017.

3. SITE AND LOCALITY DESCRIPTION

The subject site is located at Nos. 34-36 West Street, Forster, and is legally described as Lots 11-13 in DP 47987. Comprising of three allotments, the site has a total area of approximately 12,153m².

The site is irregular in shape. It is located on a lot with 2 corners with a frontage to West Street of 123.86m, a frontage to Lake Street of 120.70m and a frontage to Middle Street of 46.81m. It is generally flat apart from the south-eastern corner of the land which falls approximately 2.7m to meet the lower level of Middle Street.

Beyond Middle Street is Pennington Creek which flows east to west before joining into the estuary.

Previously accommodating Forster Primary School, the site is currently vacant, containing only a large area of hardstand within Lot 12 and a small brick amenities building within Lots 12 and 13. Existing vegetation on the site is limited to grassland, shrubs and a number of trees, including a small stand of rainforest trees in the south-western corner of the site.

With the exception of a single concrete driveway access positioned centrally along Lake Street, the site does not contain formal vehicle or pedestrian access. Angled and parallel parking bays are located along the site's road frontages.

Located at the southern edge of the Forster town centre, the site is surrounded by various types of development and uses. Surrounding development varies from double-storey commercial buildings, motel accommodation and 10-11 storey residential flat buildings to the north; low density holiday units to the east; 1-2 storey dwellings adapted for medical consulting rooms and 3-5 storey residential flat buildings to the south; and low density civic and commercial buildings to the west.

Most land in the vicinity of the site is zoned B4 Mixed Use, R4 High Density Residential, R3 Medium Density Residential and SP2 Infrastructure (Public Facility).

The surrounding development has been constructed over a range of time resulting in varied forms of development. The character of the area could best be described as eclectic and not having maximised the development potential in this town centre location.

An aerial photo identifying the subject site is included below.

4. DEVELOPMENT PROPOSAL DESCRIPTION

The development application proposes a mixed-use commercial and residential development integrated with a civic precinct, to be known as 'Forster Solaris'. The development involves the construction of four multi-storey buildings over a podium base and associated works over four stages (detailed in the 'Staging Plan' attached at Appendix B).

Key features of the proposal relevant to each stage are described below:

Stage 1 (Building A)

- A visitor information centre at ground level
- A community centre at ground level, including activity/meeting rooms and common facilities surrounding an indoor community lounge and external community plaza
- 2 x Restaurants/cafés at ground level
- A library at ground level and level 1
- 53 x seniors living units over levels 2-6
- Residents' club and deck at level 1
- Residents' terrace at level 3, providing covered pedestrian access between Buildings A and B

Stage 2 (Building B)

- A supermarket, 2 retail spaces, a gymnasium and 2 restaurants/cafes located at ground level
- 57 x seniors living units over levels 2-9
- 2 x penthouse apartments at level 10

Stage 3 (Building C)

- Cinemas on levels 3 and 4 with entry at ground level
- 29 x seniors living units over levels 5-9
- Residents' terraces and common facilities at level 5 and 6
- 2 x penthouse apartments at level 10

Stage 4 (Building D)

- Nightclub over 2 basement levels with entry at ground level
- A retail space and childcare centre at ground floor
- Hotel facilities on level 1 and hotel accommodation (86 suites) over levels 2-5
- Serviced apartments over levels 6-7

Access to the site is proposed along all three street frontages, with the West Street access being restricted to ingress only. Significant public road works are proposed, including the construction of a roundabout at the Lake Street access to the development, bio-swales, on street parking realignment and resurfacing.

Stages 1 and 2 involve the provision of 516 parking spaces located over two basement levels as well as level 1 and 2. The spaces have been internally split according to their focused land use.

The proposal involves a comprehensive landscape scheme which is proposed to be undertaken during Stages 1 and 2. Proposed landscaping and communal open space areas include the retention of significant existing trees, treatment of street frontages, and 'green roof' areas on Buildings A and B, as well as a community garden and an outdoor public plaza associated with the community centre. Residential communal and private open space is proposed in the form of communal terraces for residents at Levels 1, 3, 5 and 6 between Buildings B and C and private balconies/terraces for each residential unit.

A detailed staged stratum subdivision plan has been proposed as part of this application which will ensure that the community facilities component, constructed in Stage 1, can be subdivided from the remainder of the development.

The stratum arrangement will divide the site into a number of stratum lots, however, for the purposes of this application, 3 large stratum lots will be created in Stage 1. Further subdivision of the individual units will be considered post-construction.

5. PUBLIC CONSULTATION

The application was made during the consideration of a Planning Proposal which applies to the same land. Accordingly, the development application and the planning proposal were advertised concurrently and within the same media releases.

Specific to this application, the DA is classified as 'nominated integrated' for the purposes of the *Water Management Act 2000* and is Regional Development for the purposes of the EP&A Act. In addition to notification requirements under the EP&A Act, Council's policy on notification requirements applies.

Under Council's Public Notification Policy, the application requires notification in accordance with the procedure identified for 'Tall Buildings'. This procedure requires the submission of three sets of plans, a photo montage and a scale model.

Notification is required to be undertaken for a period of 28 days by:

- the publication of a notice in the local paper;
- erection of a notice on the land; and
- written notice to affected land.

CPSD has reviewed the process undertaken and is satisfied that the application was notified in excess of the requirements of the EP&A Act and Council's policy.

Specifically, the development application was placed on public exhibition for 30 days for a period from 17 May 2017 to 16 June 2017. The advertisement noted that the application was 'nominated integrated' development by virtue of the *Water Management Act 2000* and that the matter would be determined by the Joint Regional Planning Panel.

During the exhibition period, Council undertook three community consultation drop-in sessions. The drop-in times were advertised in the local paper, on the Council website, in a mail-out to all neighbouring properties, and also in a flyer that was handed out to all local businesses including those within the Forster town centre. The session times were also advertised at the Forster Tuncurry Business Chamber meetings.

A large-scale model has been constructed of the proposal and still resides in the foyer of the Council Chambers.

During the exhibition period, Council received a total of 14 public submissions including 2 in support and 12 by way of objection. No late submissions were received. A summary of the main matters raised in the submissions is set out below.

Support:

- Excellent footprint for future development of the Forster town centre
- Great opportunity to relocate library and information centre
- Encourage tourism into the area
- Support the supermarket in the town centre

In Objection:

- The development scheme is not representative of a civic precinct, being heavily focused on commercial uses and luxury housing
- Community facilities are poorly located within the site and should be more prominent
- Community facility space is inadequate for a range of purposes and not functional
- Residential aspect is highly proportionate towards seniors housing
- Housing aspect not adequately supported by infrastructure
- The cinema is unfeasible. It will result in the closure of the Great Lakes Cinema 3. It will result in impacts on local businesses.
- Increase traffic congestion
- High rise not suitable for site
- Proposed heights excessive
- Retail space for small businesses not affordable

- Overshadowing of the solar panels for the adjacent holiday park
- Construction method could have impacts on old foundations of neighbouring holiday park
- Car park exhausts should be moved away from boundary of neighbours due to air and acoustic impacts of holidaying residents
- Money should be spent on infrastructure works in the city

Other matters:

- Insufficient detail with regard to cinema layout
- Economic assessment
- Detail of affordable housing options
- Facilities in community space
- Library return chute should be located near returns desk
- Area for the former school of arts should be open space

These aspects are discussed throughout the assessment report and individually addressed in Section 7.

6. AGENCY REFERRALS

The application was referred to the following public authorities:

- Roads and Maritime Services, in accordance with State Environmental Planning Policy (Infrastructure)
- Essential Energy, in accordance with State Environmental Planning Policy (Infrastructure)
- Department of Primary Industries - Water
- Water NSW
- MidCoast Water
- NSW Police

Agency	Date Notified	Response Date	Agency Comments
RMS	17/05/17	11/08/17	No Objection and Council to be satisfied of the proposed roundabout intersection into the development.
Essential Energy	20/06/17	11/07/17	No Objection subject to works being undertaken in accordance with relevant standards.
DPI Water	17/05/17	09/06/17	Controlled Activity Approval not required as proposed works are not located on Waterfront Land
Water NSW	09/06/17	13/06/17	Proposed excavation will encounter groundwater and is subject to an access licence and a Water Supply Work Approval (under s90 Water Management Act) for dewatering during the construction phase. GTAs provided subject to appropriate construction methods being employed that will minimize volume of water take during the construction phase.
MCW	17/05/17	09/06/17	Approval granted subject to conditions
NSW Police	17/05/17	19/06/17	Crime and safety: Identifies development as a <u>medium crime risk</u> Major crime issues affecting development: stealing from unattended vehicles; stolen vehicles; graffiti and shop lifting Includes detailed recommendations Liquor licensing: Nightclub entertainment provides risks to the community that cannot be mitigated Also concerned about potential for restaurants exploiting 'drink on premises authorisation'- effectively operating as a pub Seek a separate detailed DA for the nightclub and each restaurant Require further information regarding any proposal to licence any other part of the development

Each authority has responded by providing no objection, with the exception of the NSW Police who are not supportive of the nightclub and raised operational concerns from a licensing perspective in regard to the café/restaurants.

These aspects are considered in each relevant section in this report.

7. PLANNING ASSESSMENT

7.1 Environmental Planning and Assessment Act 1979 (EP&A Act)

6.2.1 Section 23G – Joint Regional Planning Panels

Section 23G and Schedule 4A (clause 3 and clause 4(b)&(d)) of the EP&A Act requires the Joint Regional Planning Panel to determine applications for general development over \$20 million in capital investment value or Council related development over \$5 million in capital investment value, whereby Council is the owner of the land or Council is party to any agreement relating to the development.

The application submitted to Council nominates the total capital investment value of the project as \$80 million. Council is also the landowner and is party to an agreement with the applicant / developer.

Accordingly, the application is to be determined by the Hunter and Central Coast Joint Regional Planning Panel.

6.2.2 Section 94 – Contributions

Great Lakes Wide and Forster District Section 94 contributions are applicable to the proposed subdivision. The section 94 contributions include a credit for public open space that was dedicated to Council. The applicable contributions have been included in the recommendation conditions of this report.

6.2.3 Section 91 – Integrated Development

Water Management Act

The applicant identified on the Application Form that the proposal is 'nominated integrated' development pursuant to Section 91 of the EP&A Act. The SEE accompanying the DA identified that this is for the purposes of extraction of groundwater (dewatering of the site) in order to construct the basement levels of the development.

Water NSW has issued General Terms of Approval in this regard, raising no objection to the proposal. Appropriate conditions are included in the recommended conditions of consent.

The site is located within 40m of Pennington Creek. The Office of Water was notified of the proposal and has confirmed that the site is not waterfront land and therefore the proposal does not require a Controlled Activity Approval.

7.2 Section 79C Evaluation

The proposal has been assessed under the relevant matters for consideration detailed in s.79C (1) EP&A Act, as follows:

6.2.4 Section 79C(1)(a)(i) The provisions of any environmental planning instrument;

State Environmental Planning Policy 44 – Koala Habitat Protection

Great Lakes Local Government Area is listed within Schedule 1 of the SEPP and the site is over 1ha in area pursuant to clause 6. Accordingly, this policy applies.

As confirmed during CPSP's site visit, the site is largely disturbed given its previous land uses and the majority of the trees on the site are limited to the periphery of the site. The application was supported by an ecological report prepared by East Coast Environmental who confirmed that the species of trees that remained on the site did not contain potential koala habitat. Additionally, East Coast Environmental witnessed no evidence of koalas on the site.

Council's Senior Ecologist additionally confirmed that the site did not contain potential koala habitat and that no koala plan of management was required.

State Environmental Planning Policy 55 – Remediation of Land

Relevant to this proposal, Clause 7 provides that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. Further, if the land is contaminated, Council must be satisfied that the land is suitable (or will be made suitable, after remediation) for the proposed use.

Subclause 7(2) specifies that, before determining a DA involving certain land (which would include the subject site because of its proposed use for residential and recreational purposes), the consent authority must consider a preliminary contamination investigation of the land.

During a CPSD site meeting with Council staff on 23 June 2017, it was advised that the site is not noted on Council's contaminated land register and that the known historic land uses extend back to the 1970s for use as a school. No known historic contaminated land uses were known to have been undertaken on this site.

It was acknowledged that some form of demountable building was erected on the land for the purposes of the school use which has since been removed. The site also contains evidence of previous remnant site works including a bitumen cover over lot 12.

Having no known past contaminating land uses occurring on the site, it is likely that any contamination would be limited to removal of building material during demolition, only, and that this would be limited to the surface of the site. Having regard to the proposed development, the significant earthworks proposed would likely remove top soils and the remainder of the site will either be constructed over, paved or covered in additional 'clean' material for landscaping.

For the purposes of applying this SEPP, CPSD concludes that Council's record of the past site uses would be accurate for the purpose of a desktop assessment. In addition, CPSD is satisfied that, subject to appropriate conditions of consent requiring site testing in accordance with legislative requirements during the construction period, the site shows no indication of being contaminated land and is suitable for the proposed use.

State Environmental Planning Policy 64 – Advertising and Signage

No signage was proposed with the application and it is acknowledged that signage detail would be the subject of future development applications. Nevertheless, it is prudent to review the likely impact the development may have in meeting its business identification requirements once constructed given its public domain location.

In this instance, the majority of the site and the significant 'entry' to the development is from Lake Street which is to the north and fronts onto existing tourist development. In principle, signage to this frontage would be appropriate in scale and context. The architectural design allows for signage to be incorporated into the façade, adequately segregating the commercial elements from the residential towers above.

The return frontage facing West Street is visible from the public domain of the lake, the lake edge, public wharf, public bus station and community land adjacent. The site's interface to the future use of this area and desired future linkages are an important consideration. It is noted that the architectural design to this façade focuses the attention back to the corner of the site and to the northern aspect of the development. It is anticipated that directional and business signage would be appropriate for this façade given the location of the community components. The architectural design would be appropriate to facilitate a form of logical signage on this façade.

It is concluded that the design of the development could facilitate a reasonable form of business identification and directional signage and comply with the aims and objectives of SEPP 64.

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development

This SEPP applies to the development of new residential apartments and aims to improve the quality of residential flat development.

Importantly, under Clause 4, the SEPP applies to the proposed penthouse apartments as well as the self-contained seniors housing units as, together, these components comprise a *residential flat building*, containing over 3 storeys and 4 or more dwellings. Regardless of the self-contained seniors housing units being defined as 'seniors housing' under the Seniors Housing SEPP, this development would meet the definition of a 'residential flat building' and the SEPP would be relevant, as outlined below:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

Clause 28(2) requires the consent authority to take into consideration:

- the advice (if any) from a design review panel;
- the design quality of the development when evaluated in accordance with the design quality principles; and
- the Apartment Design Guide (the ADG).

Design Review Panel

Council has confirmed that it does not have a Design Review Panel and therefore the application has not been considered by such a panel. Council also noted that it does not rely on a specialist architect or designer to provide in-house comments and that an assessment against the design principles is to be undertaken by the assessing officer.

CPSD has undertaken a detailed review of the development against the 9 Design Principles of the SEPP and the Apartment Design Guide. During the assessment process requests for additional information were made in respect of design aspects relating to *amenity impacts* between the individual residential units.

Separation distances and unit design and layout were addressed by the architect. These are summarised below and the final assessment discussed under each relevant point.

Additional Information Requests

On 10 July 2017, an additional information request was sent to the architect to address design matters having regard to Principle 2 of the ADG, in particular visual and acoustic privacy, solar and daylight access, natural ventilation, apartment sizes and storage.

TVS Architects provided a response on 21 July 2017 which provided some modifications to specific units within the scheme. CPSD requested additional modifications to be considered in correspondence dated 3 August 2017.

TVS Architects provided additional modifications to the scheme which involved altering some individual apartment layouts including window sizes and locations and the addition of physical screening.

Consideration of the Design Quality Principles of SEPP 65

A SEPP 65 Design Verification Statement has been submitted with the application, which addresses the nine design quality principles.

The application has been assessed against the relevant design quality principles contained within the SEPP, as follows:

Principle 1: Context and neighbourhood character

Previously accommodating Forster Primary School, the site has been vacated and buildings demolished and removed from the site. The current land is fenced and vegetation intermittently managed.

The site is located at the southern edge of the Forster town centre. Surrounding development has been constructed over a range of time resulting in eclectic forms of development comprising single storey residential and tourist accommodation, multi storey hotel/motel designs, commercial units in amongst large open roads, large street frontages and generous setbacks.

Zoned for a range of uses under the B4 Mixed Use, R4 High Density Residential, R3 Medium Density Residential and SP2 Infrastructure (Public Facility) zones, the character of the area could best be described as eclectic and not having realised and maximised the development potential of this town centre location.

It is important to acknowledge the historic development pattern and its underutilised layout, as this proposal is substantial in scale in the context of the immediate surrounding built form.

Surrounded by various forms of commercial, civic, tourist and residential accommodation, a scheme of this magnitude would be suited to inner city development, creating a supporting destination with residential apartments and ancillary services for the wider community. Additionally, the large site is equivalent in area to a large city centre street block of which options closer to the city centre would be rare.

Consequently, this site provides a unique development opportunity.

Importantly, the design of the proposal provides extensive activation at street level, together with civic plazas and landscaping, and sufficient building articulation to create a significant destination that could facilitate an important linkage to the nearby Forster Mall.

The residential aspect of the development provides for a range of residential unit types and numbers in an area previously supporting tourist and visitor accommodation. Whilst separated from the town centre, the proposal is in keeping with the future strategic vision for the area and has the potential to be a catalyst for the planned transformation of the locality, providing a supporting land use opportunity and additional residential accommodation to support the town centre.

The proposal considers the context and desired future character of the area and, having regard to the applicable planning controls, offers a design that supports the area's desired future character.

Principle 2: Built form and scale

The built form can be described as four distinct towers located above a multi-storey podium supporting a range of commercial and community uses. Incorporating generous front setbacks, the development creates an active and welcoming plaza to promote a range of community gathering and meeting spaces for both community and commercial uses.

The towers are orientated to create a visual 'entrance' to Lake Street, creating a subtle return into the site, enabling identification of the 'public domain' and maximising the commercial frontage to the ground levels forming a plaza.

The ground levels have higher ceilings and a heavy dominance of glass frontages to enable the base levels to be easily distinguished from the residential aspects.

The four towers are situated in close proximity to each other, especially Buildings B and C which provide at times as little as 3.78m separation. Whilst the ADG would generally require setbacks of between 6m, 9m and 12m, it is acknowledged that the visual intent of these separation distances has been met with regard to the relationship of Buildings A to B and C to D. In particular, the relationship of these towers creates significant return

frontages to the tower corners and provides visual articulation and interest to the design, whilst achieving amenity benefits for the future occupiers by providing additional options for ventilation, solar access and views. Orientation of the units in relation to one-another has been designed as such to take advantage of the location and avoid potential overlooking and inter-looking.

The distance between Buildings B and C at 3.78m is not an appropriate separation distance from a strict application of the building separation requirement. It is noteworthy that whilst a strictly compliant form might result in the joining of the towers, CPSD is of the opinion that the proposed design would be more appropriate in that the resultant built form highlights a corner arrangement, yet identifies the entrance to the scheme off Lake Street, creating an appropriate façade which faces back into the town centre.

The spatial relationship of the four towers has been considered, maintaining adequate separation to allow for public domain areas and landscaping, to reduce apparent bulk and to afford visual permeability and articulation of the overall site.

The built form is appropriate for this location and whilst unable to replicate the low scale tourist accommodation of the adjacent properties, it would adequately respond to the surrounding development character of the area.

Principle 3: Density

The subject site is mapped as having a maximum FSR of 3:1. The GLEP2014 clause provides for bonus FSR provisions of up to 10% if the development provides for a lift and the units meet the adaptable housing Australian Standards. This provides the site with an FSR entitlement of up to 3.3:1.

The entire development proposal remains below the maximum FSR of 3.3:1, proposing an FSR of 3.01:1.

The built form provides for significant setbacks from the site boundaries and, in particular the road edge, averaging some 12m to the Lake Street boundary and up to 20m to the edge of the road. As the podium base returns to West Street, large corner setbacks are provided to continue the built form setback to create plazas and landscaping opportunities.

Orientation of the buildings within the site provides for visual interest and opportunities for views between buildings to land beyond.

The towers over the site are relatively slim and remain central to the entire site, creating visual separation from neighbouring sites and existing development.

The density is considered acceptable.

Principle 4: Sustainability

The development provides for higher density living for seniors in the established Forster town centre in which existing support services are already established to better support the future occupants.

The scheme would promote less demand for private transport having located residents within a mixed-use development.

The mixed-use environment provides for a suitable destination to a range of age groups. Whilst limited public transport options available at present, the bus infrastructure is in place for public transport to increase if the opportunity arises.

The site is intended to utilise modern urban water sustainability techniques. The development proposes to utilise all stormwater collected from the site for reuse in various ways, including irrigation for ground and elevated landscape areas, bioretention opportunities and reuse through all units and commercial facilities.

It is additionally proposed to allocate a section of the collected water for a public display of water sustainability options integrated within the site.

It is noted that pumping the water from a large basement water tank to the high-level apartments may not prove cost effective in the long term. However, this is a notional option that has been peer reviewed prior to submission and is supported if viable.

Principle 5: Landscape

Landscaping for the enjoyment of the community and residents is variously proposed at ground level, podium and within upper level common areas to enhance amenity and soften the built form. Street frontage treatment and the retention of significant trees around the site's edges will help integrate the buildings into the streetscape. Green rooftops are proposed in the scheme to increase sustainability options. Stormwater will be utilised for landscaping.

Significant areas of hardstand is considered appropriate and functional for the community plazas.

The open space areas for residents on the podiums are generally south facing and do not meet solar access requirements. However, in the context of the mixed-use development proposed and the significant areas of public domain, the proposed landscaped areas are considered to be appropriate and functional. Specifically, the Apartment Design Guide acknowledges the limitations of landscaping on mixed use developments. In this respect, the proposal's substantial public domain interface is noteworthy.

The scheme has been amended to ensure the retention and integration of a range of existing remnant vegetation in the form of significant trees. Council's Senior Ecologist is supportive of the proposal in this regard and concludes that the trees can be retained.

Principle 6: Amenity

The areas of public domain created by this proposal are integrated into a range of community and commercial spaces and would represent a positive, open and functional space that integrates well with Lake Street, providing options for public transport and public linkages to nearby public facilities.

The scheme provides for various opportunities to the public to utilise this ground level space and provides access to a range of outdoor areas to provide shelter from or exposure to all types of weather.

Areas for public use are adequately located to reduce acoustic conflicts with residential apartments.

The layout, separation distances and orientation of some of the individual units did not initially give due consideration to internal amenity for the future residents, however, amended plans provided by the architect details a range of amendments to the individual units which resolve any amenity issues. Importantly, adequate units will now receive ventilation, privacy and solar access that remains in the control of the resident.

As discussed above, the reduced setbacks between the towers have been addressed by the applicant through minor modifications to the conflicting units. The solutions are considered acceptable.

Principle 7: Safety

The development has been appropriately designed to create visual and functional separation between the public and private domains. In particular, each unit tower and non-residential use has a specific entry and accessible area. The scheme provides for a range of community and private open spaces which are physically separated through being provided on separate levels of the development.

Where shared spaces are provided, these are overlooked by a range of building types, thereby enhancing passive security.

The car park is suitably separated from active commercial areas and has the opportunity to be secured after hours.

Principle 8: Housing diversity and social interaction

The residential component of the proposal is limited to self-contained seniors housing units and five luxury penthouse apartments. In this respect, it is considered that the community could benefit from the provision of a greater mix and diversity of housing on this large and centrally-located site. In addition, providing only self-contained units, the proposal does not provide the opportunity for future residents to 'age in place' with the proposed units catering generally towards more active and independent seniors. In this respect, the SEE notes that the units and communal areas will be managed by Evermore Retirement Living under a retirement village contract. Importantly, Evermore owns and operates the nearby Evermore Supported Living Village, providing residents with another facility in the area as their lifestyle and needs change.

Given the growing population of the area, in particular people over 60 years of age, the provision of residential accommodation (predominantly for seniors) is consistent with the objectives of the Great Lakes Strategic Plan – Great Lakes 2030, which seeks to provide housing in close proximity to services, public transport and community facilities.

Principle 9: Aesthetics

The bulk of the built form is segregated through layered design elements, angled edges and a range of apartment angles to provide articulation and interest into the buildings. The layout and design elements appropriately respond to the site topography and the surrounding land, and provide legibility to each of the proposed uses.

The colour and material palette as demonstrated in the 3D representations would provide appropriate visual interest.

The Apartment Design Guide

The application makes no specific reference to the ADG. CPSD has undertaken a complete review of the scheme against the ADG.

TVS Architects responded to a number of additional information requests relevant to the ADG objectives. These aspects were related to the amenity of future residents, with the design of the units and development failing to meet the design criteria stipulated in the ADG.

TVS Architects provided responses to many of these aspects through the amelioration of impacts. Having regard to SEPP 65, the Seniors Housing SEPP, the coastal location and local climate the amended scheme is considered to have acceptably addressed the design guidelines, acknowledging that to meet the specific design criteria would likely result in significant redesign that would have unmeasurable impacts in other aspects. The areas whereby the design criteria cannot be met are described in the following sections:

- **Communal and public open space** – For a residential flat building, the scheme should provide 3,000m² of communal open space. 50% of this should have direct sunlight mid-winter for 2 hours.

The proposal is a mixed use, located within a commercial precinct and to support a denser future character. The ADG recognises that it may be appropriate for such schemes to have reduced areas of communal space based on the proposed use, zoning and location. In this respect, the proposed areas of residential communal open space are considered to be appropriate given the significant community uses, ground level activation and commercial / retail uses of the site which are commensurate with the site's location and zoning.

Shadow diagrams provided by the applicant identify areas that receive sunlight at mid-winter. Whilst some of the communal open space areas cannot achieve direct sunlight access, each resident has access to private balconies, secondary spaces or the ground level public domain for sun access.

- **Visual Privacy** – The four towers are situated in close proximity to each other, especially Buildings B and C which provide at times as little as 3.78m separation. CPSD is generally satisfied that TVS Architects has adequately addressed the aims of this control with regard to amenity for most of the non-compliant units and that the proposed solutions, such as rearranging apartments layouts, introducing specific screens and windows, are generally acceptable.

It is noted in relation to Buildings B and C, that whilst a strictly compliant form might result in the joining of the towers, it is our opinion that the proposed design would create a more appropriate built form in the context of the overall setting of the development.

- **Vehicle Access** – The proposal is generally acceptable providing for limited and logical vehicle access points which would be clearly identifiable and separate from pedestrian uses. Some areas of internal conflict are evident. Council's engineers consider these to be minor and resolvable through traffic management devices.
- **Ventilation** – The original scheme submitted identified 90% of the units achieving ventilation through the use of shared breezeway corridors. This was not considered to be a suitable design option, providing issues of privacy and further amenity loss as well as practicality of management issues. An amended design provided by TVS Architects provides alternative design layout opportunities to ensure 61% of the units achieve cross ventilation.
- **Unit Depth** – Typical Units 3B.2 and 2F.1 remain non-compliant with this control. TVS Architects notes that the 'kitchen zone' of typical Unit 3B.2 is within 8m of a balcony. The updated plans indicate the inclusion of a frosted glass window in the layout of typical unit 2F.1 which is approximately 6m from the 'kitchen zone'.

TVS Architects notes that these units represent approximately 7% of the seniors living development and are therefore acceptable.

A full assessment of the development relevant to the ADG, including correspondence to the applicant on various aspects, is attached as Appendix D to this report.

Non-discretionary development standards

Clause 30(1) identifies non-discretionary development standards relating to minimum requirements for car parking, internal apartment areas and ceiling heights which, if complied with, cannot be used as grounds to refuse a development application. The application does not contravene any of these standards.

Clause 30(2) states that consent must not be granted if adequate regard has not been given to the design quality principles and the objectives of the ADG for the relevant design criteria. As discussed in SEPP 65 and examined in Appendix D, the development is considered acceptable having regard to the ADG.

State Environmental Planning Policy 71 – Coastal Protection

The applicant notes in their SEE that the southern portion of the site is located in a 'sensitive coastal location', being within 100m of the mapped estuary area along Pennington Creek.

The site is more than 100m from Wallis Lake and the water's edge but is within 100m of Pennington Creek. In reviewing the status of Pennington Creek, the SEPP repeats the definition of an estuary from the Water Management Act 2000, as follows:

estuary means:

(a) any part of a river whose level is periodically or intermittently affected by coastal tides, or

(b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or

(c) anything declared by the regulations to be an estuary,

but does not include anything declared by the regulations not to be an estuary.

Pennington Creek is by definition within the *Water Management Act 2000* a 'river'. Council's Senior ecologist acknowledges that the lower part of Pennington Creek is affected by tidal waters.

As the site is not within a residential zone, Part 5 is not applicable and a Master Plan is not required.

The subject site is located within the coastal zone and therefore Clause 8 of the SEPP applies.

The relevant matters for consideration under Clause 8 the SEPP are addressed in the table below. In summary, the proposal complies.

Clause	Compliance
8(a) Aims of policy	The proposal is consistent with the relevant aims of the SEPP.
8(b) Existing public access	The proposal will have no impact on public access to the coastal foreshore.
8(c) Opportunities for new public access	As above. The proposal provides for pedestrian permeability through the site.
8(d) Suitability of development	Proposing a mixed-use development containing tall buildings within a redeveloping urban area, the proposal responds to the desired future character of the Civic precinct as envisaged by Council.
8(e) Amenity	The development is located to the east of the estuary and Wallis Lake foreshore and will not overshadow the public domain. The mixed-use aspect of the proposal provides for additional significant public use, creating a destination that would facilitate additional usage of the foreshore and provide a positive amenity impact. Significant public open spaces, setbacks and integration of water sustainability options provide for positive amenity impacts.
8(f) Scenic qualities	A visual impact assessment was undertaken in the submission for the Planning Proposal identifying suitable heights for this site and location. This assessment has been reviewed and the impact considered acceptable in the context of retaining and protecting the scenic qualities of the foreshore.
8(g) Measures to conserve animals	The Ecological Assessment prepared for the application notes that the vegetation proposed to be removed is generally limited to scattered trees with a highly disturbed understorey and considers that this habitat would represent a negligible area of habitat for any threatened fauna species in the locality. Council's Senior Ecologist confirmed these findings. The proposal provides for the retention of the remnant 'significant' vegetation within the site, including the small stand of rainforest trees which is largely analogous to the Littoral Rainforest Threatened Ecological Community listed under the TSC Act.
8(h) Measures to conserve fish	The proposal includes appropriate stormwater measures. Council's Senior Ecologist considers that the proposal will not impact on aquatic species, either directly or indirectly. The proposal is unlikely to impact on fish or their habitat.
8(i) Wildlife corridors	The site is not located within a mapped wildlife corridor.
8(j) Coastal processes and hazards	The proposed building works are located outside the Flood Planning Area (pursuant to the GLEP2014 maps). There are not considered likely to be any special coastal hazards that may impact upon the site.
8(k) Conflict between activities	The site is setback from the foreshore and is unlikely to impact on water-based activities.
8(l) Protect Aboriginal cultural heritage	A disturbed Aboriginal midden was located within the rainforest grouping at the south-western corner of the site. In response to additional requests for information, the applicant engaged a heritage consultant to review this area

Clause	Compliance
	and the impact of the development. The proposed development was modified to reduce the development footprint in this immediate location to ensure the midden would remain undisturbed. The retention of the rainforest group of vegetation and integration within the overall development design would continue to protect this area from further disturbance.
8(m) Water quality	The proposal incorporates appropriate stormwater management measures, including the upgrade of the treatment of surface water from the immediate surrounding existing roads with the use of bio swales and additional vegetation to improve water quality in the area. Appropriate erosion and sedimentation controls will be implemented during the construction phase.
8(n) Conserve heritage	The development will promote the conservation of the remnant aboriginal midden. There is no European heritage in the immediate vicinity.
8(o) For Draft LEPs	The application was submitted during the assessment of a Planning Proposal to reconsider the applicable heights and FSR for the site. The Planning Proposal has since been made and the development proposal is appropriate to the amended LEP.
8(p)(i) Cumulative impacts	The proposal is appropriate to the zoning of the site and will result in the increase in population densities within the site and provide public and commercial services to the local population. The proposal provides for a development that is within the intent of the site's zoning and is unlikely to create any cumulative impact issues beyond that envisaged for the location.
8(p)(ii) Efficient water and energy usage	Appropriate water and energy efficient technologies will be incorporated into the detailed design of the proposal.
13 Flexible Zone Provisions	-
14 Public Access	The proposal will have no impact on public access to the coastal foreshore.
15 Effluent Disposal	The site is located within an existing established area and all sewerage disposal will be directed toward existing infrastructure.
16 Stormwater	The application proposes the capture, reuse, and treatment of all stormwater generated from the site.

State Environmental Planning Policy (BASIX) 2007

The proposed seniors living units and penthouse apartments are defined as 'BASIX affected building(s)' for the purposes of this SEPP.

The applicant submitted a BASIX Certificate which lists the commitments to achieve appropriate building sustainability. A condition is recommended to be included on the development consent requiring that such commitments be fulfilled.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The applicant identifies that there is a large localised residential demand for a specific demographic with the proposed units catering generally towards more active and independent seniors.

In this regard, with the exception of the proposed penthouse apartments, the proposed residential component of this development is defined as '*self-contained dwellings*' and '*infill self-care housing*', which specifically relates to housing that provides no specific services for the residents. Whilst considered to lack a variety of housing types in its isolated state, the location of the development is within the greater Forster area in which a number of care facilities are provided. In fact, the applicant operates a nearby fully supported facility to provide additional support to the aged population.

The Great Lakes Strategic Plan – Great Lakes 2030 acknowledges that there is a growing ageing population of the area, in particular people over 60 years. The provision of Seniors

residential accommodation is consistent with the objectives of the Strategic Plan and this SEPP, to provide housing in close proximity to services, public transport and community facilities.

An assessment against the relevant clauses of the SEPP has been undertaken and the development was found to meet or exceed the provisions set within this SEPP. This assessment is provided in Appendix C to this report.

Of relevance to this SEPP, is the applicant's comments in regard to visual privacy, acoustic privacy and solar access. It was initially identified that a proportion of the units may not be designed to be suitable in these respects. Amended designs in accordance with SEPP 65 were provided and the development was found to meet these principles. Acknowledging that the units would meet the general principles and objectives of the ADG and SEPP 65, and having undertaken a BASIX assessment of each unit, the proposed development would be expected to meet and exceed the provisions of the SEPP.

The proposed development seeks to partially utilise the 10% bonus provisions within the GLEP2014 in respect of building height and FSR. A requirement of benefiting from these bonus provisions is that the new units meet the Adaptable Housing AS4299-1995. The access report and the applicant's SEE confirms that this standard can be met. An appropriate condition of consent is recommended in this regard.

State Environmental Planning Policy (State and Regional Development) 2011

An aspect of the development includes a cultural facility and tourist facility and Clause 13 to Schedule 1 could apply regarding State Significant Development. It has been ascertained that the development site is within close proximity to Pennington Creek which, for the purposes of the Water Management Act, would be defined as an 'estuary' and therefore represents a sensitive coastal location. The tourist and community aspect, however, remains below the \$10m threshold and is not declared to be State Significant Development.

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Part 4 'Regional Development' of State Environmental Planning Policy (State and Regional Development) 2011 as the proposal development is listed within Schedule 4A of the EP&A Act as being general development over \$20 million and Council related development over \$5 million. The proposed development has a capital investment value of \$80 million.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 relates to 'traffic generating development'. This clause applies, as the proposal involves ancillary parking accommodation for 200 or more vehicles. Accordingly, the proposal was referred to the Roads and Maritime Services (RMS) for comment being a 'traffic generating development' under the SEPP. The RMS required additional traffic modelling of the proposed intersection of Lake Street and McIntosh Street which resulted in the RMS raising no objection in principle to the proposed development. The RMS noted that Council should consider the roundabout access into the site from Lake Street.

Detailed consideration of the road safety and parking implications of the proposal is provided in Section 6.2.10 of this report.

Clause 45 requires the development proposal to be referred to Essential Energy for comment, as the existing electricity network will be affected. Council's engineers require that all electricity cabling should be installed underground.

Essential Energy raised no objection to requirements to place the assets underground in this area given the scale of the development.

REGIONAL ENVIRONMENTAL PLANS

There are no regional environmental plans that are relevant to this proposal.

GREAT LAKES LOCAL ENVIRONMENTAL PLAN 2014

Having regard to the matters for consideration detailed in Section 79C(1) of the *Environmental Planning & Assessment Act 1979*, the following is a summary of the evaluation of the proposal pursuant to the provisions of the relevant clauses of the Great Lakes Local Environmental Plan 2014 (GLEP).

Importantly, this DA was submitted alongside a site-specific Planning Proposal which has now been published. The Planning Proposal identified the site's suitability for additional building height and density in the context of its town centre location.

Permissibility and Zone Objectives

The definition and permissibility of each of the proposed uses is addressed in the following table. In summary, each of the proposed land uses are permissible with consent in the B4 zone.

Proposed use	GLEP Definition	Permissibility
Library	<i>Information and education facility</i>	Permissible with consent
Visitor centre	<i>Information and education facility</i>	Permissible with consent
Community centre	<i>Community facility</i>	Permissible with consent
Retail space	<i>Commercial premises (retail premises - shop)</i>	Permissible with consent
Supermarket	<i>Commercial premises (retail premises - shop)</i>	Permissible with consent
Café and restaurants	<i>Commercial premises (retail premises – food and drink)</i>	Permissible with consent
Nightclub	<i>Commercial premises (retail premises - food and drink – small bar) & or Entertainment Facility</i>	Permissible with consent
Cinema	<i>Entertainment Facility</i>	Permissible with consent
Gymnasium	<i>Recreational facility (indoor)</i>	Permissible with consent
Childcare centre	<i>Childcare centre</i>	Permissible with consent
Penthouse Apartments	<i>Residential accommodation (Residential Flat Building)</i>	Permissible with consent
Seniors housing units	<i>Residential accommodation (Seniors housing)</i>	Permissible with consent
Serviced apartments	<i>Tourist and visitor accommodation (serviced apartments)</i>	Permissible with consent
Hotel	<i>Tourist and visitor accommodation (hotel or motel accommodation)</i>	Permissible with consent

The proposed development meets the objectives of the zone as it proposes a mixture of compatible and integrated land uses on a landmark site, including residential, retail, community and tourist accommodation uses. Being in an accessible location, the proposal will maximise public transport patronage and encourage walking and cycling.

As discussed in Section 6.2.10 of this report, it is considered that traffic generated by the development can be effectively managed in a way that avoids conflict with the desired pedestrian environment. Also discussed in Section 6.2.10, it is considered that the proposed

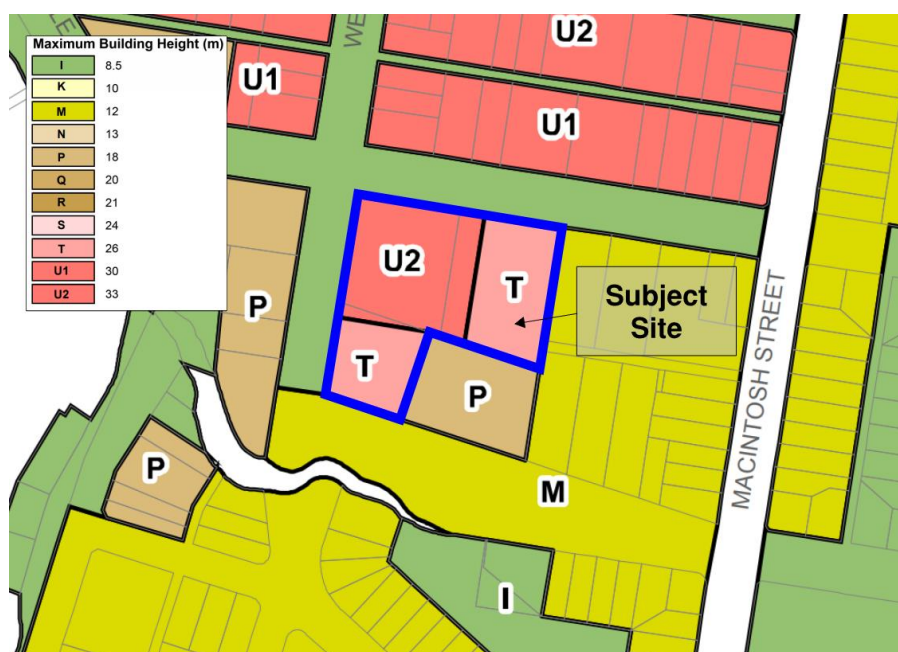
development will have an overall positive economic impact and will not prejudice Forster's established business centre.

Clause 4.1 – Minimum subdivision lot size

The application has been submitted seeking consent for the consolidation of the three lots and to create a stratum subdivision arrangement. Whilst this clause was not intended to apply to a stratum subdivision arrangement, recent caselaw indicates that Subclause 4 could apply to the scheme. Therefore, the minimum lot size could apply to a stratum subdivision arrangement if a strata scheme does not currently exist. The minimum lot size prescribed by the GLEP is 1000m². The proposed stratum arrangement details five stages of subdivision relevant to the progress of development. At any stage, each lot created, whether a whole or combination of part thereof comprises lots each with a minimum site area exceeding 1000m². Accordingly, this clause would be met.

Clause 4.3 – Height of buildings

As shown on the LEP extract in the figure below, the maximum height of buildings provided on the Height of Buildings Map under the LEP is 33m (U2 areas) in the north-western part of the site and 26m (T areas) in the southern and eastern parts of the subject site.



Subclause 2 provides that 'The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.'

Subclause 2A provides that:

Despite subclause (2), the height of a building may exceed the maximum height shown for the land on the Height of Buildings Map by 10% if the land is in Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use and the consent authority is satisfied that:

- (a) internal lift access will be provided to all levels in the building, and*
- (b) the design of the building is consistent with AS 4299–1995, Adaptable housing.*

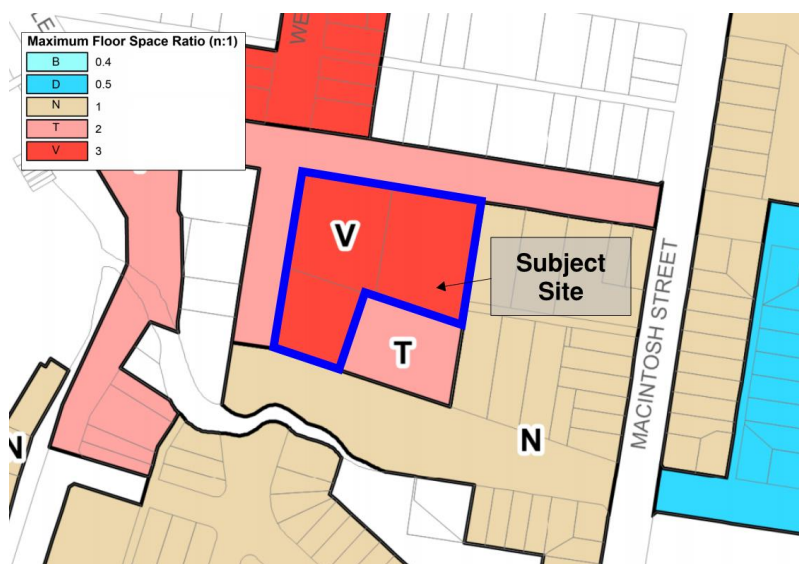
The SEE notes that internal lift access is provided to all levels of the buildings and the design of the seniors housing units meets the requirements of the Seniors Housing SEPP, which exceed the requirements of AS 4299-1995. Accordingly, pursuant to subclause (2A), the applicable maximum height controls with bonus are 36.3m (U2 areas) and 28.6m (T areas).

The maximum height (top of lift tower) of the building in the U2 area (Buildings B and C) is 36.2m. Building A is located in the T area and has a maximum building height (top of lift tower) of approximately 26 metres. Building D is located in the southern T area and has a maximum building height (top of roof) of between 26 and 28m.

The proposed development relies on the 10% bonus provision enabled by this clause and has adequately demonstrated that it meets the requirements of the clause.

Clause 4.4 – Floor space ratio

As shown in the extract below, the maximum Floor Space Ratio provided on the Floor Space Ratio Map in the LEP is 3:1 for the entire site.



Subclause 2 provides that: *‘The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.’*

Subclauses 2A and 2B provide that:

(2A) Development consent must not be granted for development on land in Zone B1 Neighbourhood Centre or Zone B2 Local Centre unless the development includes commercial premises with a floor space ratio of at least:

- (a) for land in Zone B1 Neighbourhood Centre—0.3:1, and*
- (b) for land in Zone B2 Local Centre—1:1.*

(2B) Despite subclause (2), the floor space ratio for a building on land in Zone R3 Medium Density Residential or Zone B4 Mixed Business may exceed the floor space ratio shown for the land on the Floor Space Ratio Map by 10% if the consent authority is satisfied that:

- (a) lift access will be provided to each level in the building, and*
- (b) the design of the building is consistent with AS 4299–1995, Adaptable housing.*

As mentioned above, internal lift access is provided to all levels of the buildings and the design of the units meets the requirements of the Seniors Housing SEPP for ageing in place, which exceed the requirements of AS 4299-1995. Accordingly, the provisions of subclause 2B provide that the maximum floor space ratio for the site with bonus is 3.3:1.

The site has a total area of approximately 12,153m². The entire development proposes a Gross Floor Area of 36,541m², resulting in a floor space ratio of 3.01:1. Accordingly, the proposal complies with the applicable FSR bonus provisions.

Clause 5.5 – Development within the coastal zone

The proposal complies. A detailed discussion on the proposal's compliance with coastal protection provisions is provided in the section of this report relating to SEPP 71 – Coastal Protection.

Clause 5.9 – Preservation of trees or vegetation

The majority of trees and vegetation within the site are proposed to be removed and consent is sought for their removal.

Significant trees located on the edges of the site are proposed to be retained and incorporated into the scheme.

Tree preservation and management is discussed further in Section 6.2.10 of this report.

Clause 5.10 – Heritage conservation

Information submitted with the application identified evidence of a disturbed Aboriginal midden located in the south-western corner of the site. The application was amended to not affect this area which involved:

- 2m reduction in the southern extent of the lower basement.
- Corresponding reduction in the location of ground floor walls above.
- Creation of a garden covering the entire area identified as containing cultural materials.

With respect to clause 5.10(7), the GLLEP2014 defines an 'archaeological site' as '*a place that contains one or more relics*', where 'relic' has the same meaning as the Heritage Act 1977. The Heritage Act 1977 defines a 'relic' as '*any deposit, artefact, object or material evidence that: (a) relates to the settlement of the area...not being Aboriginal settlement.*' Under the GLLEP2014, the site is not recorded as an archaeological site and therefore does not require a referral to the Office of Heritage. Council's heritage advisor confirms this advice.

The applicant does not propose to disturb the midden and therefore an integrated approval is not required from the Office of Environment & Heritage under Section 91 of the EP&A Act, having regard to Section 90 of the NPWA 1974.

There are no other items of heritage interest in the vicinity of the application site.

Clause 7.1 – Acid sulfate soils

While the site is mapped as containing Class 3 and Class 4 acid sulfate soils, screening undertaken on the site by Regional Geotechnical Solutions determined that the soils are not actual or potential sulfate soils. Accordingly, an Acid Sulfate Soils Management Plan is not required.

Refer to Section 6.2.10 of this report for further discussion.

Clause 7.2 – Earthworks

The proposal will involve significant earthworks associated with the construction of the basement car park, establishment of footings and installation of services. The works would not significantly alter the surrounding landscape as the works are associated with basement level infrastructure.

The application was nominated integrated development pursuant to the Water Management Act and the EP&A Act, requiring a dewatering permit.

The application was supported by a detailed sediment and erosion control plan to control earthworks during the construction of the development. This has been reviewed by Council's Environmental Health section and reported as being suitable. Appropriate conditions of consent are recommended to ensure works could be carried out in accordance with the plan.

Clause 7.3 – Flood planning

A small area in the south-western corner of the site is identified as a 'Flood Planning Area' on the Flood Planning Map. The application proposes earthworks and raised floor levels in the corner of the site to meet the higher land form in the northern and eastern parts of the site.

Associated walls and barriers are included in the landscape design plans. There is a basement level car park and nightclub proposed in this corner.

Council's engineers have reviewed the proposal and are satisfied that the development in its current form would not be impacted by flooding.

This is discussed in detail in Section 6.2.10 of this report.

Clause 7.5 – Stormwater management

The SEE notes that, given the proposed use and development form, it is necessary for the development to have large roof areas, hardstand and impervious surfaces.

As discussed in Section 6.2.10 of this report, the application proposes the capture, reuse, and treatment of all stormwater generated from the site as well as measures to improve stormwater quality in the area.

Clause 7.7 – Riparian land and watercourses

The site is located within 40m of Pennington Creek, within 100m of the coast and within a Sensitive Coastal location pursuant to SEPP 71 and the Water Management Act.

The application was referred to the Office of Water as nominated integrated development and it was confirmed that the development would not require a Controlled Activity Approval.

Consideration of the development impacts against the SEPP71 matters are discussed in Section 6.2.4 of this report and found to be acceptable.

The location of the site within a sensitive coastal location provides no additional matters beyond the Clause 8 requirements of SEPP 71 as the value of works would be under the threshold for State Significant Development.

6.2.5 79C(1)(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition;

The following is a summary of the evaluation of the proposal pursuant to the provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

Planning Proposal

As mentioned in Section 6.2.4 of this report, this DA was submitted concurrently with a Planning Proposal. The Planning Proposal identified the site's suitability for additional building height and Floor Space Ratio in the context of its town centre location. Being submitted concurrently with the Planning Proposal, this development application relies on the making of the LEP amendment incorporated in the Planning Proposal. This occurred on 4 August 2017. The proposed development is consistent with this amendment.

Draft Coastal Management SEPP

The Draft SEPP was on public exhibition from 11 November to 23 December 2016. It will establish a new strategic land use planning framework for coastal management and will support implementation of the management objectives set out in the *Coastal Management Act 2016*. The Draft SEPP is intended to integrate and improve current coastal-related SEPPs and ensure that future coastal development is appropriate and sensitive to the coastal environment and maintains public access to beaches and foreshore areas. Once published, the Draft SEPP will be the single land use planning policy for coastal development and will bring together and modernise provisions from SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection).

The subject site is located within the proposed coastal zone under the *Coastal Management Act 2016* as it contains land identified as 'coastal environment area' on the Coastal Environment Area Map and 'coastal use area' on the Coastal Use Area Map. The proposed works will be located entirely within the proposed coastal zone.

Clause 14 of the Draft SEPP provides that:

- 1) *Development consent must not be granted to development on land that is wholly or partly within the coastal environment area unless the consent authority is satisfied that the proposed development:*
 - a) *is not likely to cause adverse impacts on the biophysical, hydrological (surface and groundwater) and ecological environment, and*
 - b) *is not likely to significantly impact on geological and geomorphological coastal processes and features or be significantly impacted by those processes and features, and*
 - c) *is not likely to have an adverse impact on the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, having regard to the cumulative impacts of the proposed development on the marine estate including sensitive coastal lakes, and*
 - d) *is not likely to have an adverse impact on native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, and*
 - e) *will not adversely impact Aboriginal cultural heritage and places, and*
 - f) *incorporates water sensitive design, including consideration of effluent and stormwater management, and*
 - g) *will not adversely impact on the use of the surf zone.*
- 2) *In this clause, sensitive coastal lake means a body of water identified in Schedule 1.*

Clause 15 of the Draft SEPP provides that:

Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

- a) *is satisfied that the proposed development:*
 - i. *if near a foreshore, beach, headland or rock platform—maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and*
 - ii. *minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and*
 - iii. *will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and*
 - iv. *will not adversely impact on Aboriginal cultural heritage and places, and*
 - v. *will not adversely impact on use of the surf zone, and*
- b) *has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

In respect of the above-listed clauses of the Draft SEPP, and having regard to the matters considered under SEPP 71 and other matters in this report, it is considered that the DA adequately addresses the likely impacts of the proposal on stormwater management and water quality, as well as native vegetation and fauna. In addition, in the context of the applicable planning controls, it is considered that the proposed buildings are of an appropriate bulk and scale and the proposal will result in a positive visual impact.

6.2.6 79C(1)(a)(iii) any development control plan:

GREAT LAKES DEVELOPMENT CONTROL PLAN 2014

The following is a summary of the evaluation of the proposal pursuant to the relevant provisions of the Great Lakes Development Control Plan 2014 (GLDCP).

The following Parts of the GLDCP are relevant to the proposal:

- Part 3 – Character Statements
- Part 4 – Environmental Considerations
- Part 6 – Residential Apartment Buildings, Mixed Use Development and Business Premises
- Part 9 – Subdivision
- Part 10 – Car Parking, Alternative and Active Transport
- Part 11 – Water Sensitive Design
- Part 13 – Landscaping and Open Space
- Part 14 – Waste Management
- Part 16.12 – Site Specific Controls (Lake and West Streets, Forster)

With the exception of 'Part 6 – Residential Apartment Buildings, Mixed Use Development and Business Premises', the proposal is considered to be generally consistent with the GLDCP. Significantly, however, in its current form, the proposed development breaches a number of relevant controls contained within Part 6 of the GLDCP. Note that the key issues resulting from these breaches are discussed within the relevant heading under 'the likely impacts of the development' section later in this report, as well as in relation to SEPP 65 considerations.

It is noted that, under Clause 6A of SEPP 65, the requirements, standards or controls of the GLDCP have no effect if inconsistent with the Apartment Design Guide (the ADG). Instead, reference is made to the objectives, design criteria and design guidance set out in Parts 3 and 4 of the ADG. The requirements of the ADG are addressed in Section 6.24 of this report and a full assessment of the development relevant to the ADG is attached as Appendix D to this report.

The applicant has identified three main non-compliances with GLDCP, relating to pedestrian connection through the site, dwelling mix and maximum building floor plate. An assessment of the proposal's compliance with each of these controls is addressed in the table below.

DCP Control	Compliance
6.2 Pedestrian Amenity	
6.2.1 Site Permeability – 6.2.1.1 Coastal Town Centres Additional Controls As shown in the extracted image below, the through block connections map shows a desired connection through the eastern end of the site connecting with a link through the Department of Education land adjoining the site to the south. 	Acceptable The proposal does not provide for such a connection. In this respect, the applicant notes that the proposal: <i>'creates an expansive pedestrian plaza along the Lake and West Street frontages which will provide for a high level of pedestrian amenity and provide useful and interesting pedestrian connection to the west and south. In the context of the proposal, a pedestrian path through the site is considered undesirable from a CPTED perspective as it would be away from active surveillance and allow access to the rear of the community buildings, providing a plethora of opportunities for crime and anti-social behaviour.'</i> Although the proposal does not provide a through block connection in accordance with the DCP, it is considered that the proposed pedestrian connectivity through the site is consistent with the objectives of this control, as well as being more desirable from a CPTED perspective.
6.3 Building Configuration	
6.3.2 Dwelling Layout and Mix The following mix of dwelling types is to be provided: • studio apartments – maximum 15% • 1 bedroom apartments – maximum 15% • 2 bedroom apartments – minimum 40% • 3 bedroom+ apartments – minimum 15%	Complies The proposal complies with this control, providing the following mix of seniors living units: • Studio – 0% • 1 bedroom – 4% • 2 bedroom – 52% • 3 bedroom – 44% All penthouse apartments provide 3 or more bedrooms.
6.8 Building Depth and Bulk	

6.8.2 High Density Residential & Mixed Use Zone Controls 1. The maximum floor-plate size of buildings above 5 storeys is 500m², inclusive of balconies. 2. The maximum floor-plate depth of any residential floor is 18m, exclusive of balconies. 3. The gross floor area of the top-level of the building can be a maximum of 60% of the floor level directly below. 4. Atria, light wells and courtyards should be used as appropriate to improve internal building amenity and achieve cross ventilation and/or stack effect ventilation.	Acceptable The proposal does not comply. Specifically: • Floor plates of the proposed buildings are well in excess of 500m², with the largest floor plate being approximately 1,700m². • The building depth is generally less than 18m, except for Building C which has an approximate depth of 20m. • The gross floor area of the top levels of Buildings A and C is the same as the levels below. The applicant provides the following justification for these non-compliances: • <i>'The proposed development on the site is quite different to the development likely to be envisaged in the DCP and involves a very large site and a landmark building.'</i> • <i>The proposed development is highly sustainable.</i> • <i>The units have compliant access to sunlight and have excellent ventilation, and the floor plate has maintained suitable access to light and ventilation.</i> • <i>The treatment of the public domain creates a special town square amenity enclosed by built forms, rather than a residential development seeking to maintain a streetscape.</i> • <i>The towers are highly articulated forms which limit the bulk of larger floor plates... The butterfly roof and glass curtain walls of the serviced apartments provide a top to the building which is lighter than the levels below.'</i> CPSD concurs with the conclusion that this floor plate area control is aimed at generalised high-density developments and that this site offers a unique opportunity to be constructed over a very large development site. In addition to the applicant's comments, it is notable that the commercial components comprise large retail spaces in the form of a supermarket and a cinema which require large spaces and little access to light. The proposal surrounds these spaces with smaller commercial spaces which achieve the intent of the controls. The applicant's comments on units receiving adequate sunlight and ventilation are discussed elsewhere in this report, whereby the controls are achieved but with alternate solutions.
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In addition to the three key areas of non-compliance addressed by the applicant, a number of other non-compliances with the DCP have been identified and are addressed in the following table.

DCP Control	Compliance
6.5 Building Amenity	
6.5.1 Acoustic Privacy 1. Maximise acoustic privacy with regard to the site and building layout by: 1. Providing adequate building separation within the development and from neighbouring buildings, 2. ensuring vertical as well as horizontal separation between conflicting uses generating different noise levels. 2. Where there are commercial/retail and residential uses located adjacent to each other, or within the same building, pay particular attention to the location of air conditioning units, building entries, and the design and layout of areas serving after hours uses.	Acceptable The SEE notes that <i>'the acoustic report for the development has examined these issues and has made recommendations for units which may be affected by noise from the public road below.'</i> The Acoustic Assessment prepared by Matrix Industries addresses acoustic impacts from outdoor venues, the proposed childcare centre and traffic. However, the application does not address the potential noise impacts resulting from the reduced separation distances between the residential towers and from the hotel, which may result in poor amenity outcomes for future occupiers. The applicant has since provided additional screening and design measures to the units to allow for mitigation of these impacts.
6.5.2 Solar Access and Overshadowing • Provide at least 75% of residential apartments with at least 3 hours of sunlight to living rooms and private open spaces between 9.00am and 3.00pm in mid-winter. • In areas undergoing change, the impact of overshadowing on development likely to be built on adjoining sites must also be considered.	Acceptable The marked-up plans and tables prepared by TVS Architects indicate that 72% of the units meet solar access requirements, receiving the required 3 hours of sunlight in mid-winter under the ADG, which prevails over the minimum DCP requirement of 75%. The shadow diagrams indicate overshadowing of the north-western portion of the adjoining school site during the morning and afternoon periods. Nevertheless, it is considered that any future residential development on this adjoining site will not be unreasonably constrained in terms of solar access.

6.5.3 Natural Ventilation 1. Provide residential apartment buildings with a building depth of between 10m and 18m. The depth is measured across the shortest dimension of the building. Dwellings should be a maximum depth of 21m measured from the outside of the balcony. 2. Variation to this standard will only be considered where it can be demonstrated that apartments will achieve the minimum requirements with regard to natural ventilation. This may be achieved where apartments have a wider frontage, or increased ceiling and window height to allow for greater penetration of natural light. The building depth is measured across the shortest axis, excluding the depth of any unenclosed balconies. 3. A minimum 60% of all residential apartments shall be naturally cross ventilated. 4. A minimum 25% of kitchens within a development must have access to natural ventilation. Where kitchens do not have direct access to a window, food preparation and cooking areas must be no more than 8m from a window. 5. Single aspect apartments must be limited in depth to 8m from a window.	The building depth is generally less than 18m, except for Building C which has an approximate depth of 20m. The SEE notes that all apartments have building depths of less than 21m from balcony edge. However, it appears that Buildings A and C have depths of approximately 24m and 28m, respectively, when measured from the outside of the balcony. Notwithstanding these non-compliances, the SEE notes that 93% of units achieve ventilation compliance and all kitchens in apartments are part of an open plan with access to the balconies providing natural ventilation. However, the standard layout of the 'typical unit' does not conform with this conclusion. Amended plans from TVS identify that 61% of the units achieve cross ventilation. 93% achieve adequate apartment depth and ventilation options for the kitchen. The remaining 7% provide an alternative option. The applicant has addressed this non-compliance which is discussed in the SEPP 65 ADG compliance section and identifies that these units represent just 7% of the overall units.
6.9 Primary Street Setbacks	
6.9.2 High Density Residential & Mixed Use Zones 1. Balconies may project up to 600mm into front building setbacks, within the building articulation zone within the property boundary, provided the cumulative width of all balconies at each particular level totals no more than 50% of the horizontal width of the building facade, measured at that level. 2. ... 3. The front building setback of the upper levels shall be a minimum of 4.5m.	Acceptable The applicant notes that the residential levels adopt setbacks of between 2-5m. The site is in a unique location having three road frontages fronting onto commercial and civic zoned land. This provides for an individual situation, in which the proposed setbacks in this architectural design would be considered an acceptable solution to create a built form suitable for this use and this location.
6.10 Side and Rear Setbacks	
6.10.2 High Density Residential, Mixed Use and Business Zones Forster and Tuncurry Setbacks	Acceptable The proposed setbacks to the neighbouring properties are generally acceptable. The built form exceeds the side setback minimums to the eastern boundaries in some minor aspects. These setbacks have been reviewed and considered acceptable as they are unlikely to affect the neighbouring existing uses or the future redevelopment potential.

Council Policy

Council Policy	Requirement	Compliance
PL-BLD-009. Erosion & Sediment Control	Prepare and implement an Erosion and Sediment Control Plan (ESCP) for the disturbance to soil.	Conditioned

6.2.7 79C(1)(a)(iia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into

Not applicable.

6.2.8 79C(1)(a)(iv) any matters prescribed by the regulations

The application has been considered pursuant to the provisions of the EP&A Act and Regulation 2000. In addition, compliance with AS 2601 – Demolition of Structures, is included in the recommended conditions of consent for any demolition work.

The proposal can comply with the Building Code of Australia and this can be addressed in documentation at Construction Certificate stage.

The proposal was reviewed with respect to the relevant EP&A Regulation provisions and are considered satisfactory and/or are addressed elsewhere in this report.

Clause 92 of the EP&A Regulation prescribes the provisions of the NSW Coastal Policy as matters to be considered by the consent authority when determining a DA within the coastal zone. The Policy aims to ensure the ecological sustainability of the NSW Coast. As discussed in Section 6.2.4 of this report, the proposal will not impact upon this goal and, overall, it is considered that the proposal is consistent with the goals and vision of the Policy.

6.2.9 79C(1)(a)(v) any coastal zone management plan (within the meaning of the Coastal Management Plan Act 1979)

No gazetted coastal zone management plan applies to the site.

6.2.10 79C(1)(b) The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality

The following subject matters are assessed in detail to ascertain and consider the environmental impacts of the proposed development:

Context, Setting and Character

Previously accommodating Forster Primary School, the subject site is currently vacant, providing no activation in a location immediately adjacent to the visitor information centre, public bus terminal and pedestrian walking paths.

Located at the southern edge of the Forster town centre, the site is surrounded by various land uses, including commercial, civic, tourist accommodation and residential development. Most land in the vicinity of the site is zoned B4 Mixed Use, R4 High Density Residential, R3 Medium Density Residential and SP2 Infrastructure (Public Facility). Surrounding development has been constructed in an ad hoc manner and does not generally meet the prescribed building heights and densities under the GLEP2014. Generally, surrounding development does not maximise the development potential in this town centre location, nor respond to the current zoning and land uses which provide a bus terminal and tourist office on land immediately adjacent.

The DCP identifies a pedestrian thoroughfare through the site to presumably link the residential areas to the south of Pennington Creek to the town centre.

The proposal creates a significant development on this large site. The ground level is fully integrated with the commercial and community land uses to provide a range of public and commercial spaces offering a variety of land uses and entertainment spaces, options and opportunities. The proposal removes the DCP pedestrian through link, but responds by creating a large public open space and destination.

The towers are proposed over a massed podium level which is articulated with a variety of built forms, materials and levels. Of specific note is the curvature of the building edges to both the podium and the towers, which articulate a specific entrance to the ground level public domain area. Initially, a logical design response would be for the development to face the estuary. However, upon detailed review, it would be an important asset and addition to the town centre in opening the scheme to the north, as proposed, as this faces toward the Forster commercial mall and promotes a visual link back to the more established commercial areas of the town centre.

Lake Street offers a logical access point into the development, being directly accessible to the highway.

Overall, the proposal is in keeping with the Council's strategic vision for the area, rather than the current character which is dominated by tourist accommodation. The large site area enables this site and this development to offer a catalyst for a transformation of the immediate area. The proposed development on this landmark site will substantially contribute to the identity and future character of the precinct.

Site Design and Internal Layout

Public domain

The site is orientated towards Lake Street. A defined frontage and open foyer integrates well with the large vertical scale of the commercial returns to shops, cafes and restaurants, directing people to a central internal plaza.

The ground level uses provide for a range of internal and external seating and activity areas that provide a range of covered and uncovered locations to provide a destination suitable to all weather types.

A public library and tourist visitor centre are proposed within the site. Adjacent to the library is a community space which incorporates a range of multi-use spaces that present as a multi-used community facility rather than a built-for-purpose library. Room sizes are sufficient to break into smaller conference spaces as required. Locating the library to the internal section of the site draws people into the site, providing passive activation of the central plaza.

On street parking is proposed in excess of DCP requirements to promote pedestrian and commercial activity by providing high-turnover spaces and opportunities for tourist visitor spaces in the form of parking spaces with caravan options.

Significant additional parking is provided in the form of basement parking. The public use component can be constructed first and provide for adequate parking and lift access to the development that can be secured after hours and service both public customers and staff.

The basement car park will be extended in phase 2, providing for substantial additional parking to service the remaining commercial floor space but segregated from the residential and tourist accommodation uses.

Ground level commercial suites will provide opportunities for a number of food and drink premises to create an active road frontage.

Ground level activation

As the site progresses to the north-west and around to the south, an activated ground level is provided incorporating a range of commercial and food and drink premises in a landscaped open frontage. These frontages encase a medium sized supermarket, above which is proposed an 800-seat cinema.

The commercial uses are anticipated to provide a range of alternative services to meet the day-to day needs of the community. This aspect of the development takes advantage of the views down the slope towards the estuary and provides a natural link to the water's edge and the new pedestrian pathway being constructed.

Nightclub, Hotel, Serviced Apartments

Combined as one development, this component of the development has been designed as a separate element of the scheme. Being visually disconnected and segregated by driveway accesses and service areas, this component of the development clearly differentiates itself from the overall scheme. This would work well for the proposal being a mixed-use development, incorporating accommodation in a private part of the site and keeping night time entertainment venues separated from the day time activities.

Parking is provided by separate accesses, enabling the different traffic types to be delineated from the daytime public commercial uses.

Seniors Housing and Residential Accommodation

The three towers provide for self-contained and independent seniors housing units and have been proposed pursuant to the Seniors Housing SEPP. As discussed in detail under the SEPP65 matters, the towers have been located in close proximity to each other. The amended plans from TVS Architects have removed the potential for visual and acoustic privacy impacts. The separation distances in light of the amendments are considered acceptable.

Natural Ventilation was resolved in depth with the architect by providing a range of amendments to specific corner units to meet the ADG. It is noted that the resultant design changes result in 61% of the units meeting cross ventilation requirements – meeting the requirement of the ADG and maximising the developments potential of corner units. The majority of the remaining units achieve suitable apartment layouts and depths to achieve a level of acceptable natural ventilation and in many solutions, provides with alternate design options for cross ventilation. The assessment against the ADG has found this to be appropriate.

The scheme is acceptable in this regard and this merits assessment is discussed in detail in Section 6.2.4 of this report.

Visual Impact

A visual impact assessment was undertaken as part of the Planning Proposal for the subject site, identifying suitable building heights and density for the site and surrounds. The visual effects of the proposal were examined in the Urban Design Report for the site, prepared by Peter Andrews and Associates, which supported the Planning Proposal. The View Analysis undertaken involved examining the proposal from nine different aspects, including:

- Tuncurry foreshore (Palm Street)
- Tuncurry foreshore (boat ramp)
- Forster/Tuncurry Bridge
- Forster Lookout
- Memorial Drive
- Adjoining street network (East along Lake Street)
- Adjoining street network (West Street)
- Adjoining street network (West along Lake Street)
- Bennetts Head Road

The development proposal has been assessed against the Urban Design Report and is considered acceptable in respecting and protecting the scenic qualities of the area and is consistent with the desired future urban form of the area.

Noise impacts

The application proposes a number of uses which have the potential to create noise impacts within the surrounding area, as well as many uses that are potentially impacted by noise and

require acoustic treatment. Accordingly, an acoustic assessment was undertaken by the applicant which notes that the relatively low background noise levels at the site present challenges in terms of compliance with entertainment limits for new venues. In this respect, the report recommends that background noise levels for the venues should be re-measured in the future as the surrounding area develops to update noise criteria, perhaps relaxing the noise requirements while maintaining acceptable community amenity.

In terms of noise impacts from the development, the report suggests that noise from external seating areas of restaurants is potentially the most difficult aspect to control, particularly if venues with outdoor seating trade through to midnight. In this respect, it is noted that the SEE lists the hours of operation for the restaurants and cafes being from 6:00am to 10:00pm. This is considered appropriate as the night time noise criteria begins at 10pm. A condition of consent is appropriate in this regard.

Council's Environmental Health Officer has recommended a condition of consent in relation to hours of operation and permitted delivery times for all commercial aspects of the development.

To manage patron numbers and outdoor activity, it is appropriate to limit the venues to a maximum number of patrons to avoid potential conflict through noise and disturbance caused by semi-quasi bars and over population of the area. Conditions of consent are recommended in this regard.

The report notes that the night club is ideally located in the current design within the basement. An acoustic sound lock is recommended for the nightclub to prevent spillage of high noise levels from music into residential areas. The report considered that the potential noise impact from the development is unlikely to be significant, but should be subject to further assessment during the detailed design phase. It is considered appropriate to limit the hours of the nightclub to midnight.

The Acoustic Report recommended that the future design of the cinema be designed to maintain a 30-35 dBA acoustic rating to prevent impacts to future residents. Units are proposed adjacent the cinema which is proposed central to Buildings B and C. Acoustic attenuation would be most necessary. An appropriate condition of consent is recommended in this regard.

Noise modelling was undertaken to assess traffic noise impacts upon the proposed residential components of the development. Generally, the total traffic noise level is predicted to increase by less than 2dBA when compared to the existing traffic noise levels. However, the Middle Street level exceeded the relevant daytime noise criterion, increasing by up to 4.5 dBA by 2028. To mitigate the noise impact on the residential dwellings in Middle Street, it was recommended that the existing road be resurfaced with dense grade asphaltic concrete. This requirement has been discussed with Council's Development Engineer and has been included as part of the recommended Public Engineering Works Permit consent condition.

The acoustic report notes that some aspects of the development (including the child care centre) will require acoustic design at a more detailed stage. Accordingly, a condition of consent has been recommended which requires that plans and specifications be reviewed by an appropriately qualified person prior to the issue of a construction certificate for each stage to ensure that the proposed construction design has regard to the recommendations included in the Acoustic Assessment.

Council's Environmental Health Officer has considered the findings and recommendations of the Acoustic Assessment and raises no objection to the proposal from an acoustic perspective. A number of conditions are recommended to ensure that the amenity of surrounding residents and internal residents is maintained.

A neighbouring submission raised concern that the car park exhausts demarcated on the plans would result in nuisance to the guests of their facility. The applicant responded noting that car park exhausts are incorrectly noted on the plans and are intake vents only with limited noise impacts.

Overshadowing

Shadow diagrams have been prepared for the proposal by TVS Architects. These diagrams show the overshadowing impacts of the proposed development on the site and surrounding area during the 'worst-case' overshadowing scenario (21st June - the winter solstice).

As indicated in the diagrams, no overshadowing will occur towards the north of the site. The largest shadow cast will be towards the south-west of the site during the winter morning period. Land to the south-west predominately comprises open space as well as a residential flat building and several dwelling houses. During the afternoon period, shadows cast will be shorter and concentrated directly to the south and south-east of the site, predominately affecting the adjoining school site.

The proposed development will not result in undue overshadowing of existing residential development in the area. Overshadowing of the residential flat building and dwelling houses located to the south-west will be limited to less than 3 hours during the winter solstice.

A public submission identified the potential for overshadowing of solar panels within the adjacent holiday park. However, the shadow diagrams demonstrate that shadows cast by the development will not reach these solar panels.



Solar Access

The SEE states that 70-71% of the units (seniors and penthouse apartments) will receive sunlight in accordance with SEPP 65 requirements (i.e. 3 hours during winter). However, many of the units within Buildings A, B and C are orientated to the southern side of the site and Building B blocks the northern aspect to Building C. This appears to result in many of the units not being able to meet the minimum solar and daylight access requirements. The applicant provided detailed additional information tabulating the units with appropriate solar access. The solar access study demonstrated compliance with SEPP 65/ADG.

The units have larger balconies proposing 16m² than the minimum suggested 12m². These are mostly north, east or west facing. Additional communal space, attributed to the units only, is available for further access.

Communal public spaces are proposed at ground level. Significant areas of retail, restaurants, cafes and community uses including plazas and open space is provided at ground level facing north which provides for significant areas for additional access to sun.

Access, Transport and Traffic

The application proposes vehicular access off the three road frontages of Lake Street, West Street and Middle Street.

The Lake Street access provides for access and egress via the installation of a new roundabout. Access to the existing development adjacent will be retained and benefit from the new roundabout.

West Street will be treated as an ingress only, focusing on heavy service vehicles and some residents' parking.

Middle Street will provide for an access and egress scenario available to all vehicles.

The access points are designed and located to service various aspects of the mixed-use development, segregating residential and hotel parking areas from the publicly accessible spaces and creating appropriate servicing spaces central to the scheme.

In general, the three access locations are considered suitable by Council's engineers and the Local Traffic Committee (LTC).

Council and the LTC have acknowledged some design shortfalls in their assessment of the proposal in regard to some conflicts with access arrangements. Regardless, they are satisfied that these aspects would be more of an internal management issue and could be adequately resolved through a condition of consent without affecting the overall design or parking numbers, and without creating an impact on the public road network. Consideration has been made to the redesigning of the internal access points to remove the conflicts, however, this is a significant design change that cannot be accommodated. Council's engineers responded by requiring improved turning circles to the entrance and exit of internal ramps which will result in the loss of an addition 10 parking spaces. This is acceptable to the scheme and the overall final parking arrangement, with recommended conditions of consent also being applicable.

The scheme was referred to the Roads and Maritime Services for comment, being a 'traffic generating development' under the Infrastructure SEPP. The RMS required additional modelling of the proposed intersection on Lake Street and raised no objection in principle to the scheme. The RMS noted that Council should satisfy itself that the roundabout access into the site from Lake Street is appropriate. Council's engineers confirm that this design is suitable.

Based on the temporal demand analysis, the total number of parking spaces required for the development is 512. The applicant proposed 506, however, Council's engineers require the removal of up to 10 spaces to improve the vehicle turning circles to enter/exit the internal vehicle ramps. As there will be 496 car parking spaces provided within the development, Council's engineers anticipate that car parking from the development will spill into the adjacent street car parking by 16 spaces. Accordingly, Council's engineers require that these spaces be offset by a condition to construct 25 spaces in Middle Street.

Council's engineers have confirmed that the proposal provides the on-site parking spaces in various car parking locations within the site. The spaces have been internally split according to their focused land use. Council is satisfied with the location of the specific car parks but requires details of the staging of the car parking areas and how the car parking areas are to be allocated to each portion of the development.

The additional access locations and proposed land uses will result in and benefit from on-street upgrade works which will reduce the amount of current on-street parking spaces from the current 122 spaces to 42 spaces, resulting in a loss of 80 spaces. As outlined above, the proposed development is now reliant on on-street parking to meet the minimum DCP standards.

There is no doubt significant public benefit in providing a level of on-street parking on and around this development given the significant ground level activation and public uses

proposed. Council's engineers correctly acknowledge that most of these existing spaces currently do not meet the Australian Standards and will need to be made compliant if altered.

Additionally, the applicant proposes a central parking arrangement on Lake Street in respect of which Council confirmed the initial design could not be supported given the limited road width. However, Council and the LTC acknowledge that the current takeup of on-street parking is very limited, being in the order of 12% (15 spaces), and therefore recommend support of the reduced on-street parking arrangement. This is detailed in recommended conditions of consent.

The development includes designated onsite bicycle parking arrangements. A compound for bike parking, containing 18-23 spaces for employees as well as end of trip facilities, will be provided in Stage 1. Council's engineers were satisfied that this compound would provide adequate space for employee bicycle parking, particularly since commercial use of the overall development would be at different times.

Council's engineers confirmed that there are 128 storage areas on the Level 1 and Level 2 car parking areas that are suitable for residents' bicycle parking, but that this creates a short fall of 15 storage spaces for the seniors' units. Council's engineers consider that an additional 10 spaces could be accommodated within the car parking levels.

Council's engineers were satisfied that there would be adequate space within the site to provide the required 244 bicycle spaces. These are addressed through a recommended condition of consent to be staged appropriately.

Subject to the amended reduction in parking spaces, the car park provides for a total of 496 spaces which are divided appropriately throughout the development according to the use, as summarised in the table below. A proportion of these relate to small vehicles. Council's engineers confirmed that the mix is appropriate for the development and have recommended a condition to ensure all internal access manoeuvring areas and driveway accesses can cater for the 99th percentile of cars in the relevant Australian Standard and are satisfied that the building and layout could accommodate for this.

Traffic calculations have been based on Council's DCP, the Seniors Housing SEPP and where relevant against the 'RMS guide to traffic generating development'.

Being a mixed-use development, a traffic assessment report was undertaken, which included a summary of likely peak times and recommended an overall onsite parking requirement. Of particular relevance is the reduced rate applicable to the retail component and childcare.

Equally, Council's engineers confirmed that the site has been mapped in error within the Section 94 plan and in fact the site is within the Forster District Section 94 contribution Area of which a rate of 1 parking space per 15 seats applies to retail uses.

Council's engineers additionally commented that it was more appropriate for the 13 childcare parking spaces to be provided on street as the spaces could be appropriately sign posted and managed to be time limited. A recommended condition of consent is included in this respect.

Being a development for seniors housing, a rate of 0.5 spaces per bedroom applies.

Council's engineers confirm that the overall onsite parking numbers and arrangement is suitable.

There is a bus stop for the public bus service on the northern side of Lake Street which is suitable for the development and requires a new shelter to be installed as a suitable nexus to this proposal. This is secured by a recommended condition of consent.

Utilities and Infrastructure

Council's engineers note that the applicant is required to move all overhead low and high voltage wires underground in the adjacent streets. Essential Energy has stated that there is no objection to requirements to move these underground in this area given the scale of the development.

Council's engineers also note that the applicant will be required to upgrade existing street lighting at the intersection of West and Middle Streets and over the proposed roundabout in Lake Street.

Proposed footpath upgrades along Lake and West Streets shown on the submitted landscape plans have been secured by recommended conditions of consent. Council's engineers also require footpath upgrades along the site's Middle Street frontage. Requirements for regrading these footpaths, including in relation to alignment, widths and tree protection zones, have been included in Council's recommended conditions of consent.

Council's engineers require that all adjustments to existing utility services made necessary by the development are to be undertaken at no cost to Council.

Landscaping

The site has not been designed to meet the numerical value in the DCP for landscaping. However, the scheme provides for significant areas of public open space, designated shared areas, large open frontages and community spaces which provide access and distribution for foot traffic to a range of public and commercial uses. These areas require a level of hardstand which has been incorporated into the design. Where possible and practicable, green roofs, private open spaces and blisters of landscaping have been incorporated into the overall scheme to provide an appropriate development in this regard.

In addition, the development incorporates significant stormwater management techniques to recover and reuse all stormwater collected from the site. This work extends to the public domain in incorporating a range of bioswales within the road.

Social and Economic Impacts

An Economic Impact Assessment (EIA) undertaken by Hill PDA was prepared as part of the Planning Proposal. A social impact assessment has not been submitted in support of the application.

In relation to the key findings of the EIA, the SEE notes that the proposal would:

- Provide an integrated development creating greater housing diversity and supply, encouraging Forster to grow and providing impetus for further investment, consistent with the local and regional Planning Strategies for the area.
- Create approximately 236 construction jobs on site and generate an additional \$0.9 million in revenue to local retailers during construction.
- Facilitate the creation of approximately 260 jobs when the development is operational, contributing around \$15.1 million annually to the local economy.
- Additional revenue from spending of new residents on the site would be in the order of \$3.4 million.
- Additional revenue from spending of tourists at the site would be in the order of \$1 million.
- Total estimated spend of residents, tourists and workers at the site would be around \$5.5 million annually.
- Provide 1,000m² of supermarket floor space in the town centre (where none currently exists), helping to address the 1,775m² of undersupplied supermarket space for the area.
- New businesses may impact on other businesses in the area (e.g. cinemas), however this is limited to competition between businesses (discussed in further detail below).

In addition, the EIA notes the following less tangible impacts of the proposal:

- The proposal will stimulate further interest and investment in Forster Tuncurry.
- The street will be activated with retail, commercial, and community uses.
- The proposal is for a 'transit-oriented development' within walking distance of the town centre.
- The proposal will result in improved efficiencies, with fewer private motor vehicle trips and shorter distances.

A number of key social impacts require further consideration, as outlined below.

Population and Demographic Analysis

A demographic analysis of the Great Lakes LGA was undertaken as part of Hill PDA's assessment. Key findings include:

- As at the 2011 Census, the population was 35,737. In 2015 the population is estimated at 36,7201, showing a 3% increase in the last four years.
- By 2036, the population is expected to increase to 45,580.
- In 2011, the Forster - Tuncurry urban area had a population of 20,273. In 2015 the population was estimated to be 20,883 persons, showing a 0.74% increase per annum.
- In 2011, the population by age group majority was above 60 years old.
- There has been a significant increase in tourism, health care and retail trade. This change could be reflective of the demographic shift in the local community to seniors and increased tourism in the local area.

Cinema

Concerns were raised in public submissions that the proposed cinema complex within the development will financially destroy the Great Lakes Cinema 3 complex located at Tuncurry. Further concern was raised that the proposed cinema is too large to provide an economically viable cinema complex and therefore likely to fail.

An indicative plan layout for the cinema outlines that the cinema will provide for 3 cinemas with a total seating capacity of 800. In terms of floor space, this is an assumption that the cinemas will be constructed in the same manner as other cinemas, taking into account the current trend to 'luxurise' the cinema experience, providing for larger lounges etc. The cinema may also be used for community events and presentations.

Hill PDA notes that:

'In 2015 Screen Australia reported there were 675 cinema screens in NSW/ ACT15. Since 1998 there has been a continued growth of screens consistent to population growth....There is also a trend across Australia to upgrade cinema infrastructure to accommodate high quality films and sound'. Looking at the combined population for NSW and ACT this works out to be a ratio of cinema screens to population of 1:10,000'.

At present, a 3-screen complex (Great Lakes Cinema 3) is located at Tuncurry and services the former Great Lakes LGA population of 40,650 (adjusted for tourism). The next closest cinemas are located in Taree to the north and in Nelson Bay to the south.

Given that the subject site is closer to the Forster town centre with the higher density population and the additional mixed use nature of the development, it is considered that there is adequate demand and economic justification for the proposed cinema complex and any commercial risk to the existing cinema will be a matter of commercial competition between service providers within the same centre.

Housing diversity

The residential component of the proposal is limited to self-contained seniors housing units and five luxury penthouse apartments. In this respect, it is considered that the community could benefit from the provision of a greater mix and diversity of housing on this large and centrally-located site.

In addition, providing only self-contained units, the proposal does not provide the opportunity for future residents to 'age in place', with the proposed units catering generally towards more active and independent seniors. In this respect, the SEE notes the units and communal areas will be managed by Evermore Retirement Living under a retirement village contract. Importantly, Evermore owns and operates the nearby Evermore Supported Living Village, providing residents with another facility in the area as their lifestyle and needs change.

Given the growing population of the area, in particular people over 60 years, the provision of residential accommodation (predominantly for seniors) is consistent with the objectives of the Great Lakes Strategic Plan – Great Lakes 2030 to provide housing in close proximity to services, public transport and community facilities.

Crime and Safety

A Crime Prevention through Environmental Design (CPTED) Assessment was prepared for the proposal by Coastplan Group.

The Assessment identifies the locality as having a moderate site area rating for crime risk, primarily due to its location within the town centre 'hotspot'.

The Assessment considers that the proposal will generally result in a positive outcome in terms of crime and safety in the area. In particular, it will introduce activity and surveillance (both passive and active) to a vacant site which is otherwise an opportunity for anti-social activities. Council's 'Graffiti Buster' program and the site proximity to the Police Station are also noted as positive crime safety matters.

In respect of territorial reinforcement, the Assessment notes that the proposed development design, layout and landscaping treatment provide excellent delineation of uses and definition of areas which are public, private or commercial.

In terms of access control between uses, the Assessment considers that the proposed development design provides excellent separation of access for community, commercial and residential uses.

Key limitations of the site and proposed design are noted in the Assessment, including potential poor surveillance of the underground carpark areas, loading docks and fire exits, especially outside of normal operation of the community and commercial uses. Opportunities for unauthorised access and escape due to multiple frontages and accesses is also considered a concern.

Based on the site and design limitations, the Assessment recommends that the development incorporate a number of features to maximise safety and security for the site, including in relation to lighting, CCTV, maintenance of public areas, and controlled access to public and private areas including car parks and building entrances. These recommendations are included as recommended conditions of consent.

The Safer by Design Evaluation conducted by the NSW Police assessed the development as having a Medium Crime Risk. NSW Police made a number of specific design comments and recommendations as well as recommended conditions of consent.

In addition to recommendations regarding lighting, signage, landscaping, window treatments and the like, NSW Police suggested that the basement level car park should not be shared between residents and visitors as it may cause confusion and provide excuse making opportunities for intruders to commit crimes. In this respect, the Assessment outlines access to resident parking areas shall be controlled with a security shutter with car/remote access required and the public basement carpark area should be locked down during the period of 11pm-6am, with access only available for authorised persons. Appropriate signage of lockdown times should be provided throughout the parking areas. Lifts available for public use in the carpark area shall be locked down for the same period.

Based on the above measures, and the recommended conditions of consent, it is envisaged that the development can be appropriately managed to minimise potential crime and safety risks.

Night time economy

NSW Licensing Police conducted a Safer by Design Evaluation on the proposed nightclub and restaurants.

NSW Police anticipates that patrons entering and exiting the nightclub then dispersing will lead to increased alcohol related incidents and crime, as well as creating a source of noise to residents.

Nightclub entertainment provides risks to the community that cannot be mitigated. The introduction of the proposed nightclub will create a new area of concern requiring extensive management and intervention by law enforcement.

NSW Police also expressed concerns about the four restaurants proposed, noting the emerging trend of restaurants exploiting 'drink on premises authorisation' and effectively operating as a pub where patrons can consume liquor without dining.

As a result of these concerns, NSW Police considers that if the nightclub is to be supported, separate detailed DA for the nightclub and each restaurant should be prepared. NSW Police also seeks further information from the applicant regarding any proposal to licence any other part of the development.

The CPTED Assessment notes that, being located in the basement of the hotel, access to the nightclub will be controlled via the hotel and security provided as part of the nightclub use to provide active surveillance and capable defenders in the area. The Assessment recommends that late night operations of the nightclub will be required to provide security for entrances and surrounding areas.

The acoustic report prepared as part of the application notes that the proposed development introduces a range of uses to the land, where there is currently no development existing. The assessment found that the nightclub is ideally located in the basement and an acoustic airlock is recommended to stop spillage of high noise levels from music within the venue. Noise from outdoor seating areas of the restaurants/cafes is potentially the most difficult noise to control.

In light of these comments, it is recommended that conditions of consent be included requiring the operating hours for the nightclub be limited to 12:00am, as well as requiring specific acoustic design elements and maximum seating capacities for outdoor dining.

Public benefit

The proposal is the subject of a formal and binding agreement between the developer and Council which requires the construction of Stage 1 by a certain time to deliver all of the civic/community facilities approved in the development, including the library, community space, visitor information centre, community green spaces, and public parking.

It is considered that the development proposal is consistent with local and regional plans to revitalise the Forster town centre by providing a mixed used development with housing for a key demographic in the area, as well as civic and entertainment facilities and retail spaces to meet the local and tourist economy.

Access for People with a Disability

The development proposes a number of features to accommodate people with disabilities or other special needs and was supported by an Access Report by Philip Chun Access.

The Access Report has been prepared based on the development plans and confirms that the development can be made suitable to meet the requirements of the Seniors Living SEPP, the BCA, and the accessibility standards identified in the AS1428 suite of standards.

Two definitive aspects of the development are considered: the residential apartments and the publicly accessible aspect.

As the significant majority of the proposed units are designed to and intended to support seniors living, it would be appropriate to ensure a reasonable range of units are accessible or adaptable. In addition, it is noteworthy that the proposed development seeks to partially utilise the 10% bonus building height and FSR provision in the GLEP2014, of which a requirement to be met is that the building meets the AS1428. This requires special design considerations to be incorporated into each unit and 5% of the parking to be accessible. The Access Report concludes that the proposed development could achieve this and it would be suitable to detail this through documentation at the Construction Certificate stage. Compliance with the AS1428 and the Access Report is recommended as a condition of consent for the purposes of meeting accessibility standards, the high rate of seniors housing and the intent of the bonus clause provisions.

With regard to the publicly accessible and commercial areas, the Access Report identifies that the proposal is capable of achieving access for people with disabilities meeting all of the relevant standards. Of particular mention is the 6 accessible parking spaces within the retail/library parking areas, 2 accessible parking spaces within the hotel parking area, ramps and/or level walkways within all areas of the site, and lifts to all levels of the buildings.

Flora and Fauna

An Ecological Assessment Report (EAR) was prepared for the proposal and was reviewed by Council's ecology officer.

The EAR notes that the site is extremely disturbed and is considered to have a negligible ecological significance. The majority of the mature trees are located on the perimeter of the site with the exception of a few scattered trees occurring within the site. The majority of the site contains a highly disturbed derivative of Coastal Dune Blackbutt/ Smooth Barked

Apple/Swamp Mahogany forest. The site is currently heavily impacted by weed invasion with most of the groundcover dominated by introduced weed species.

The site does however contain a number of Rainforest Trees, including a small stand of these trees along the southern boundary. The EAR notes that this stand is largely analogous to the Littoral Rainforest, Threatened Ecological Community listed under both the TSC Act and EPBC Act. A single threatened flora species occurs within this stand, being a single Magenta Lilly Pilly (*Syzygium paniculatum*).

The site also contains a small area of potential foraging habitat for threatened species. The EAR notes that, due to the small size of the site, its central town centre location, and having been largely cleared, this habitat would represent a negligible area of habitat for any threatened fauna species in the locality. The land is not part of a wildlife corridor.

No evidence of threatened fauna occurrence was recorded on the site and only common, mobile and widespread species were recorded on the land.

The majority of vegetation on the land will be removed for the basement level car-parking. The vegetation to be removed generally comprises scattered trees with a highly modified understorey and is not considered to be a significant area of vegetation. Importantly, nine trees of ecological and aesthetic significance on the periphery of the land are proposed to be retained, including the rainforest stand on the Middle Street frontage (inclusive of the Magenta Lilly Pilly), a Hoop Pine on the Lake Street frontage, a Norfolk Pine on the West Street frontage, two large eucalyptus on the road reserve on the corner of West and Middle Streets, a Small-leaved Fig in the south-east corner of the land.

The EAR notes that the loss of potential foraging habitat on the site is unlikely to result in the local extinction of any species which may use it.

Council's Senior Ecologist confirms that the proposal will not result in any significant ecological impacts.

The EAR recommends a number of mitigation measures to reduce the potential for injury to fauna during the clearing activity, including tree protection measures, pre-clearing surveys and ecological supervision of clearing, which, in addition to Council's recommendations, will be secured by recommended conditions of consent.

Tree Management

An Arborist Report was prepared for the application by TLC Tree Solutions. This report assesses the condition, health and management of trees proposed to be retained and provides a tree protection plan for those trees.

Full implementation of TLC's Tree Protection Plan has been included as a recommended condition of consent.

Council's Tree Management Officer is supportive of the proposal from a tree management perspective and recommends a number of additional conditions of consent.

It is noted that since preparation of the report, the footprint of the Building D has been relocated 2 metres to the north to assist in protecting a known Aboriginal midden site on the land. This further aids tree retention in the south of the land and does not compromise the protection of the Norfolk Pine and Hoop Pine.

Flooding

The majority of the site is not subject to flood hazard. However, a small area in the south-western corner of the site is identified as a 'Flood Planning Area' on the GLLEP Flood Planning Map. The Site Survey indicates that the lowest level of the land in this area is 2.6m AHD. As such, in the 1% AEP design flood, a maximum 100mm of flood water would affect this area.

Importantly, all proposed buildings are located outside of the Flood Planning Area. In addition, all habitable floor levels are located above the Flood Planning Level (FPL) of 3.2m AHD. While basement areas, including the nightclub, are located below the FPL, a levy above this level is proposed to prevent the entry of flood water in the 1% AEP design flood.

Pedestrian and vehicular access to the site is available from flood free areas and access to and from the development in a 1% AEP design flood will be possible.

Council's engineers note that site is above the 1 in 100 year flood and thus is not subject to flooding (this includes the current predictions of climate change/sea level rise to the year 2060).

Stormwater Management

The application proposes the capture, reuse, and treatment of all stormwater generated from the site as well as measures to improve stormwater quality in the area. More specifically, all roof water will be collected in a 1ML rainwater tank for reuse in laundries and toilets throughout the development. Stormwater runoff from ground level hardstand areas will drain into bioretention areas for treatment. It is noted that there may be some impracticalities in pumping the water to the top of the buildings from the underground tank. However, Council commissioned Alluvium Consulting to undertake a peer review of the proposed stormwater management plan prepared by Coast Plan Group, who, with recommendations was generally supportive of the scheme.

It is noted that the MUSIC model results exceeded Council's requirements and the model and strategy submitted were considered acceptable by Council and Alluvium and appropriate conditions were recommended.

Council's engineers require a pump-out system for the stormwater drainage that enters the basement car park from the driveway ramps, subject to specific design and construction requirements including silt arrester/stilling pit which could then drain by gravity to either Council's storm water drainage system or alternatively to a suitable infiltration system suitably located within the site. Appropriate management of seepage water is required. Appropriate conditions of consent have been recommended to secure Council's requirements.

The application also proposes the installation of water quality treatments within the road reserves as part of the proposed public domain upgrades.

Council raises no objections to the proposed upgrades on Council owned land but recommends insurance and maintenance requirements to be secured by recommended conditions of consent.

Sediment and Erosion Control

The SEE notes that appropriate sediment and erosion controls will be implemented during construction.

This is secured by a recommended condition of consent requiring that an erosion and sediment control plan is to be submitted for each stage prior to construction.

Geotechnical

Regional Geotechnical Solutions (RGS) undertook a geotechnical assessment of the site, the findings of which are detailed in the Geotechnical Assessment report submitted with the application. Overall, RGS found that the site is considered acceptable for the proposed development from a geotechnical perspective.

Acid Sulfate Soils

While the site is mapped as containing Class 3 and Class 4 acid sulfate soils, screening undertaken on the site by RGS determined that the soils are not actual or potential sulfate soils. The assessment notes that while there is some actual acidity in the site soils this was not due to acid sulfate conditions. Accordingly, an Acid Sulfate Soils Management Plan is not required. However, RGS recommend that any excavation soils to be reused should be applied with lime to neutralise the acid present.

A condition of consent has been recommended requiring the applicant to provide additional details regarding excavated soils prior to issuing of construction certification.

Groundwater

Groundwater testing undertaken by RGS encountered groundwater at depths of 3-4 metres below the existing surface. Noting that basement construction is likely to encounter groundwater, the assessment recommends dewatering management during construction. The requirement for a dewatering management plan for the construction stage has been secured by a recommended condition of consent.

In this respect, the application is 'nominated integrated' for the purposes of the *Water Management Act 2000*. WaterNSW confirmed that the proposed excavation will encounter groundwater during the excavation process and is subject to a Water Supply Work Approval under the *Water Management Act* for dewatering during the construction phase.

Water NSW has issued General Terms of Approval in this regard raising no objection to the proposal.

Appropriate conditions have been recommended relating to dewatering, including the requirement for a dewatering management plan for the construction stage,

Council's Environmental Health section has advised that groundwater testing undertaken by RGS during 2014 detected acidic water with high levels of coliforms and E.coli bacteria adjacent to the southern boundary, which was likely to have resulted from a broken sewer pipe or similar. The report prepared by RGS (August 2014) detailing the results of this testing identifies the need for further investigation prior to dewatering.

Council's engineers require the presence of these contaminants to be determined and managed (if necessary) during the construction and post-construction stages. A condition of consent has been recommended requiring the applicant to undertake a groundwater quality assessment prior to the issue of a construction certificate.

Waste Management

The application proposes the storage and collection of operational waste on site.

Large bulk waste bins will be provided in the loading areas of Buildings B, C and D for the collection and management of commercial waste. Stage 1 involves the establishment of a temporary waste area off Middle Street to enable storage and collection of bulk bins prior to Stage 2 being completed.

Residential waste will be conveyed via garbage chutes to bulk bins (for rubbish and recyclables) located in the basement of Buildings A, B and C. Bins will be transferred to the loading dock for collection as required.

Hotel room waste will be collected and sorted by cleaning staff and transferred to the separate waste and recycling bins in the loading area/waste room.

Council's Waste Officer has reviewed the proposal and, while not raising any objection in principle to the proposed waste management and collection measures, expressed a number of concerns in relation to waste collection access requirements and waste storage area sizes.

Of particular mention, Council's officer noted that there is insufficient space within the main loading dock located at the rear of Building B/C to enable a collection vehicle to enter and exit in a forward manner given the 90 degree turning and reversing point. A 6.2m height clearance for a front lift bin would also be required if the bins were to be serviced at the refuse point.

In this respect, Council's engineers have acknowledged some design shortfalls with regard to some conflicts with access arrangements. Regardless, they are satisfied that these aspects would be more of an internal management issue and could be adequately resolved through a condition of consent without affecting the overall design, parking numbers or create an impact on the public road network. Consideration has been made to the redesigning of these to remove the conflicts, however, this is a significant design change that cannot be accommodated.

The SEE outlines general procedures and measures for the management of construction waste. At the request of Council, the applicant submitted a completed Site Waste Minimisation Plan.

6.2.11 79C(1)(c) The Suitability of the Site for the Development

As discussed throughout this report, the site is generally considered to be suitable for the proposed development. In particular, the site has been identified for this civic form of development through Council's masterplanning documents. The site is located at the edge of the Forster town centre and is surrounded by a range of residential, community and commercial land uses.

The site has three road frontages and is of an appropriate size to accommodate mixed use community/commercial/residential development.

The site is located within walking distance of a range of shops, services, employment and recreational opportunities within the Forster town centre.

Previously used for the purposes of a public school, the site is heavily disturbed and is not affected by any significant environmental constraints.

6.2.12 79C(1)(d) Any Submissions Made in Accordance with the Act or Regulations

The application was notified to adjoining owners in accordance with Council's Policy, from 17 May 2017 to 16 June 2017. Fourteen submissions were received. Two submissions were in support of the development while 12 were against. Issues raised in submissions and responses to those issues are detailed in the table below.

Issue	Response
More of 'luxury housing' development than a civic precinct.	The proposal involves the erection of four towers over a podium base which will facilitate a large proportion of self-contained seniors housing units, penthouse residential apartments, a hotel, serviced apartments, a supermarket, an 800 seat cinema, restaurants and retail space, a childcare centre, a nightclub, and community facilities comprising of a new library, visitor information centre, flexible community spaces and a public car park. Overall, it is considered that the proposal in its mixed-use form will benefit the permanent and visitor community of Forster.
The community facilities are poorly located within the site and should be more prominent.	The proposal responds to the desired future character of the Civic precinct as envisaged by Council's masterplanning documents. Overall it is considered that the development provides for extensive activation at street level, civic plazas and landscaping.
Community facility space is inadequate for a range of purposes and not functional.	The community facility space primarily contains four rooms of approximately 480m ² , able to accommodate up to 200 people (indoor and outdoor). The flexible design is intended to provide for a range of uses including meetings, performances, conferences and exhibitions. A community lounge with an approximate area of 260m ² is also proposed, incorporating informal casual seating with wifi access. It is considered that flexible design of the space is appropriate for a range of community uses.
The residential aspect is highly proportionate for seniors housing.	The residential component of the proposal is limited to self-contained seniors housing units and five luxury penthouse apartments. In this respect, it is considered that the community will benefit from the provision of a greater mix and diversity of housing on this large and centrally-located site. Given the growing population of the area, in particular people over 60 years of age, the provision of residential accommodation (predominantly for seniors) is considered appropriate.
Housing aspect not adequately supported by infrastructure.	It is considered that the mixed-use development, located in close proximity to the Forster town centre, provides for a range of services and infrastructure within the one development.
The cinema is unfeasible. It will result in the closure of the Great Lakes Cinema 3. It will result in impacts on local businesses.	An assessment of the likely impacts of the cinema is detailed in Section 6.2.10 this report. An indicative plan layout for the cinema complex provides for 3 cinemas with a seating capacity of 800. It is considered there is adequate demand and economic justification for the proposed cinema complex and any commercial risk to the existing cinema will be a matter of commercial competition.
Increase traffic congestion.	Traffic impacts are addressed in Section 6.2.10 of this report.

	The proposal was referred to the Roads and Maritime Services for comment, being a 'traffic generating development' under the Infrastructure SEPP. The RMS required additional modelling of the proposed intersection on Lake Street and raised no objection in principle to the scheme.
High rise not suitable for site/ Proposed heights excessive.	The site is generally considered to be suitable for the proposed development. In particular, the site has been identified for this civic type of development through Council's masterplanning documents. The site is located at the edge of the Forster town centre and is surrounded by a range of residential, community and commercial land uses. The GLLEP 2014 was recently amended to permit a maximum height of buildings of 33m (U2 areas) in the north-western part of the site and 26m (T areas) in the southern and eastern parts of the site. The site's suitability for additional building height and Floor Space Ratio in the context of the town centre location was considered as part of this amendment. Clause 4.3(2A) of the GLLEP 2014 provides that the provision of the maximum permissible height of a building may be exceeded by 10% on the site where an internal lift access will be provided to all levels in the building, and the design of the building is consistent with AS 4299–1995, Adaptable housing. The maximum height (top of lift tower) of the building in the U2 area (Building B and C) is no greater than 36.2m above the existing ground levels. Building A is located in the T area and has a maximum building height (top of lift tower) of approximately 26 metres. Building D is located in the southern T area and has a maximum building height (top of roof) of between 26 and 28m. Accordingly, the proposal complies.
Retail space for small businesses not affordable	It is considered that a range of retail spaces will be provided as part of the development, including small retail shops, restaurants and cafes, as well a supermarket to provide for varying local businesses.
Overshadowing of solar panels for the adjacent holiday park	Shadow diagrams prepared for the proposal by TVS Architects demonstrate that shadows cast by the development will not reach these solar panels.
Construction method could have impacts on old foundations of adjacent holiday park	It is considered that any potential impacts can be mitigated by ensuring that all construction methods are to be carried out in accordance with relevant conditions of consent and BCA requirements.
Car park exhausts should be moved away from boundary of neighbours due to air and acoustic impacts of holidaying residents.	Matrix undertook noise modelling to assess traffic noise surrounding the site. Generally, Matrix found that the proposed development will have an insignificant impact on road noise. The in-take air fans are located below ground in the carparks, so there should be minimal air and noise impacts at ground level.
Money should be spent on infrastructure works in the city	MidCoast Council successfully secured \$6 million in additional funding from the Federal Government to deliver a new library, visitor information centre and community related facilities on part of the site. It is understood that the incorporation of the land uses into the broader site would be beneficial in facilitating a more inclusive development and Civic type precinct.
Insufficient detail with regard to cinema layout	An indicative plan layout for the cinema outlines that the cinema will provide for 3 cinemas with a seating capacity of 800.
Lack of affordable housing options	The residential component of the proposal is limited to self-contained seniors housing units and five luxury penthouse apartments. In this respect, it is considered that the community could benefit from the provision of a greater mix and diversity of housing on this large and centrally-located site.

	However, given the growing population of the area, in particular people over 60 years, the provision of residential accommodation (predominantly for seniors) is considered appropriate.
Library return chute should be located near returns desk	The proposal responds to the desired future character of the Civic precinct as envisaged by Council's masterplanning documents. It is considered that this issue can be addressed as part of the future detailed design of the library.
Area for the former school of arts should be open space	The former school of art is not located on the subject site and has not been considered as part of this assessment.

6.2.13 79C(1)(e) The Public Interest

The site is located in a key position adjacent to the Forster town centre and development of this landmark site as proposed will provide the impetus for future redevelopment of the area in accordance with the zoning regime for the locality.

The provision of mixed-use development of the nature proposed will allow for the orderly and economic development of the site. It will introduce significant and high quality civic precinct facilities to the area, benefitting the permanent and visitor community through its additional services, residential accommodation and employment generating uses.

Overall, it is considered that the proposed development will have a positive social and economic impact on the local community and accordingly, subject to the recommended conditions of consent, its approval is in the public interest.

CONCLUSION

An application has been made proposing a substantial mixed use development comprising of independent living Seniors Housing apartments, serviced apartments and a hotel located above a significant podium base supporting commercial, retail and public / community land uses.

A complete and detailed assessment has been undertaken in respect of the site pursuant to Section 79(C) of the *Environmental Planning and Assessment Act 1979*. The development proposal is considered to be an acceptable form of development in this location.

Having regard to the Principles of State Environmental Planning Policy 65, Council's Local Environmental Plan and the Development Control Plan, the scheme is considered to be architecturally designed to take into consideration the opportunities and constraints on the site, to provide for a development that offers good design amenity for future occupiers, and to create a range of spaces and uses to facilitate the creation of a destination for a range of demographics within the local community.

The development represents a responsible built form, responding to the desired future character of the immediate area. Importantly, the development represents permissible development and is found to be in the public interest.

Subject to suitable conditions detailed throughout this assessment report, the development is found to be an acceptable addition to the Forster Town Centre.

RECOMMENDATION

It is recommended that Development Application 521/2017 for a mixed-use development containing a range of uses including civic/community, commercial, residential, tourist and strata subdivision on Lots 11-13 DP 47987, 34-36 West Street, Forster, be approved in accordance with the conditions of consent contained in Attachment A.

ATTACHMENTS

- A: Draft Conditions of Consent
- B: Documents submitted with the application (as amended)
- C: Seniors Housing SEPP Checklist
- D: ADG checklist / detailed assessment

Due to its large size, Attachment B has been circulated in hard copy to the Administrator and Senior Staff only as a paper conservation measure. However, this Attachment is publicly available on Council's Website, copies are available at Council offices and copies are available on request.