

# REGIONAL PLANNING PANEL (Hunter Central Coast)

## Planning Report

<b>JRPP No</b>	<b>2017HCC037</b>
<b>DA Number</b>	DA/793/2017
<b>Local Government Area</b>	Central Coast Council
<b>Proposed Development</b>	Residential Flat Building consisting of 29 units under SEPP (Affordable Rental Housing) 2009 and associated demolition works.
<b>Street Address</b>	6-10 Battley Avenue The Entrance
<b>Date lodged</b>	29 June 2017
<b>Applicant</b>	Kemby P/L c/- Ghazi Al Ali Architect
<b>Architect:</b>	Ghazi Al Ali Architect
<b>Number of Submissions:</b>	12 submissions
<b>Estimated value:</b>	CIV \$7,472,024
<b>Regional Development Criteria</b>	Capital investment value exceeding \$5 million for affordable housing
<b>List of All Relevant s4.15(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Affordable Rental Housing) 2009.</i></li> <li>• <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</i></li> <li>• <i>State Environmental Planning Policy No. 71 – Coastal Protection</i></li> <li>• <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i></li> <li>• <i>State Environmental Planning Policy 55 – Remediation of Land</i></li> <li>• <i>State Environmental Planning Policy (State and Regional Development) 2011</i></li> <li>• <i>State Environmental Planning Policy (Infrastructure) 2007</i></li> <li>• <i>Wyang Local Environmental Plan 2013</i></li> <li>• <i>Wyang Shire Development Control Plan 2013</i> <ul style="list-style-type: none"> <li>- <i>Chapter 1.2 Notification of Development Proposals</i></li> <li>- <i>Chapter 2.4 - Multiple Dwelling Residential Development</i></li> <li>- <i>Chapter 3.1 Site Waste Management</i></li> <li>- <i>Chapter 3.6 – Preservation of Trees or Vegetation</i></li> <li>- <i>Chapter 5.3 - The Entrance Peninsula</i></li> <li>-</li> </ul> </li> </ul>

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

DRAFT

## CENTRAL COAST COUNCIL

### Development Assessment

#### **Construction of a residential flat building consisting of 29 dwellings (under SEPP (Affordable Rental Housing) 2009 and associated demolition works**

DA/793/2017

Author: Salli Pendergast

#### **SUMMARY**

A development application has been received for a residential flat building utilising the provisions of SEPP (Affordable Rental Housing) 2009 and associated demolition works at 6 - 10 Battley Avenue, The Entrance. The application has been assessed having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements.

<b>Applicant</b>	Kemby P/L c/- Ghazi Al Ali Architect
<b>Owner</b>	Kemby P/L
<b>Application No</b>	DA/793/2017
<b>Description of Land</b>	6-10 Battley Avenue, The Entrance, Lot 31, 32 & 33, DP.18372
<b>Proposed Development</b>	Residential Flat Building (29 dwellings) (under SEPP (Affordable Rental Housing) 2009 and associated demolition works.
<b>Site Area</b>	1743.3m <sup>2</sup>
<b>Zoning</b>	R3 – Medium Density Residential
<b>Existing Use</b>	Three dwelling houses
<b>Value of Works</b>	\$7,472,024

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#### **RECOMMENDATION**

- 1 That Council grant consent to DA/793/2017 at 6-10 Battley Avenue, The Entrance for a Residential Flat Building (29 dwellings) (under SEPP (Affordable Rental Housing) 2009 and associated demolition works subject to the conditions provided in the Attachment.***
- 2. That Council advise those who made written submissions of Council's decision.***

#### **INTRODUCTION**

##### **The Site**

The subject site comprises three separate regular shaped lots with a detached house on each lot. Adjoining the northern and western boundaries of the site are detached dwelling houses and dual occupancy developments. There is a public walkway adjoining the eastern boundary of the site with detached housing beyond. Opposite the site a multi storey

residential flat building has been recently constructed and on the corner of Battley Avenue and Oakland Avenue, there is a residential flat building a number of years old. Further afield to the west is foreshore reserve adjoining Tuggerah Lake. There is a zone transition along the western boundary of the site from medium density residential to low density residential development (i.e. from the R3 zone to the R2 zone).



Above: Aerial view of subject site

### **The Proposed Development**

The development application has been lodged seeking approval for the demolition of the dwelling houses and other buildings and structures on the site and the construction of a residential flat building (29 dwellings) under the provisions of SEPP (Affordable Rental Housing) 2009.

The details of the proposal are:

Construction of a four storey, residential flat building containing:

- 6 x 1 bedroom units
- 23 x 2 bedroom units
- 26 basement parking spaces (3 accessible spaces)

Four adaptable units (G01, G03, G05 and G08) are proposed and 17 dwellings out of 29 dwellings are to be allocated as affordable housing pursuant to the SEPP. These 17 affordable dwellings are to be managed by a registered community housing provider for a period of 10 years. Communal open space is provided at the ground level and in the form of a roof top terrace.



Above: Street facing elevation of proposal.



Above: Rear (northern) facing elevation



Above: Site plan for proposed development

## VARIATIONS TO POLICIES

<b>Clause</b>	4.3 Height of buildings
<b>Standard</b>	12m maximum building height
<b>LEP</b>	Wyong LEP 2013
<b>Departure basis</b>	Variation (6%) includes a maximum building height of 12.779m

<b>Clause</b>	Cl 4.3.3 of Chapter 2.4 – Residential Flat Buildings – 3 or more storeys in height – Minimum setbacks
<b>Standard</b>	Building Lines
<b>DCP</b>	Chapter 2.4 – Multiples Dwelling Residential Development
<b>Departure basis</b>	6m side setbacks required. Variable proposed. Proposed 4.5m-7.5m on both sides at upper level (25% variation). Proposed 750mm-7.5m at ground level on eastern side (87% variation) due to basement access for waste transfer to street. Proposed 4.5m-7.5m at ground level on western side (25% variation)

<b>Clause</b>	4.4.3 Visitor Parking
<b>Standard</b>	Visitor parking at a rate of 1 space per 5 units
<b>DCP</b>	Chapter 2.4 – Multiple Dwelling Residential Development
<b>Departure basis</b>	6 visitor spaces required. None provided. However, complies with parking provisions of SEPP ARH which does not specify visitor or private parking use of spaces.

<b>Clause</b>	12.2.4 – Car washing facility
<b>Standard</b>	1 wash bay provision
<b>DCP</b>	Chapter 2.4 – Multiples Dwelling Residential Development
<b>Departure basis</b>	No wash bay provided and cannot condition as no visitor space provided. However, complies with SEPP ARH.

<b>Clause</b>	Clause 6.4.1 – Visual Privacy Design Criteria 3F-1 – separation for visual privacy
<b>Standard</b>	Building separation distances
<b>DCP &amp; ADG</b>	Chapter 2.4 – Multiples Dwelling Residential Development Apartment Design Guide - NSW Department of Planning and Environment
<b>Departure basis</b>	25% variation to the distance for side setbacks and 75% variation at ground level on the eastern side for the waste room.

<b>Clause</b>	Clause 12.1 of Chapter 2.4 – Housing choice Design Criteria 4K-1- Apartment mix
<b>Standard</b>	A variety of dwelling types is encouraged between one, two, three and four bedroom apartments; particularly in large residential flat developments and on the ground floor.
<b>DCP &amp; ADG</b>	Chapter 2.4 – Multiples Dwelling Residential Development Apartment Design Guide - NSW Department of Planning and Environment
<b>Departure basis</b>	Non numerical variation as dwelling mix is confined to 1 and 2 bedroom dwellings. No larger dwellings.

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The proposed variations are discussed in further detail below.

## **HISTORY**

- Development Consent No. DA/1419/2007 was granted on 4<sup>th</sup> June 2009 for a residential flat development and demolition of existing structures on the subject site.
- Development Consent No. DA/98/2015 was granted 7<sup>th</sup> September 2015 for a residential flat building comprising 21 units including demolition of existing structures on the subject site. The applicant has advised they have based the footprint of the current proposal on the approved footprint of this approved building.

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

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

The application was notified on three separate occasions in accordance with Wyong Development Control Plan 2013 Chapter 1.2 Notification of Development Proposals with 3 submissions (2 households) being received under the original notification, then 9 submissions (8 households) being received under the subsequent notification period and then 6 submissions (5 households) being received under the most recent notification for the latest amended plans. The general issues raised in relation to the proposal are included below.

- **Traffic**

*Concerns were raised regarding the cumulative impacts of traffic congestion due to being a small dead end street with existing on street parking problems from community centre and new residential flat building opposite the site. Traffic generation impacts (cumulative with other development in street) result in further congestion of existing dead end street. Battley Avenue a cul-de-sac is unsuitable for increased traffic and on street parking.*

#### Comment

Council's Traffic and Transportation Engineer has reviewed and assessed the Traffic Report prepared for the proposal and advised that based on the traffic generation calculated for this development, there will be no significant impact on the efficiency of the local or state road network as a result of the proposal. This is based on the RMS Guide to Traffic Generating Developments. With a rate of 0.29 trips per unit, the development will generate traffic for the development in the order of 8.4 peak hour vehicle trips (PHVTs) which is considered reasonable. Recommended conditions are included requiring road infrastructure upgrade works for the street frontage of the site to address safety and amenity.

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- **Overdevelopment and contrary to planning controls**

*Concerns were raised regarding the proposal being an overdevelopment with unreasonable and excessive bulk and height; Proposal bulk and height are out of scale with surrounding development and with existing streetscape. Proposal dominates area. 29 dwelling are too many on 3 lots and is an increase in number of units from previous approval in 2015 from 22 dwellings to 29 dwellings. Height and FSR are non-compliant. Proposal is contrary to zone R3 objectives as adverse impacts to residential amenity*

Comment

The proposal complies with Council's maximum FSR but not with maximum height and setback requirements. This is not reflective of an overdevelopment or shortfall in design but rather the flexibility needed to address the constraints of the site and achieve a satisfactory outcome for development of the site within these constraints. The potential impacts of these non-compliances have been assessed and are not significant or unreasonable as the proposal has been designed to minimize amenity impacts to neighbouring properties and visual bulk to the street. There is minimal overshadowing of adjoining properties mid-winter and satisfactory landscaping is provided within all setbacks to soften and screen the appearance of the development.

The additional density on the site (ie. floor space and number of units) from the previous consent is a consequence of utilizing the provisions of SEPP (Affordable Rental Housing) 2009 (SEPP ARH). Under this instrument, if affordable housing units are provided within the development for rental purposes and managed by a registered community housing provider, then bonus floor space is permitted on the site. The proposal utilizes these provisions and complies with the relevant numerical controls under the SEPP.

Clause 2.3 of WLEP 2013 requires that *the consent authority must have regard to the objectives for development in a zone* when determining a development application. The proposal is considered consistent with the R3 zone objectives which seek to

- *provide for the housing needs of the community and*
- *provide a variety of housing types within a medium density residential environment and*
- *to encourage amalgamation of existing lots to facilitate well designed medium density development and to avoid unnecessary isolation of lots.*

Additionally, it is considered that the proposal has been *designed to maintain and enhance the residential amenity of the surrounding area* by minimising potential privacy and overshadowing and visual impacts to existing surrounding development.

Although there are variations sought to the setbacks under the proposal, there are no significant or unreasonable impacts on amenity resulting from the variations. In this instance, the variation to the height is supported and strict compliance with the development standard is considered unreasonable and unnecessary and there are sufficient environmental planning grounds to justify contravening the development standard. The height variation is not readily discernable; there are not unreasonable impacts associated with the height non-compliance and the building height is considered to be appropriate is not unreasonable within the site context and in terms of a complying FSR.



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- **Impact of stormwater from proposal**

*Concern was raised regarding the adequacy of stormwater management for the proposal and the existing localized flooding getting worse as infrastructure inadequate to cope.*

Comment

Council's Development Engineer has reviewed and assessed the proposed stormwater plans provided for the development which include on-site detention and water quality arrangements and advised found them to be satisfactory subject to recommended conditions.

- **Out of character unsuitable site context**

*Concern was raised regarding the suitability of the site for a residential flat building given the surrounding site context comprising family homes. Concern was raised that the building will dominate the area, and the development is out of keeping with majority of dwellings in the street.*

Comment

The site is zoned R3 which seeks to accommodate medium density residential development. Although not strictly in keeping with the existing character of the area comprising single storey dwellings, the proposal is considered to be consistent with the future character envisaged for the site and surrounding area. The site context is undergoing a transition and the proposal is consistent with the planned future character of the area as identified under Council's planning controls. The built form capitalises on the building's location and orientation and good distance views in almost all apartments. The proposal will include positive benefits to the local community through the provision of affordable housing on the site for a period of 10 years.

The proposal complies with the locational criteria required for permissibility under SEPP ARH and the building is considered to pass the local character test under the SEPP. The building has been designed to suitably respond to the residential context of the adjoining boundaries and to the street. The building is appropriately positioned and facades are articulated and the building form steps down with the sloping topography of the site.

- **Amenity impacts - Privacy loss**

*Concerns were raised regarding privacy loss with the building positioned too close to the northern boundary and adjoining yards. Request relocation of balconies and larger windows from north side of building to south side of building. Too many balconies facing north. Design quality appears to be considered more than amenity.*

The northern boundary adjoins R3 zoned land but currently accommodates detached housing and dual occupancy development. The building complies with the required northern setback to the rear of the building and landscape screening is to be established along the northern boundary to screen the two sites. Although there are variations sought to the side setbacks under the proposal, there are no significant or unreasonable impacts on amenity resulting from the variations. All openings on these side elevations have been designed and oriented to minimise privacy impacts to neighbouring properties.

[illegible]

Above: Landscape Plan showing the proposed landscaping to the boundaries.

*Concern was raised regarding the potential overshadowing impacts to the immediately adjoining dwelling to the east and west.*

Shadow diagrams have been prepared for the development at intervals of 9:00am, midday and 3:00pm on 21 June to indicate the scenario mid-winter on the shortest day of the year. Due to the orientation of the site, with south towards the street front, the most impacted area for overshadowing midwinter between 9am and 3 pm is located towards the street rather than neighbouring properties. There is some shadowing of the neighbouring properties midwinter between 9am and 3pm but this is very limited in duration and confined to either the morning or afternoon periods.

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During the morning period (9am) the shadowing from the development extends predominantly across Battley Road but with partial shadowing of the eastern side and front setback of 4 Battley Avenue. By midday shadowing has receded to be wholly contained within the front setback of the development site and street. By the afternoon (3pm), shadowing extends across the dwelling at 12 Battley Avenue but the rear yard remains unaffected by the building. Each neighbouring dwelling (at 4 and 12) still receive 3 hours of solar access midwinter and this is not reduced by the proposal. The overall extent of shadowing impact resulting from the proposal is not excessive or unreasonable given the location of the site within an established area.

- **Social impacts**

*Concern was raised regarding the impact on demographics in the area from the scale of low cost housing. Affordable housing is unsuitable in locations with high unemployment. Too much rental housing in the area results in safety and security impacts to surrounding areas.*

Comment

The proposal was assessed against the Crime Prevention Through Environmental Design (CPTED) considerations and a social impact assessment was prepared for the proposal. The state government has identified the need to increase the supply of affordable housing in certain locations that are well serviced for public transport. The site is identified as complying with the accessible location criteria identified under SEPP ARH to allow for the development to be carried out on the site. The proposal complies with the specified requirements under the SEPP that cannot be used as ground for refusal. The potential social impacts of the development have been considered by Council's Social Planner.

- **Parking**

*Concerns were raised regarding the adequacy of the on-site parking provision under the development and the lack of on-site visitor parking. Additional concerns included the existing on street parking congestion along the street which will be worsened under proposal. The cumulative impacts of on street parking as the street is already parked out due to community centre opposite and the new residential flat building opposite the site.*

Comment

The proposal complies with the parking provision outlined for the development under SEPP ARH. The parking provisions are identified as matters that cannot be used as grounds for refusal if complied with. It is noted that the development does not include any specified visitor parking and this was requested to be provided within the basement, however, the applicant argued that the development complies with the parking as required under SEPP ARH.

- **Noise impacts**

*Concern was raised regarding the noise impacts and potential noise from use of rooftop terrace; Increasing noise impacts associated with the development of the site which is currently in a quiet area; Noise from garbage collection.*

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### Comment

A condition is recommended to limit the hours that occupants can use the roof top terrace. An acoustic report was prepared to address potential noise impacts from mechanical plant and equipment on the site and from waste collection. A 1.8m high acoustic barrier on the eastern side of the site is to be erected to minimize potential noise from the waste area. These reports were assessed by Council's relevant officer who raised no further objections. Standard construction hours will be imposed as a recommended condition of consent. Additional conditions will also be recommended during construction requiring sound attenuating devices to be provided and maintained in respect of all power-operated plant, and requiring written notice to be given to surrounding occupants a minimum of five working days prior to any potentially noise generating construction works commencing, advising of the time/date and duration for the works.

- **Adverse impact on property values**

### Comment

Under the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an applicant has the right to apply for developments that achieve the aim of orderly and economic use and development of land. There is no evidence to suggest the development would have a negative impact on adjoining land values. The proposal is likely to attract increased interest, activities and population in the area having a potentially positive impact on land values.

- **Pedestrian Access and Safety**

*Concern was raised regarding the fact that there is no pedestrian crossing marked on Oakland Avenue to access the bus stop from Battley Avenue – safety concerns.  
Pedestrian safety – as children in street.*

### Comment

The development relies on the safe access to the bus stops along Oakland Avenue to permit the development under SEPP ARH. The need for provision of a pedestrian crossing on Oakland Avenue was considered by Council's Traffic and Transport Engineer and Development Engineer, however, the proposal would not meet the threshold warrants for a pedestrian crossing in this location. Additionally the RMS commented on the proposal (as Oakland Road is a classified road) and no requirement was imposed for the provision of any further pedestrian crossing facilities across the classified road.

There is an existing mid-block pedestrian refuge on Oakland Avenue which is considered to provide a safe crossing point to access the bus stop. A further 130 metres north of Battley Avenue there is an existing signalized pedestrian crossing on Oakland Avenue that provides for safe access across the roadway. The recommended conditions also include the provision of a concrete footpath for the full street frontage of the development to ensure pedestrian safety.



Above: Mid-block pedestrian crossing on Oakland Avenue at the corner of Battley Avenue

- **Garbage collection**

*Waste collection is difficult with more on street parked cars resulting from development. Dead end street and parked cars make it narrow for a garbage truck.*

Comment

On-site waste collection arrangements for the proposal are included in the design of the development in accordance with Council's Waste Guidelines and waste contractors requirements. As such, the garbage truck will collect the waste on-site. Conditions will be recommended to further address waste management on the site.

## **ASSESSMENT**

Having regard for the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues, which are discussed for Council's information.

## **THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES**

### **Relevant State Environmental Planning Policies (SEPPs)**

*State Environmental Planning Policy (Affordable Rental Housing) 2009*

The subject site is located within an accessible area in accordance with Clause 10(1) and (2). The site is located within the Sydney Region (as defined under Clause 4) and complies with the definition of accessible area (under Clause 4). The site is located within an accessible area with a bus stop (complying with the minimum frequency of service) located within 400m walking distance of the site along The Entrance Road.

The relevant definitions under the SEPP for the 'Sydney Region' and an 'accessible area' under the SEPP are as follows:

**accessible area** means land that is within:

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the *Passenger Transport Act 1990*) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

**Sydney region** means the region having that name declared under section 4 (6) of the Act.

**Note.** The Sydney region means land within the following Local Government Areas:

Ashfield, Auburn, Bankstown, Baulkham Hills, Blacktown, Blue Mountains, Botany, Burwood, Canada Bay, Camden, Campbelltown, Canterbury, Fairfield, Gosford, Hawkesbury, Holroyd, Hornsby, Hunters Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool, Manly, Marrickville, Mosman, North Sydney, Parramatta, Penrith, Pittwater, Randwick, Rockdale, Ryde, Strathfield, Sutherland, Sydney, Warringah, Waverley, Willoughby, Wollondilly, Woollahra and Wyong.

Under Clause 13 of SEPP ARH, a bonus floor space ratio (FSR) applies to the proposal. Clause 13(1) requires at least 20% of the gross floor area to be used for the purpose of affordable housing in order for the development to qualify for the higher FSR under the SEPP. There are 15 out of 29 units or 1122.92m<sup>2</sup> gross floor area (GFA) is proposed for affordable rental housing which equates to 47% of the total GFA of the development.

The maximum FSR applying to the site under WLEP is 0.9:1. However, under Clause 13(2)(a)(i) of the SEPP, there is an increased FSR of 0.49:1 in addition to the 0.9:1 (under WLEP) that applies to the development which totals a maximum FSR of 1.39:1. The proposed floor space ratio is 1.37:1 (based on GFA of 2387.67m<sup>2</sup>) which complies with the maximum permitted under the SEPP.

Clause 14 of the SEPP outlines a number of standards including those that cannot be used to refuse consent in relation to the proposal. The proposal achieves compliance with each of the standards under the SEPP. These standards and the details of the proposal with relevant compliance are summarized the table immediately below.

<b>SEPP (Affordable Rental Housing) 2009 – Compliance table</b>		
<b>Part 2 – New affordable rental housing</b>	<b>Proposal</b>	<b>Achieved</b>
<b>Division 1 – Infill affordable housing</b>		
10(1) Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if: <ul style="list-style-type: none"> <li>- Permissible under another EPI and</li> <li>- The land does not contain a heritage item</li> </ul>	Proposal is for residential flat building which is permissible under Wyong LEP 2013 within the R3 zoning of the site. There is no heritage item on the site.	Yes
10(2) Division does not apply to development on land in the Sydney Region unless all or part of the development is within an accessible area.	Definition of Sydney region under Clause 4 of SEPP includes the former Wyong LGA within which site is located. The site is located within an accessible area (in accordance with Clause 4 definition). The site is within 400m of a bus stop that complies with the definition.	Yes
13 Floor Space Ratio	The proposal is 49.6% affordable housing	Yes

(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.	under the SEPP.	
13(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus: (a) if the existing maximum floor space ratio is 2.5:1 or less: (i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher.	The existing maximum floor space ratio permitted on the land under WLEP is 0.9:1. Under Clause 13(2)(a)(ii) the proposal includes less than 50% affordable housing, therefore the calculation under subclause (ii) is used to identify the applicable FSR. Under the calculation additional bonus of 0.49:1 applies to the 0.9. This increases the maximum FSR permitted under the SEPP to 1.39:1. The proposal includes an FSR of 1.37:1 (based on GFA of 2387.67m <sup>2</sup> ) which complies.	Yes
<b>Clause 14 - Standards that cannot be used to refuse consent</b>		
(1)(b) Site area is at least 450m <sup>2</sup> .	Site area is 1743.3m <sup>2</sup> which complies	Yes
(c) landscaped area is at least 30% site area	Proposed 33.5% (585m <sup>2</sup> )	Yes
(d) deep soil zones - at least 15% of site area - minimum dimension 3m - at least 2/3 is located at the rear of the site	Deep soil 26.4% of site (461m <sup>2</sup> ) Min dimension 3m 58% at the rear of site	Yes Yes Yes
(e) Solar access – a minimum of 70% of dwellings living rooms & private open space receive 3 hours direct sunlight between 9am and 3pm midwinter.	22 dwellings (75.9% of units) achieve a minimum of 3 hours solar access between 9am and 3pm midwinter	Yes
(2)(a) Parking – at least: - 0.5 spaces each 1 bed dwelling - 1 space each 2 bed dwelling - 1.5 space each 3 bed dwelling	Total 26 parking spaces - 6 x 1 bed dwellings = 3 spaces - 23 x 2 bed dwelling = 23 spaces No 3 bedroom dwellings	Yes
(b) Dwelling size at least: 35m <sup>2</sup> for a bedsitter or studio 50m <sup>2</sup> for a 1 bedroom dwelling 70m <sup>2</sup> for a 2 bedroom dwelling 95m <sup>2</sup> for a 3 or more bedroom dwelling	All dwelling sizes comply. N/A 51m <sup>2</sup> - 60m <sup>2</sup> 75m <sup>2</sup> - 85m <sup>2</sup> N/A	Yes
Clause 15(2) This clause does not apply to development to which clause 4 of <a href="#">State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</a> applies.	SEPP 65 applies to the development	N/A
16 Continued application of SEPP 65	The application is being assessed under the provisions of SEPP 65.	Applies
16A Character of local area	Refer below for discussion	Yes

Clause 15 (Design Requirements) is not relevant to the proposal as the provisions of SEPP 65 apply to the proposal. In accordance with Clause 16, the proposal has been assessed against the provisions of SEPP 65 and this has been discussed later in the report.

Clause 16A requires consideration of the compatibility of the proposal with the local area and states:

#### 16A Character of local area

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.



In this regard, the proposed building includes four above ground levels and is of a similar scale to the nearby residential flat building at 18-24 Battley Avenue. The existing character of the local area is undergoing a transition from low density detached housing to a medium density residential environment due to the R3 zoning of the site and surrounding area to the north, east and south (which includes land adjoining to the rear and land opposite and upslope of the site). There is a zone transition to a lower density (R2) immediately to the west (and downslope) of the site. The scale, bulk and appearance of the proposal are considered consistent with the desired future building form and character for the area for medium density residential.

The proposal provides appropriate separation (through sufficient setbacks) and satisfactory articulation of the building form. Satisfactory landscaping has been included to the street and all site boundaries which is consistent with the character of existing development along the street. The design of the building steps down with the slope of the site along the street. The visual impacts of the built form are considered satisfactory and the proposal will make a positive contribution to the street.



Above: Streetscape perspective showing the proposed building scale within the immediate site context

In accordance with Clause 17 of the SEPP a condition will be imposed requiring that the development be used for affordable housing for a period of 10 years from the date of the issue of the Occupation Certificate and that all such accommodation for affordable housing will be managed by a registered community housing provider, and a restriction as to user will be registered against the title of the property.

In this regard, the applicant has identified that a community housing provider known as Link Housing Limited is nominated to manage the affordable housing component of the development. Link Housing Ltd is a Tier 1 registered community housing provider.

*State Environmental Planning Policy No.65 (Design Quality of Residential Apartment Development)*

State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development applies to the development and requires the design quality of the development to be taken into consideration and evaluated against the design quality principles, and Clause 30(2) of SEPP 65 also requires such development to be designed in accordance with the associated Apartment Design Guide (ADG) as follows:

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



The proposal has been designed in accordance with the ADG and a compliance table summarizing the proposal against the ADG has been included as an Attachment (refer attachment 2).

<b>Principles</b>	<b>Proposal</b>
Context and neighbourhood character	<p>The site is located within 600m walking distance to the Entrance shopping precinct and 200 metres walk to the foreshore reserve and cycleway adjacent to Tuggerah Lake. The site currently comprises three lots each containing a dwelling house fronting Battley Avenue. Surrounding the site is a mix of dwelling houses, dual occupancies, and residential flat buildings.</p> <p>Although there are detached houses surrounding the site, the area is in transition and the site zoning seeks redevelopment of the area towards a medium density residential context (away from a low density context). The planning controls for the site outline the intentions for medium density housing in this area.</p> <p>The building design follows the street slope giving continuity to the height of surrounding buildings. The proposed building visually assimilates well to the existing buildings in the street. The proposed development responds positively to its context and the desired future character of the area as reflected in Council's current controls for the site. There is a zone transition to R2 adjoining the west of the site and the building steps down to this boundary and includes satisfactory landscaped setbacks.</p>
Built Form and Scale	<p>All elevations are well articulated and the building scale appears proportional to the surrounding buildings. The building bulk has been suitably addressed by the articulation of the façade (resulting in a variation of building planes facing the street) and stepping of the building. The development achieves compliance with the floor space ratio however variation is sought to the building height and setbacks. The variation to height is considered reasonable having regard for the provisions of clause 4.6 Exception to Development Standards and the request for variation submitted by the applicant.</p> <p>Notwithstanding this, the proposal demonstrates an appropriate scale in terms of bulk, height and building separation which contribute positively to the desired future character of the area. The physical impacts of the proposal are not unreasonable with overshadowing extending predominantly towards the street front and privacy impacts addressed in the design and orientation of the building and by landscaped boundary setbacks.</p> <p>The physical form of the proposal makes a positive contribution to the streetscape and public domain. The proposed development achieves an appropriate built form in terms of building alignment, setbacks, proportions and articulation of building elements. The use of different size openings minimises the focus onto the mass or horizontal elements of the building creating an active façade.</p>
Density	<p>The proposal complies with the maximum FSR permitted for the site under SEPP ARH and the density is considered appropriate for its urban context and well-served location (in close proximity to shops, schools, community facilities and recreational opportunities including the lake).</p>
Sustainability	<p>The proposal makes efficient use of natural resources, energy and water in the design. Cross ventilation is maximised in the design with 65.5% of dwellings (19 out of 29 units) achieving cross ventilation which is in excess of the minimum percentage of dwellings under the ADG. Natural lighting and solar access is maximised in the design with 76% (22 units out of 29) units complying with the ADG. Additionally, only 3 units have a single, southerly aspect (10% of all units).</p> <p>The building has been designed to maximise the number of units with a northerly aspect and the majority of units above ground will have good outlook including water views which will also contribute to the internal amenity of the units. A Basix Certificate has been provided for the development identifying the water and energy efficiency measures to be adopted. Deep soil planting has been provided to all boundary setbacks and a waste management plan has been provided identifying waste minimisation strategies proposed to be adopted for the demolition and construction stages of the development. This includes 50 -100% reuse and recycling of materials.</p>

Landscape	<p>A landscape scheme has been designed for the site which achieves a high quality landscaped environment for future residents, neighbouring properties and which contributes positively to the public domain. There is 38% of the site area comprises natural landscaping with 28% of the site area comprising deep soil zones which complies with the ADG. Landscaping is included to all boundary setbacks to optimise internal and external amenity (i.e. usability, privacy, and social interaction). The communal open space at roof top also includes landscaping to enhance usability and for visual screening from the area.</p> <p>The front and rear portions of the site in particular, feature larger trees that add interest to the streetscape whilst providing a degree of privacy screening for residents from the street. The use of low shrubbery in conjunction with these trees offers a gentle transition of scale, as well as a way of softening the hard edges of the building, and framing the private fences of the ground floor residential units.</p>
Amenity	<p>Internal amenity is optimised through appropriate room dimensions and configurations, sunlight access and natural cross ventilation. Room shapes enable easy furnishing and habitable rooms have been designed with good access to sunlight and natural ventilation. The design and outlook of dwellings also includes acoustic and visual separation of units for privacy. The built form capitalises on the building's location near the lake and, a number of apartments will enjoy lake views. The building has been designed to maximise the number of dwellings with a northerly aspect.</p> <p>The proposal includes 541m<sup>2</sup> (31% of site area) of communal open space at both ground level and rooftop level which complies with the ADG (i.e. 25% minimum). The communal open space at roof top level is accessible via a lift to all occupants and is well landscaped and readily usable. The area is oriented towards the lake and will benefit from very good water views. The internal layout includes a maximum of 8 dwellings off the core at ground level, 9 dwellings off the core at Level 1 and 2, and 5 dwellings off the core at level 3. Waste storage is centrally located within the basement with satisfactory on-site waste transfer and servicing to the street front. All units can be accessed by mobility impaired persons. Satisfactory storage has been provided within each dwelling and within the basement for each unit.</p>
Safety and Security	<p>The proposal provides a clearly identifiable building entrance including an intercom and key access arrangement. The setback of the building, fencing and entrance paths to the site clearly denote the change from public to private space. A defined security lobby provides access to each unit. Access control measures are to be included to the building and basement car park area. The internal and external layout of the building has been designed to avoid potential entrapment spaces and maximise natural surveillance. There are no inset doorways or hidden entrances which can provide opportunities for crime. The design provides good internal lighting and opportunities for passive surveillance of the public domain and ground level communal areas from the residential above which overlooks the street, laneway and ground level communal open space. The proposal includes a report addressing the principles of Crime Prevention Through Environmental Design (CPTED).</p>
Social Dimensions	<p>The development includes a mix of 1 and 2 bedroom dwellings both of which include accessible dwellings and affordable housing units. The units have a range of sizes and outlooks and opportunities for social interaction has been included in the communal areas at ground and roof level. The proposal was accompanied by a Social Impact Assessment and an accessibility report both of which identify the opportunities within the development to provide a range of housing to suit a broad range of people with differing living and access needs and household budgets.</p> <p>Appropriate design measures have been incorporated into the design of the development ensuring ease of access for people of all ages and mobility throughout the development. Access is readily achievable to all sole-occupancy units and common areas within this development. Measures such as lift access to each level (including basement car parking area), car ramp access, minimisation of steps throughout each floor level and at grade pedestrian access from the street frontage will ensure the development is accessible for people of all ages.</p>

Aesthetics	<p>The applicant has advised that the building façade was designed to promote a mix of textures and colours that add visual interest to the street, whilst complementing the existing street character. The simplicity of the building appearance is intended to be conservative in both form and material. The primary texture of the building is provided by the designer split-face blocks that have been specified for the two main corners of the building, as seen from the street. The weight of the stone is contrasted with the lightness of the black, aluminium box framing of each of the windows on this façade, and the dark sill beneath the windows. The light sandstone colour of this blockwork serves as the middle tone of the overall façade.</p> <p>A darker hue of the palette is provided by horizontal timber cladding that is also used in part, as a feature of the façade. The timber texture also adds a degree of warmth to the building and to the general aesthetic of coastal homes across Australia. This is further enhanced by the use of louvre windows in some places. White paint is used as a highlight in certain areas, to bring forward the perception of the balconies, and roof form against the medium and darker tones of the blockwork and timber respectively. It is also used to mediate an otherwise heavily-textured building. It helps provide a sense of cleanliness and modernity. The general palette is completed with the constrained use of black paint on certain walls and elements throughout the design helps some elements recede in the viewer's eye.</p>
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- Design Criteria 3F-1 - Separation between windows and balconies is provided to ensure visual privacy is achieved.

#### Comment

The proposal seeks a variation to the building separation and visual privacy design considerations under the ADG. The design consideration under the ADG is to achieve a minimum separation distance for buildings. This allows for adjacent buildings on neighbouring sites to achieve a reasonable level of external and visual privacy. The building separation proposed for the rear half of the side elevations of the building are below those specified. The minimum required separation distances for visual privacy are to be provided as set out in Design Criteria 3F-1 (refer table below). Minimum required separation distances from buildings to the side and rear boundaries are as follows:

Min. requirement		
Building height	Habitable rooms and balconies	Non-habitable rooms
Up to 12m (4 storeys)	6m	3m
Up to 25m (5-8 storeys)	9m	4.5m
Over 25m (9+ storeys)	12m	6m

Table 1: Minimum separation distances for visual privacy

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The proposal includes separation distances to the side boundaries between habitable rooms of 4.5m-6m rather than the minimum requirement of 6m. This only occurs to the northern (rear) half of the building and is not discernible at the street front of the site. The front half of the building complies with the separation distances. Therefore a 25% variation to the separation distance between the side elevations and boundaries is sought. There is also a (75%) variation sought to the eastern boundary owing to the location of the waste room 750mm from the side boundary. However this waste building is down slope of adjoining development and will not be readily visible from the street.

The proposed variation to western boundary separation includes measures to ensure privacy is maintained between properties. The windows in this non-complying part of the building are highlight windows and the balcony includes solid balustrades and sliding screens so as to minimise potential impacts on privacy. All boundary setbacks also include deep soil zone planting with comprehensive landscape screening to all boundaries.

Despite the variation to the required separation minimum distances, satisfactory visual privacy is considered to be achieved between neighbouring sites.

- 4K-1 - A range of apartment types and sizes is to be provided to cater for different household types now and into the future.

#### Comment

The proposal includes 23 x 2 bedroom dwellings and 6 x 1 bedroom dwellings and no 3 or more bedroom dwellings. The ADG identifies that *a mix of apartment types provides housing choice and supports equitable housing access... This is particularly important because apartment buildings form a significant and often long term part of the urban fabric.* The ADG recommends that flexible apartment configurations should be provided to support diverse household types and stages of life (including single person households, families, multi-generational families and group households). A non-numerical variation is sought based on the argument provided by the applicant that the greatest demand for affordable housing is for 1 and 2 bedroom dwellings due to the demand from smaller and aging households. The apartment mix is considered appropriate considering the location of the site and its proximity to public transport and services, and the demand for affordable housing in the area. The variation in this instance is considered satisfactory.

#### *State Environmental Planning Policy No.71 (Coastal Protection)*

State Environmental Planning Policy No.71 – Coastal Protection applies to the development. SEPP 71 was repealed by SEPP (Coastal Management) 2018 on 3 April 2018. However, savings and transitional provisions under Clause 21 of SEPP (Coastal Management) 2018 apply to the DA. In this regard, Clause 21 reads:

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

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The DA was lodged prior to 3 April 2018, therefore due to the lodgement date of the DA and the savings provisions, State Environmental Planning Policy No.71 – Coastal Protection (SEPP 71) continues to apply to the development. The site is located within the coastal protection zone under SEPP 71 and in accordance with Clause 7, the proposal has been assessed within the context of the matters for consideration outlined under Clause 8 and found to be satisfactory (refer to the attached table of compliance). The proposal has also been considered under Part 4 of the SEPP and is considered consistent with the aspects identified under this part. (See Attachment 3)

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

The proposed development constitutes ‘BASIX affected development’ as defined within the Regulations, and, in accordance with the SEPP, a Basix Certificate has been submitted with the development application (Certificate No.818472M). The Basix Certificate outlines the water conservation and energy efficiency measures to be adopted as part of the proposal in order to ensure the development will be energy and water efficient consistent with the NSW State Governments requirements.

*State Environmental Planning Policy No.55 – Remediation of Land*

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

The existing use is historically residential and there is no evidence to suggest that any past uses have been contaminating activities. However, the existing buildings and structures on the site which are proposed for demolition may have the potential of containing asbestos material. As such, a conditional requirement will be recommended to resolve any contamination concerns and unexpected finds. The proposed site in its current state is considered suitable for the proposed development to be carried out subject to recommended conditions.

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

The proposal constitutes regional development under Part 4 of the SEPP as the development is for affordable housing exceeding \$5 million in capital investment value. As such, the determining authority for the development application is the Hunter and Central Coast Regional Planning Panel.

*State Environmental Planning Policy (Infrastructure) 2007*

Clause 104 and Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 identifies certain traffic generating development as sites with access on a road within 90m than connects to a classified road. The proposed access is in excess of 90m of the classified road however, the application was referred to the NSW Roads and Maritime Services for comments who raised no objection subject to a recommendation regarding the management of construction traffic and sightlines.

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## Wyong Local Environmental Plan 2013

### *Permissibility*

The subject site is zoned R3 – Medium Density Residential under Wyong Local Environmental Plan (WLEP) 2013 and within the R3 zone residential flat buildings are permissible development with consent.

The following definition under WLEP is relevant to the proposal and reads:

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

*Note. Residential flat buildings are a type of residential accommodation—see the definition of that term in this Dictionary.*

In accordance with Clause 2.3 of WLEP, the proposal is considered to be consistent with the R3 zone objectives which read as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain and enhance the residential amenity of the surrounding area.*
- *To encourage amalgamation of existing lots to facilitate well designed medium density development and to avoid unnecessary isolation of lots.*

### *Height of Buildings*

Under Council's height maps (Clause 4.3) the site is permitted a maximum building height of 12 metres, however the proposal does not comply and instead includes a maximum height of 12.779m. A Clause 4.6 Exception to Development Standards accompanies the application seeking variation to the maximum height control. The variation is considered to be reasonable and will not result in any significant impacts to adjoining properties or the street. The proposal remains consistent with the objectives for the clause which are outlined below.

- (1) The objectives of this clause are as follows:
- (a) to establish the maximum height limit for buildings to enable the achievement of appropriate development density,
  - (b) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
  - (c) to ensure that the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views.

The height variation is discussed in greater detail under the Clause 4.6 section of the report.



Above: Images identify the extent of height non- compliance (light)

### *Floor Space Ratio*

The maximum floor space ratio (FSR) for a building (under clause 4.4(2)) on any land is not to exceed the FSR shown for the land on the FSR map which for this site is 0.9:1. However, SEPP ARH overrides Council's LEP standard and includes bonus FSR provisions for the development. Under Clause 13(2)(a)(ii) the proposal includes less than 50% affordable housing, therefore the calculation under subclause (ii) is used to identify the applicable FSR which permits an additional FSR bonus of 0.49:1. This bonus FSR is added to the 0.9:1 to increase the maximum FSR permitted under the SEPP to 1.39:1. The proposed floor space ratio is 1.37:1 (based on GFA of 2387.67m<sup>2</sup>) which exceeds the standard under Clause 4.4 of WLEP but complies with the maximum permitted under SEPP ARH.

### *Clause 4.6 - Exceptions to Development Standards*

A Clause 4.6 exception to the applicable development standard for the maximum permitted building height (WLEP Clause 4.3) applying to the site is sought under the development application. Clause 4.3 of Wyong LEP limits the maximum building height on the site to 12 metres and the proposal includes a maximum height of 12.779m. The exceedance of the height occurs at the roof level including in the central section of the building (0.779m) and at the lift overrun (0.62m) which is also in a central location within the building roof plane.

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

Clause 4.6(4) reads:

- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Secretary has been obtained.

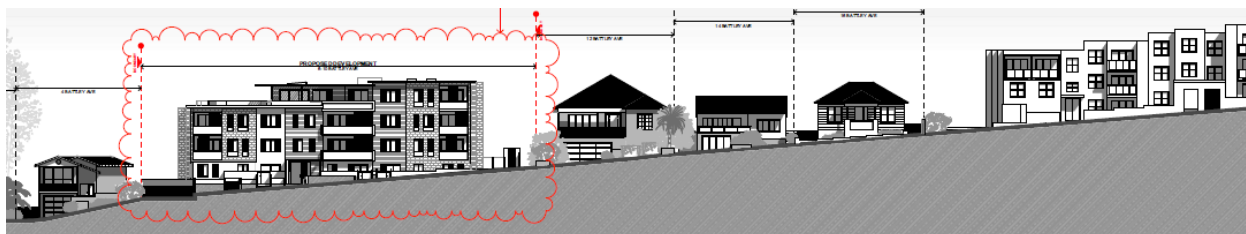
The applicant's Clause 4.6 Exception to Development Standard adequately addresses the matters required to be demonstrated under subclause (3)(a) and (3)(b). Subclause (3) reads:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with the R3 zone objectives, the proposal will *provide for the housing needs of the community within a medium density residential environment* in a manner which will *maintain and enhance the residential amenity of the surrounding area*. The proposal also will *encourage amalgamation of existing lots to facilitate well designed medium density development and to avoid unnecessary isolation of lots*.

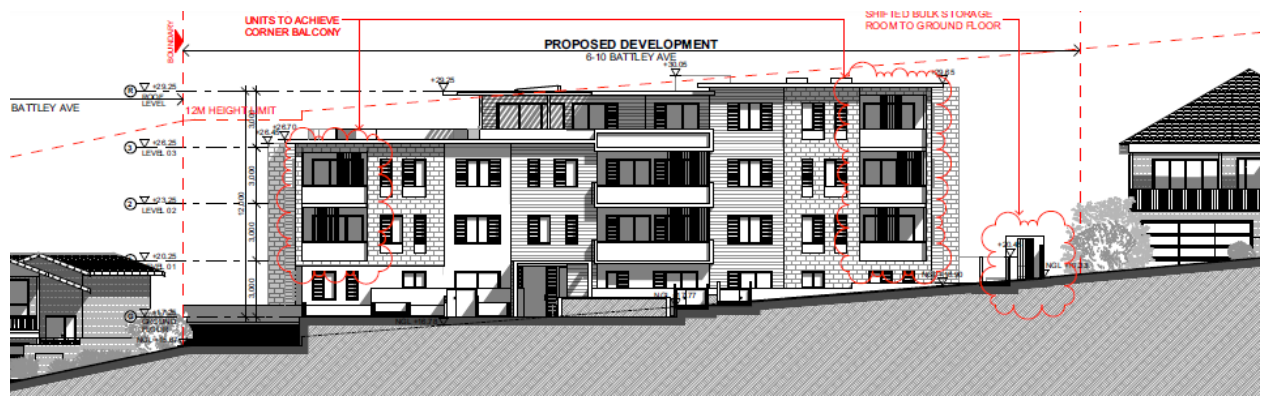
In accordance with the WLEP objectives for the 'height of building' Clause 4.3, the Clause 4.6 exception includes the following arguments from the applicant:

- *The development achieves an appropriate density by complying with the maximum permitted FSR for the site under SEPP (Affordable Rental Housing) 2009.*
- *To the street the development presents a compliant development, presenting an appropriate development scale, form and density. The height variation will not visually present an inconsistent built form in comparison with surrounding development.*
- *The setbacks are appropriate to the context, the proposed building minimises its visual impact when viewed from adjoining properties. The proposal is therefore considered a responsive built form element in terms of its compatibility with the character of the locality.*
- *The proposal presents as a compatible building envelope when viewed from the street. The modern design, with distinct building features, a mixture of treatments and articulation for all facades will be consistent with the form and scale of similar RFB's in the area.*
- *The siting and layout of adjoining properties has been considered in the design. The proposal will not adversely affect the adjoining properties in terms of overshadowing, privacy or visual bulk. The shadow diagrams indicate that the adjoining properties maintain adequate levels of sunlight.*
- *Appropriate building separation distances have been adopted and highlight or fixed obscured glass windows have been incorporated where possible to protect the privacy of adjoining properties. The proposal adopts a compliant height to the boundaries and will not impact on any view corridors across the site.*



Above: The proposed building within the street context





Above: Street elevation showing height variation



Above: Rear elevation showing height variation

The relevant objectives for the 'height of buildings' clause under WLEP (Clause 4.3(1)) are as follows:

- |  |
|--|
| <ul style="list-style-type: none"> <li>(a) to establish the maximum height limit for buildings to enable the achievement of appropriate development density,</li> <li>(b) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,</li> <li>(c) to ensure that the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views.</li> </ul> |
|--|

The proposal, despite the variation, is considered to be consistent with the above objectives for the maximum height clause. The development is considered to achieve an appropriate density through compliance with the maximum permitted Floor Space Ratio. Although the area is undergoing transition, the proposal will result in a building height and size as was envisaged on the site under the R3 zone. The proposed height of the building will therefore be compatible with the future planned height and likely bulk and scale of future development within the area. The proposed building height will not result in any adverse impacts in terms of visual bulk, loss of privacy, views or solar access. This is due to the minor extent and location of the proposed height breach in the mid-section of the building and the orientation of the site that results in shadowing predominantly towards the street front.

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In summary:

- The proposal will provide an additional 29 units to the community. The benefit of the scheme is the development will increase housing choice and provide low cost accommodation options.
- The proposal will provide a mix of one and two bedroom dwellings, with a range of floor plates and orientations. Additionally three units have been designed to be adaptable. Thus the proposal incorporates a variety of housing types.
- The proposal will maintain the existing amenity of the area and the new dwellings have been designed so as not to adversely impact on the surrounding dwellings in terms of overlooking overshadowing or view loss. The proposal will present a well-designed residential flat building which will complement the existing and future character.
- The proposal will amalgamate three sites to allow for a medium density development. The adjoining sites are not isolated and will also be able to develop in the future to medium density as required.

Having regard for the above, strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case, and there are sufficient environmental planning grounds to justify contravening the development standard. The proposed development is considered to be in the public interest despite the variation being sought and it is consistent with the R3 zone objectives and the objectives for the maximum height development standard identified under Clause 4.3(1).

The variation is considered to be minor in nature and will not be readily discernable from the street or surrounding properties. There are no unreasonable impacts to residential amenity or the urban form associated with the exception. The exception to the maximum height under Clause 4.6 is considered reasonable and acceptable in the specific circumstances for the development.

The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3). In accordance with the R3 zone objectives the proposal will provide a residential flat building that will address the housing needs of the community within a medium density residential environment in a manner that minimises impacts on existing residential amenity. In accordance with the objectives under Clause 4.3(1) the proposal is considered to be in the public interest as included within the table below.

In accordance with clause 64 of the *Environmental Planning and Assessment Regulation 2000*, the Hunter and Central Coast Regional Planning Panel may assume the concurrence of the Secretary of the Department of Planning, for an exception to a development standard under clause 4.6 of the *Standard Instrument (Local Environmental Plans) Order 2006*, having regard for the matters set out in subclause 4.6(5) and where the variation is greater than 10% or non-numerical. The proposal includes a variation of 6% which does not exceed the 10%.

Despite the variation the proposal is considered to be consistent with the objectives of the zone and consistent with the objects of the standard which is not met. The written request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standard. The grounds for departing from the standard are particular to the circumstances of the proposed development on the subject site and will not set a precedent.

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### *Acid Sulfate Soils*

Clause 7.1 requires special assessment to be given to certain development on land being subject to actual or potential acid sulphate soils. The site is identified as Class 5 on the Acid Sulphate Soils (ASS) Planning Map and no works are proposed *within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.*

The applicant states: *the surface elevation is significantly greater than 5m AHD and the maximum depth of excavation is not extending below 1m AHD. In this regard dewatering to below 1m AHD is not required and there is no need for an acid sulphate soils assessment or management plan.*

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

### *Essential Services*

Clause 7.9 requires that services that are essential for the development are available or that adequate arrangements have been made to make them available when required prior to consent being granted. These services include water supply, electricity supply, sewage management and disposal, stormwater drainage or on site conservation and suitable road access. Water and sewer contributions will be applicable to the development in accordance with the Shire Wide charges. The development will require a Section 307 Certificate under the *Water Management Act 2000*. Other services are available to the site including electricity supply, stormwater drainage and suitable road access. In accordance with Clause 7.9, the proposed development can be satisfactorily serviced.

### **Relevant DCPs**

#### **Wyong Development Control Plan 2013 (DCP)**

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

Chapter 2.4 of WDCP applies to the development and a summary of compliance with the relevant controls under the Chapter are outlined under the attached table ([Attachment 1](#)).

There are a number of requirements under the DCP that are relevant to the proposal but overridden by similar controls contained within SEPP ARH and the ADG. These DCP requirements include:

- Communal open space (10m<sup>2</sup> per dwelling with a minimum dimension of 5 metres),
- Private open space (a minimum area of 10m<sup>2</sup> and a minimum dimension of 2m),
- Deep soil provision (12.5% site area),
- Site coverage (soft landscaping 25%),
- Solar access (70% dwelling minimum of 3 hours midwinter between 9am-3pm),
- Storage (3m<sup>2</sup> of floor area/1-2bed dwelling),
- Parking provision for dwellings (1 space/1bedroom and 1.2 spaces/2bedroom)

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There are a number of other controls under the DCP that are relevant and apply to the proposal that are not provided within the SEPP or ADG. The proposal includes the following compliance *with* or variations *to*, Council's DCP requirements for residential flat buildings as discussed below.

- *Building Lines - Setbacks*

The development complies with the required front setback of 7.5m and the rear setback of 6m under the DCP but does not achieve compliance with the required side setback distances. Under the DCP (Clause 4.3.3) a minimum of 6m is required for the side setbacks of residential flat buildings up to four storeys in height. The proposal includes variable side setbacks between 4.5 – 7.5m for all levels of the building above ground level. At ground level the variation is between 4.55m-7.5m on the western elevation and between 750mm and 7.7m on the eastern elevation.

It is noted that the eastern boundary of the site adjoins a public laneway which creates additional (defacto) setback distance between the proposed building and the existing development upslope to the east. The public laneway provides spacial transition to the upslope dwelling. To address potential privacy impacts to down slope properties to the west, the proposed building includes all the windows on this non-complying part of the elevation as highlight windows. The non-complying setbacks result in further articulation of the side elevations of the building.

The eastern elevation of the building includes a minimum setback of 750mm at the ground level only as a result of the necessity for a waste lift in this location between the basement waste room and waste collection area on the site. The extent of variation is confined to the ground level of the building only and it does not include any habitable area only access for waste management purposes.

The objectives for the 'building lines' control under the DCP include:

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

The waste lift room is necessary for the waste servicing of the site for Council's requirements; is only at ground level; adjoins a public laneway and is downslope from the adjoining public laneway; and not readily visible from the street. There are no significant or unreasonable impacts to the amenity of adjacent properties (solar access or visual or acoustic privacy) as a result of the variation. The side elevations of the building are satisfactorily articulated both vertically and horizontally and openings are suitably designed to minimize privacy impacts. The undersized nature of the side setbacks is not readily discernable from the street front and all setback areas are suitably landscaped to soften and enhance the appearance of the development and screen adjoining properties.

Despite the variation proposed it is considered that the proposal demonstrates compliance with the objectives for the control under Clause 4.3 of Chapter 2.4.

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- *Adaptable units*

Clause 12.1b of the DCP requires the provision of 10% of units (3 units) be designed as suitable for adaption for occupation by aged persons or a person with a disability and the proposal complies, including four adaptable units. All four dwellings are located on the ground floor level of the building including 2 x 1 bedroom dwellings (units G03 and G05) and 2 x 2 bedroom dwellings (units G01 and G08).

- *Parking provision - Visitors*

The DCP requires parking provision under Clause 4.4.2 to be provided on the basis as follows:

Dwelling Type	No. Spaces required	Required
1 bedroom	1 space	6 (6 dwellings)
2 bedroom	1.2 spaces	28 (23 dwellings)
3+ bedrooms	1.5 spaces	-
Visitor	1 visitor space/5 units	6 (29 dwellings)
Total		40 spaces

The total parking demand generated by the development under the DCP is for 40 spaces. As previously noted, SEPP ARH provisions override Council's requirements for the purpose of parking and the proposal complies with the provision of parking as specified for the number of dwellings. However, the SEPP does not specify any provision for visitor parking. Council's DCP ordinarily would require 6 visitor spaces and typically one of these spaces also functions as a car wash bay. However, no visitor parking or car wash bay is provided for the proposal as none is specified as needed under the SEPP.

- *Bicycle facilities*

The DCP (Clause 4.4.4) requires provision of bicycle parking facilities at a rate of 1 space per 3 dwellings. For the proposal this totals a need for 10 spaces to be provided. The proposal includes 10 bike lockers within the basement car park which complies with this requirement.

- *Visual privacy and building separation*

Clause 6.4.1 of the DCP specifies building separation distances which are required to ensure satisfactory visual privacy is achieved for development. The objectives for the control are as follows:

- *To provide and maintain reasonable levels of visual privacy both internally and externally, during day and night*
- *To maximise outlook and views from living rooms and private open space without compromising visual privacy*
- *To ensure a high level of amenity by protecting the privacy of residents both within the apartments and in private open space areas*

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The separation distances are based on the setback distances for required for residential flat buildings up to 4 storeys which is 6 metres to a boundary. As discussed earlier, the proposal seeks variation to the 6 metres side setbacks and consequently the 12 metre separation distances between buildings on adjoining sites. The proposal includes reduced side setbacks for the rear half of the building in the order of 4.5m (25% variation to the on-site 6 metres separation required to the boundary). The proposal also includes a 750mm boundary setback for the waste room at ground level on the eastern side which is a variation of 75% to the required on-site 3 metres separation for non-habitable rooms. This is further reduced (to a 12.5% variation) if half of the public laneway width (1.8m) is included in the adopted separation distance.

The visual privacy and separation between the proposed development and existing surrounding development is achieved despite the non-compliance through careful design of openings (including highlight windows), solid balustrading on balconies and adoption of landscape screening to all boundaries. The public laneway on the eastern side provides an increased separation to the upslope dwelling. The proposal is considered to achieve compliance with the objectives for the control. Direct overlooking between properties is minimized in the building layout, location and design of windows and balconies and screening devices.

- *Dwelling mix*

A dwelling mix is required under Clause 12.1 of the DCP including one, two, three and four bedroom dwellings – particularly in large residential flat developments and on the ground floor. The objectives for the control include:

- *To provide a diversity of apartment types, which cater for different household requirements now and in the future*
- *To maintain equitable access to new housing by cultural and socio-economic groups*
- *To encourage housing designs which meet the broadest range of occupants' needs*
- *To encourage adaptive re-use*

The proposal includes 23 x 2 bedroom dwellings and 6 x 1 bedroom dwellings and no 3 or more bedroom dwellings. A non-numerical variation is sought based on that argument that the greatest demand for affordable housing is for 1 and 2 bedroom dwellings due to the demand from smaller and aging households. This is considered reasonable and consistent with the objectives for the control.

The proposal is consistent with the relevant aims and requirements of DCP Chapter 2.4 despite the variations sought to specified aspects of the DCP.

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### *DCP Chapter 3.6 – Preservation of Trees or Vegetation*

Council's DCP requires consent to be obtained for the removal of certain trees and vegetation. All trees on the site are recommended for removal due to the size and extent of the construction footprint extending over the site. It is noted that a number of the trees on the site have been previously approved for removal under the earlier consents issued for development of the site excepting the two *Melaleuca quinquenervia* in the southeastern corner of the site frontage. However, these two trees will require removal due to the design of the waste collection area to service the development in accordance with Council's Waste Policy. The landscaping plan includes replacement tree planting on the site including semi advanced street trees along the frontage and to the rear of the property.

### *DCP Chapter 3.1 Site Waste Management*

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

The applicant has provided a waste collection area that is suitable for turning by heavy rigid vehicles (reverse entry, forward exit) and can accommodate a 10.5m vehicle without encumbrance of the road reserve area. Waste storage will take place within the basement with a lift provided to transfer the bins from the basement to the on-site collection area at the front of the site. Conditions will be recommended to address waste management on the site.

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

The architectural design of the building is generally consistent with the desired character objectives and requirements for residential flat buildings (up to six stories) in The Entrance under Clause 2.3. This includes provision of deep soil and generous landscaping facing the street; promotion of an outdoor lifestyle in the design through generous open space areas at ground level and a roof top terrace; parking is visually screened and below ground; bulk and scale is minimized and results in a satisfactory building within the streetscape; living areas are oriented towards the street and open spaces; external materials are coordinated and diverse; and the roof is flat with broad eaves that cast patterns of deep shadows across the façade. The proposal is generally consistent with the objectives specified under Clause 4 of the Chapter.

The proposal is generally consistent with the relevant aims and requirements of DCP Chapter 5.3

#### **d) Any planning agreement**

There are no planning agreements applicable to the application.

#### **e) Relevant Regulations**

There are no specific matters under the Regulation that require further discussion.

## f) Coastal Zone Management Plan

The site is not affected by coastal hazards or by an adopted Coastal Zone Management Plan.

## THE LIKELY IMPACTS OF THE DEVELOPMENT

### a) Built Environment

A thorough assessment of the aspects of the proposed development on the built environment has been undertaken in terms of DCP compliance and in terms of the submissions received.

#### *Overshadowing impacts*

Shadow diagrams have been prepared for the development on 21 June at 9:00am, midday and 3:00pm. The diagrams indicate the scenario mid-winter on the shortest day of the year in order to ascertain and assess the worst case shadowing impacts from the development.

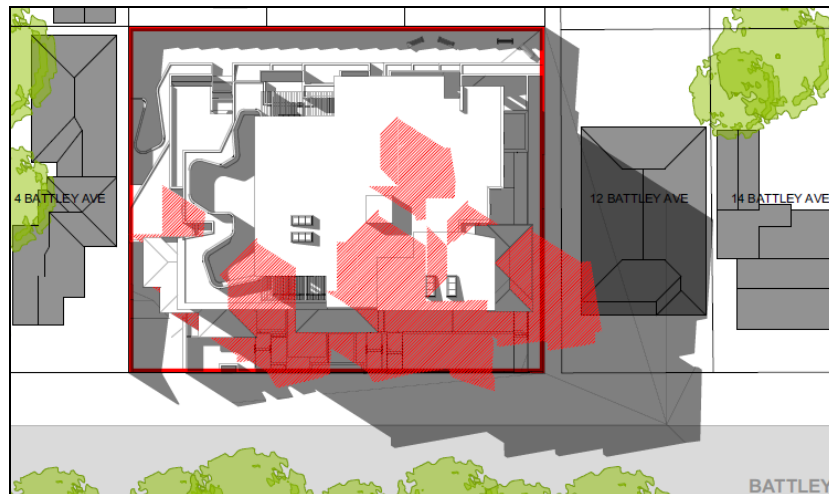
DCP Chapter 2.4 (6.3.1) requires a minimum of 3 hours of unobstructed solar access to 75% of the private open space (POS) area for a dwelling on an adjoining site between 9:00am and 3:00pm mid-winter. The POS for all the dwellings adjoining the site remain unaffected by shadowing from the proposal which falls across the street front of the subject site and the frontage of the adjoining sites either in the afternoon or morning period.

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



Above: Shadow diagram for 9am on 21 June (left) and midday on 21 June (right)





Above: Shadow diagram for 3pm on 21 June

### *Traffic and external road access*

Council's Traffic and Transportation Engineer has reviewed the proposal and a previously discussed, considers there will be no significant impact on the efficiency of the local or state road network as a result of the proposal.

The external roadway (Battle Avenue) is in fair condition and has a pavement of approximately 11.5m wide but only approximately 8m wide fronting the proposed development due to the retention of an area containing existing trees. The subject site is opposite a recently constructed substantial residential flat building that has its major access from Norberta Street. The expected traffic associated with this development is considered suitable for the road formation and intersection with The Entrance Road. The existing kerb and guttering is in fair condition but redundant accesses will require reinstatement. Foot paving 1.2m wide (to match existing on this side of the road) will be required for the entire development frontage and access for two-way traffic movements will be required.

### *Internal vehicle access and parking*

The grades on the internal access do not comply with the written grade requirements in AS/NZS2890.1 and therefore the applicant has provided a long section with clearance templates. This indicates a conflict at one location and the access will need to be redesigned to allow the transitions at the bottom of the ramp to be extended by 0.150m to ensure vehicle clearance. Notwithstanding this, the grade clearances are tight with minimal allowances for construction tolerances. Queuing at the top of the access does not comply with the requirements for control points and queuing lengths (one queuing space provided instead of 2). This is considered to be acceptable due to the number of vehicles utilising the development, the small amount of pedestrians which would allow a vehicle to queue across the footpath area and the road being a dead end.

Internal turning movements also do not allow vehicles to pass within the parking aisles on bends and the applicant has indicated the use of a mirror to control passing vehicles. The area at the base of the ramp also does not comply with width requirements for passing. As such, conditions are recommended to require that control lights be installed with holding areas in the basement to control traffic movements at passing areas.

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Car parking appears to comply with AS/NZS2890.1 allowing vehicles to enter and exit vehicles spaces in a total of 3 movements. Vehicle passing at the base of the entry / exit ramp does not comply with the requirement for clearances as identified in AS/NZS2890.1 B3.2 and also at the bends within the basement carpark area. As noted above, conditions will be recommended requiring that traffic control lights be installed with holding areas to control traffic movements within the narrow areas. Conditions will also be recommended to address other matters related to vehicle access and parking.

#### *Drainage*

Stormwater drainage plans were provided as part of the application. An on-site stormwater detention and drainage system will be required to control the rate of runoff leaving the site. The OSD and water quality proposed for the development will include an outlet to the existing kerb and guttering fronting the site. Although the site slopes to the rear, the majority of stormwater will be taken to the street and flows off the site to the rear are expected to be less than currently exist.

#### *Earthworks*

The proposed earthworks are expected to be significant and appropriate conditions will be recommended. Geotechnical information has been provided for the proposal and expected groundwater and structural issues will be addressed with recommended conditions. Structural retaining walls and structures will require structural certification.

#### *Acoustic*

There are a number of potential noise sources under the proposal including plant and equipment, traffic movements and waste collection. Noise assessment reports were provided by the applicant to address the potential impacts associated with the proposal. Council's Environmental Health Officer reviewed the report and concurred with the assessment and results from the predictive modelling, specified in the acoustic report.

#### *Amenity - Privacy*

The orientation and outlook of dwellings has been designed to maximise the northern aspect (to maximise solar access) or the street front (southern aspect) to maximise surveillance to the street. East and west facing windows are smaller in size to limit the potential for overlooking and there are no balconies on the eastern and western side elevations to minimise the potential for privacy impacts. The boundaries of the site include landscape screening and the northern boundary setback includes landscape planting at a range of heights to address the potential for overlooking from within the development. Additionally, balcony balustrades are solid to restrict viewing from within the dwellings. The setback distance to the northern boundary complies with Council's controls and the Apartment Design guide to ensure sufficient separation and distance is available to minimise potential acoustic and visual privacy impacts.

Suitable landscaping and boundary treatments are included within the landscape plan to increase privacy and soften the appearance of the development to the surrounding properties and the street.

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### *Social impacts*

The proposal will not result in a significant change in the local area's population or demographic. Only 15 out of 29 dwellings are to be managed by a social housing provider for affordable housing. This is not a significant number for the local area and the overall increase in density from 3 existing dwellings to the proposed 29 dwellings is consistent with the increased density envisaged under the R3 zoning of the site. The site has been zoned for higher density residential development and the density proposed under the development is consistent with the future envisioned for the locality to accommodate medium density development. The proposal will not dramatically change the demand or need for community and recreation services and facilities in the areas.

The design and layout of the proposal includes places for informal and safe social interaction including the rooftop garden and communal open space areas. The site is not within an isolated area but is located within an established area which is well serviced for public transport and social infrastructure, recreational opportunities. The building will cater for a range of socio economic groups. The development will allow for an equitable access for all residents to housing, lifestyle opportunities and facilities. There are a wide range of services and facilities available in the vicinity of the site including a library, community centre, retail activities, churches, community facilities, education and health services.

The Department of Planning and Environment has responded to the identified shortage of affordable accommodation across NSW by introducing SEPP ARH to allow for affordable housing opportunities to be created in the private sector to meet some of the increasing demand for this type of housing. The nature of the development is limited to half the building being for affordable rental housing with all residents sharing the opportunity for involvement in the management of the building. The proposal will assist in providing additional local housing for a variety of socio economic groups including owner occupiers, renters on low to moderate incomes.

### *Lot Consolidation*

The development site comprises multiple lots and lot consolidation will be necessary to ensure that the development is located entirely on a single allotment. This is included under the recommended conditions of consent.

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

The principles of CPTED have been considered under the design of the proposed new development. The applicant has identified a number of general design considerations and measures to be included with the proposal to discourage anti-social behaviour and minimise the opportunities for criminal activities. The proposal incorporates design elements including clearly defined and controlled access points as well as clearly defined public and private spaces in order to minimize the opportunity for criminal activity.

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### *Overall impacts*

There are no matters relating to site design and internal design, external impacts or construction activities that require further consideration or discussion. The proposal will not adversely impact on the character and amenity of the locality and streetscape. The scale, form, character and density of the development is acceptable within the locality. As a result, the proposed development is considered to be satisfactory in terms of impacts on the built environment.

#### **b) Natural Environment**

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

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

### **THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

The site is considered to be in a suitable context for the nature, scale and type of development proposed. The site is well serviced and accessible to public transport and facilities and the proposed development provides a number of social benefits including additional housing in the area which broadens the housing choice available. There are no significant site constraints or hazards that would render the location of the development as unsuitable. The design of the proposed development is an appropriate form, layout and scale that suitably balance the opportunities and constraints of the site.

### **EXTERNAL CONSULTATION**

#### **Any submission from public authorities.**

##### *NSW Roads and Maritime Services*

The application was referred to the NSW Roads and Maritime Services (RMS) for comment and no objection was raised subject to some traffic considerations (including sightlines and construction traffic management) both of which will be addressed under the recommended conditions.

### **INTERNAL CONSULTATION**

The application has been referred within Council to:

- *Senior Environmental Health Officer (Environmental Protection)*

Council's Senior Environmental Health Officer initially raised concerns regarding potential a noise impacts associated with the proposal. However following submission and assessment of amended plans and information from the acoustic consultant, no further objection is raised subject to recommended conditions to address waste, and asbestos removal including the requirement for an Unexpected Finds Management Plan.

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- *Development Engineer*

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

- *Contributions Officer*

There is no objection raised by Council's Contributions Officer subject to the inclusion of a recommended condition in relation to the payment of monetary contributions (under Section 7.11) in accordance with Council's adopted plans (i.e. The Entrance District Contributions Plan and Shire Wide Contributions Plan)

- *Traffic and Transportation Engineer*

Council's Transportation Engineer has assessed the traffic generated by the development and advised that the development will not have a significant impact on the adjoining road network.

- *Architect*

Council's Architect has assessed the proposal within the context of the SEPP 65 design principles and the Apartment Design Guide. In this regard, the architect advised, *the building elevations were greatly improved by the addition of the 2 front verandas, the bulk of the building has disappeared and the facades are far more articulated. In addition, the level of natural surveillance has been improved.* Subject to resolution of a number of other design issues, no further objection is raised in relation to the proposal.

- *Waste Management Assessment Officer*

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

- *Social Planner*

A social impact assessment was prepared for the proposal and a number of concerns were raised by Council's Social Planner regarding the assessment in relation to the demonstration of affordability and the level of community engagement. In this regard, the applicant noted there is no formal policy adopted by Council for the preparation of SIA's currently in place. Conditions have been recommended including the requirement for the adoption of a plan of management be prepared for the development.

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

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

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

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

## **OTHER MATTERS FOR CONSIDERATION**

### *Ecologically sustainable principles*

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

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

### *Climate Change*

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application.

This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts. In this particular case, the following matters are considered to warrant further discussion, as provided below:

**Sustainable building design:** The proposal is for a demolition of three existing dwellings and construction of residential flat building and initiatives for energy and water efficiency are included with the Basix Certificate accompanying the proposal.

**Reduced Car Dependence:** There is a bus stop located along The Entrance Road within 400m walk of the site. Bicycle and motorbike parking is included basement parking level of the building as alternative modes of travel to the car. Additionally, a community centre, schools, foreshore recreation areas and shops are all located within an easy walk of the site.

**Rising Sea Level:** The site is not located in an area subject to flooding constraints and sea level rise impacts.

### *Water and Sewer Contributions*

Water and sewer contributions are applicable to the development and a Section 306 will be issued concurrently with the consent for the development under the Water Management Act 2000 (refer to WMA/1038/2017).

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## CONCLUSION

The application seeks approval for construction of a residential flat building comprising 29 dwellings (17 affordable units as nominated on the plan numbered A2001 issue D dated 19.02.18) utilising the provisions of SEPP (Affordable Rental Housing) 2009 and associated demolition works.

The proposal includes a Clause 4.6 exception to the maximum permitted building height on the site which is supported as strict compliance with the development standard is deemed to be unreasonable and unnecessary in the circumstances of the case, and there are sufficient environmental planning grounds to justify contravening the development standard. This variation will not be discernable from the street or neighbouring properties and there are no unreasonable impacts associated with the exception. The other variations to planning controls including setbacks and building separation are considered reasonable and acceptable in the circumstances.

The site is considered to be in a suitable context for the nature, scale and type of development proposed. The proposal achieves compliance with the provisions of SEPP ARH and the issues raised in submissions have been suitably addressed under the details of the proposal and recommended conditions. Despite the variation proposed to the building height and setbacks, the proposal demonstrates an appropriate bulk and scale which contributes positively to the desired future character of the area. The development is considered to be consistent with the objectives of the controls for the site and generally consistent with the relevant planning requirements under SEPP ARH, SEPP 65 and the ADG, WLEP and WDCP.

The proposal has been assessed using the heads of consideration in Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposed development is suitable and is recommended for approval subject to conditions.

## ATTACHMENTS

***Attachment 1 – Compliance table***

***Attachment 2 - Apartment Design Guide Compliance Table***

***Attachment 3 – Sepp 71 Compliance Table***

***Attachment 4 – Clause 4.6 Exception to development standard***

***Attachment 5 – Draft Conditions***

## Attachment 1 – Numerical Compliance Table

<b>Numerical Compliance Table (Relevant controls under DCP Ch 2.4 &amp; 2.11, WLEP2013 &amp; SEPP (Affordable Rental Housing) 2009)</b>			
<b>Control</b>	<b>Proposed</b>	<b>Required</b>	<b>Compliance</b>
<b>Site Area</b>	1743.3m <sup>2</sup>	450m <sup>2</sup> (SEPP ARH)	Yes
<b>Site dimensions</b>	45.8m width 38.1m depth	- -	- -
<b>Height (WLEP 2013)</b>	12.779m	12m	No, Clause 4.6
<b>FSR (SEPP ARH)</b>	1.37:1	1.39:1 0.9:1 (WLEP)+ 0.49:1 (SEPP AHR) = 1.39:1	Yes
<b>Gross Floor Area (SEPP ARH)</b>	2387.67m <sup>2</sup>	2423.2m <sup>2</sup>	Yes
<b>Setbacks</b>	-	-	-
- <b>South (Battley Ave) -Ground 1<sup>st</sup>-4<sup>th</sup> storey</b>	7.5m 7.5m	7.5m 7.5m	Yes Yes
- <b>East (side) -Ground 1<sup>st</sup>-4<sup>th</sup> storey</b>	- 750mm- 9.15m 4.5m-6m	- 6m 6m	- No, variable No, variable
- <b>North (Rear) -Ground 1<sup>st</sup> -4<sup>th</sup> storey</b>	- 6m 6m	- 6m 6m	- Yes Yes
- <b>West (side) -Ground 1<sup>st</sup>-4<sup>th</sup> storey</b>	- 4.55m 9.15m 4.5m – 7.5m	- 6m 6m	- No, variable No, variable
<b>Building depth (ADG)</b>	25m	12-18m depth from glass to glass	No
<b>Units accessed from a single core (ADG)</b>	8 units	Max 8 units	Yes
<b>Landscaped Area</b> DCP Landscaping (25%) SEPP-ARH- landscaped area of 30% site area	33.5% 585m <sup>2</sup> -	- 25% soft landscaping at ground level 30% site	- Yes Yes
<b>Deep soil zone</b> DCP Deep soil zone - 50% of required 25% SEPP- ARH Deep soil zone - 15% site - Min 3m dimension - 2/3 in rear of site SEPP 65 Deep soil - 7% Min dimension 6m	26.4% of site (461m <sup>2</sup> ) Min 6m dimension 2/3 in rear	- - 12.5% - 15% site 3m dimension 2/3 in rear of site - 7% 6m min	- - Yes - Yes Yes Yes - Yes Yes
<b>Separation distances</b> Between habitable rooms Between habitable and non-habitable rooms Between non habitable rooms. (DCP and ADG)	North and south complies East complies due to public pathway West includes a 35% variation	• 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms	Yes Yes - No, 25% variation
<b>Solar access (internal) (Ch 2.4)</b>	75.9% (22 units)	70% of apartments receive 3 hours direct sunlight between 9am - 3pm mid-winter.	Yes
<b>Max dwellings with a southerly aspect (DCP)</b>	3 single aspect southerly apartments (10%)	• Limit single aspect apartments with a southerly aspect to a maximum of 10% of total units.	Yes
<b>Solar access (external to site)</b>	Complies (ie. street front is	Impacts to adjoining	Yes



(Ch 2.4)	to the south)	properties allow for 3 hours direct sunlight between 9am - 3pm mid-winter.	
<b>Cross Ventilation (ADG)</b>	65.5% (19 units) comply 48% kitchen (14 units) comply	60% of units to be naturally cross ventilated. • 25% of kitchens to have access to natural ventilation	Yes Yes
<b>Private open space Balconies/ Courtyards:</b> Min area Min dimension Directly accessible from living area Grade 1:14  Solar access (DCP Ch 2.4)	- - 10m <sup>2</sup> - 33.23m <sup>2</sup> 2m Adjoining living area - 1:14 - 76% receive 3 hours between 9am-3pm midwinter	- - 10m <sup>2</sup> /each dwelling 2m Adjoining living area - 1:14 - 75% receive 3 hrs btn 9am-3pm mid-winter 70%SEPP 65 2/3hrs	Yes - Yes Yes Yes - Yes - Yes
<b>Communal Open Space</b> DCP Ch 2.4 - Min per dwelling - Min dimension - Min 3hrs solar access btn 9am-3pm midwinter Rooftop COS excluded  ADG - 25% site area - Min dimension 3m minimum of 50% direct sunlight to the principal usable part for min 2 hours btn 9am-3pm (midwinter)	541m <sup>2</sup> (31%) - 19m <sup>2</sup> /dwelling Min 5m Complies - 337m <sup>2</sup> (19%) when rooftop COS (203m <sup>2</sup> ) excluded  31% of site Min 5m dimension 75% area direct sunlight	290m <sup>2</sup> /17% (DCP) - 10m <sup>2</sup> /dwelling Min 5m Min 3hrs midwinter 75% of area 10m <sup>2</sup> /dwelling (290m <sup>2</sup> ) - - 25% of site Min 3m 50% area direct sunlight midwinter for 3 hours between 9-3.	Yes Yes Yes Yes Yes - Yes Yes Yes - -
<b>Parking</b> - Residential (total) 1 Bed 2 Bed 3 Bed Visitor (residential) Accessible - Bicycle - Motorcycle spaces - Washbay	26 - 3 (6 dwellings) 23 (23 dwellings) N/A None provided 3 spaces 10 bicycle spaces 2 motorcycle spaces No space provided	40 - 1 space per 1 bed (6) 1.2 space per 2 bed (28) 1.5 space per 3 bed (N/A) 1 per 5 units (6 spaces) 1/accessible unit (3) 1 per 3 dwellings (10) 1 space –can be visitor spaces	No but complies with SEPP ARH
<b>Adaptable Units</b> <b>Adaptable Parking</b>	4 units 3 spaces(1 space/dwelling)	10% (3 units) 1space/unit (4 spaces)	Yes No
<b>Apartment size (SEPP ARH and ADG)</b>	51m <sup>2</sup> - 60m <sup>2</sup> 75m <sup>2</sup> - 85m <sup>2</sup>	50m <sup>2</sup> for 1 bedroom 70m <sup>2</sup> for 2 bedroom	Yes
<b>Laundries (Ch 2.4)</b>	Internal laundry for each dwelling	1/dwelling	Yes
<b>Waste storage</b>	Satisfactory. Chute and recycling room provided at each level and main waste storage in basement with satisfactory connection to an off street collection area.	Garbage chute (if over 3 storeys) & a recycling room at each level. Central storage room in basement. Separate bin rooms required for mixed use. Over 12 dwellings requires off street collection for bulk bins	Yes
<b>Storage (Ch 2.4)</b> <b>1-2 bedrooms</b> <b>3 or more bedrooms</b>	- 3m <sup>2</sup> n/a	- 3m <sup>2</sup> 6m <sup>2</sup>	Yes

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<b>ADG</b> (at least 50% in apartment)	Complies	6m <sup>3</sup> (1 bed) 8m <sup>3</sup> (2 bed) 10m <sup>3</sup> (3 bed)	
<b>Dwelling Mix</b> <b>1 Bed</b> <b>2 Bed</b> <b>3 Bed</b>	- 6 dwellings 23 dwellings None	Mix required N/A N/A N/A	Satisfactory
<b>Basix Certificate</b> <b>Nathers (SEPP BASIX)</b>	Certificate No. 819472M And NatHers	BASIX Certificate required	Yes
<b>Courtyard fencing (DCP)</b>	Courtyard fencing setback 4m and screened with landscaping	Staggered with landscaping setbacks from the front boundary over 1.5m.	Satisfactory

## Attachment 2 - Apartment Design Guide – Compliance Table

Guidelines	Considerations	Comment
Building Height	WLEP 2013 Clause 4.3	No, Clause 4.6 variation
Floor Space Ratio	WLEP 2013 Clause 4.4 & SEPP ARH	Yes
Building Envelope	Setbacks satisfactory	Satisfactory
Building Depth	12-18m glass to glass Vary building depth relative to orientation, eg. buildings facing east-west capture sun from both aspects & may have apartments of up to 18m wide (if dual aspect), while buildings facing north-south should be narrower to reduce the number of south facing apartments that have limited or no direct sunlight access	No, 25m
Building Separation	<p>Minimum separation distances for buildings are:</p> <p><i>Up to four storeys (approximately 12m):</i></p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms/balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul> <p><i>Five to eight storeys (approximately 25m):</i></p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms/balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul> <p><i>Nine storeys and above (over 25m):</i></p> <ul style="list-style-type: none"> <li>• 24m between habitable rooms/balconies</li> <li>• 18m between habitable and non-habitable rooms</li> <li>• 12m between non-habitable rooms</li> </ul> <p>No building separation is necessary where building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within centres</p>	Separation of building to north, south and east boundaries is satisfactory. Variation to western boundary separation at minimum point. Half of the elevation complies and half seeks a 25% variation to the required separation minimum distances. The windows in this non complying part of the building are highlight windows and the balcony includes screening so as to not impact on privacy. The western side setback includes a deep soil zone with landscape screening to the boundary.
Guideline objective	Design guidance	Comment
<b>Orientation</b>		
<ul style="list-style-type: none"> <li>• Building types and layouts respond to the streetscape and site while optimising solar access within the development.</li> <li>• Overshadowing of neighbouring properties is minimised during mid winter</li> </ul>	<p>Buildings along the street frontage define the street &amp; include direct access from street. Street frontage east or west – rear buildings oriented to north.</p> <p>Street frontage north or south, minimise overshadowing &amp; buildings behind street frontage be oriented to the east and west. Solar access to living rooms, balconies and private open spaces of neighbours should be considered</p> <p>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums</p>	Satisfactory, the rear of the building faces north to maximise solar access and the frontage faces south to minimise overshadowing impacts to adjoining land. The proposal does not unreasonably or significantly reduce solar access to neighbouring dwellings.
<b>Public Domain Interface</b>		
Transition between private and public domain	Terraces, balconies and courtyard apartments should have direct street entry.	The design includes courtyard apartments facing

<p>is achieved without compromising safety and security</p> <p>Amenity of the public domain is retained and enhanced</p>	<p>Upper level balconies and windows should overlook the public domain.</p> <p>Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m. Length of solid walls should be limited along street frontages</p> <p>Where multiple pedestrian entries and spaces-buildings/entries should be differentiated to improve legibility for residents. Minimise opportunities for concealment.</p> <p>Planting softens the edges of any raised terraces Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided. The visual prominence of underground car park vents should be minimised and located at a low level where possible. Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view. On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking</p> <p>Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels. Durable, graffiti resistant and easily cleanable materials should be used</p>	<p>Battley Avenue which include a direct street entry. Upper level balconies and windows overlook the public walkway and street front. Low level fencing is proposed along street to delineate the front boundary. Planning is included to soften the appearance of the development and the garage entry is setback from the street</p>
<b>Communal and public open space</b>		
<p>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p>	<ul style="list-style-type: none"> <li>• Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)</li> <li>• Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am &amp; 3 pm on 21 June (mid winter).</li> <li>• Communal open space should be consolidated into a well designed, easily identified and usable area.</li> <li>• Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions.</li> <li>• Communal open space should be co-located with deep soil areas.</li> <li>• Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.</li> <li>• Where communal open space cannot be provided at ground level, it should be provided on a podium or roof.</li> </ul> <p>Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p>	<p>The proposal is satisfactory and complies.</p>

Communal open space is designed to maximise safety	<ul style="list-style-type: none"> <li>• provide communal spaces elsewhere such as a landscaped roof top terrace or a common room</li> <li>• provide larger balconies or increased private open space for apartments</li> <li>• demonstrate good proximity to public open space and facilities and/or provide contributions to public open space</li> </ul> <p>Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements:</p> <ul style="list-style-type: none"> <li>• seating for individuals or groups</li> <li>• barbecue areas</li> <li>• play equipment or play areas</li> <li>• swimming pools, gyms, tennis courts or common rooms</li> </ul> <ul style="list-style-type: none"> <li>• The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts.</li> <li>• Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks</li> </ul> <p>Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include:</p> <ul style="list-style-type: none"> <li>• bay windows</li> <li>• corner windows</li> <li>• balconies</li> </ul> <ul style="list-style-type: none"> <li>• Communal open space should be well lit Where communal open space/facilities are provided for children and young people they are safe and contained</li> </ul> <p>Solar access should be provided year round along with protection from strong winds. Opportunities for a range of recreational activities should be provided for people of all ages. A positive address and active frontages should be provided adjacent to public open space. Boundaries should be clearly defined between public open space and private areas</p>													
Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood														
<b>Deep soil zones</b>														
Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	<table border="1"> <thead> <tr> <th>Site Area</th><th>Min dimensions</th><th>Deep Soil (% of site)</th></tr> </thead> <tbody> <tr> <td>&lt;650m<sup>2</sup></td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m<sup>2</sup> – 1500m<sup>2</sup></td><td>3m</td></tr> <tr> <td>&gt;1500m<sup>2</sup></td><td>6m</td></tr> <tr> <td>&gt;1500m<sup>2</sup> with significant tree cover</td><td>6m</td></tr> </tbody> </table>	Site Area	Min dimensions	Deep Soil (% of site)	<650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1500m <sup>2</sup>	3m	>1500m <sup>2</sup>	6m	>1500m <sup>2</sup> with significant tree cover	6m	The proposal is satisfactory and complies.
Site Area	Min dimensions	Deep Soil (% of site)												
<650m <sup>2</sup>	-	7%												
650m <sup>2</sup> – 1500m <sup>2</sup>	3m													
>1500m <sup>2</sup>	6m													
>1500m <sup>2</sup> with significant tree cover	6m													
Visual Privacy	Adequate building separation distances are shared	No, a 25% variation to the												

	<p>equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> <p>1. Minimum required separation distances are to be provided as set out in Design Criteria 3F-1</p> <p>Min. requirement</p> <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>separation distance between the side elevations and boundaries however, despite the variation satisfactory visual privacy is achieved.</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
Pedestrian access and entries	<ul style="list-style-type: none"> <li>- Connects to and addresses the public domain</li> <li>- Accessible and easy to identify.</li> <li>- Large sites provide pedestrian links for access to streets and connection to destinations.</li> </ul>	The proposal is satisfactory and complies.												
Vehicle access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	The proposal is satisfactory and complies.												
Bicycle and car parking	Parking and facilities are provided for other modes of transport. Car park design and access is safe and secure. Visual and environmental impacts of underground car parking are minimised. Visual and environmental impacts of on-grade car parking are minimised. Visual and environmental impacts of above ground enclosed car parking are minimised	Bicycle and motorcycle parking is accommodated in the basement												
Solar & Daylight Access	<ul style="list-style-type: none"> <li>• Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</li> <li>• In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of <b>3 hours direct sunlight</b> between 9 am and 3 pm at mid-winter.</li> <li>• A maximum of 15% of apartments in a building receive no direct sunlight between 9am-3pm midwinter.</li> <li>• Daylight access is maximised where sunlight is limited.</li> <li>• Design incorporates shading and glare control, particularly for warmer months.</li> </ul>	The proposal is satisfactory and complies.												
Natural Ventilation	<ul style="list-style-type: none"> <li>• At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</li> <li>• Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</li> </ul>	The proposal is satisfactory and complies as 19 dwellings (out of 29 dwellings) comply (65.5%). There are no cross through apartments.												
Ceiling Heights	Ceiling height achieves sufficient natural ventilation and daylight access. Ceilings are to comply with	The proposal is satisfactory and complies.												

	<p>minimum ceiling heights set out under 4C-1.</p> <table><tr><td>Habitable rooms</td><td>2.7 m</td></tr><tr><td>Non-habitable rooms</td><td>2.4 m</td></tr><tr><td>For 2 storey apartments</td><td>2.7 m for main living area floor 2.4 m for second floor where area does not exceed 50% of the apartments area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed-use areas</td><td>3.3 m ground and first floor to promote future flexibility of use</td></tr></table>	Habitable rooms	2.7 m	Non-habitable rooms	2.4 m	For 2 storey apartments	2.7 m for main living area floor 2.4 m for second floor where area does not exceed 50% of the apartments area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed-use areas	3.3 m ground and first floor to promote future flexibility of use																				
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If located in mixed-use areas	3.3 m ground and first floor to promote future flexibility of use																														
Apartment size & layout	<p>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</p> <ul style="list-style-type: none"><li>• Apartments are required to have the minimum internal areas as set out under 4D-1.</li></ul> <table><tr><td>Apartment Type</td><td>Minimum internal area</td></tr><tr><td>Studio</td><td>35 sqm</td></tr><tr><td>1 Bedroom</td><td>50 sqm</td></tr><tr><td>2 Bedroom</td><td>70 sqm (+5sq add bathroom)</td></tr><tr><td>3 Bedroom</td><td>90 sqm (+5sq add bathroom)</td></tr></table> <p>additional bathroom 5m<sup>2</sup> 4<sup>th</sup> bedroom and further bathroom – extra 12m<sup>2</sup></p> <ul style="list-style-type: none"><li>• Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</li></ul> <p>Environmental performance of the apartment is maximised.</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <p>Apartment layouts are designed to accommodate a variety of household activities and needs.</p> <p>Bedrooms have minimum area of</p> <table><tr><td>Bedroom type</td><td>Min area</td><td>Min dimension</td></tr><tr><td>Master bedroom</td><td>10m<sup>2</sup></td><td>3m</td></tr><tr><td>Other bedroom</td><td>9m<sup>2</sup></td><td>3m</td></tr></table> <p>(both measurement excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <table><tr><td>Dwelling type</td><td>Min width</td></tr><tr><td>Studio</td><td>3.6m</td></tr><tr><td>1br</td><td>3.6m</td></tr><tr><td>2br</td><td>4m</td></tr><tr><td>3br</td><td>4m</td></tr></table>	Apartment Type	Minimum internal area	Studio	35 sqm	1 Bedroom	50 sqm	2 Bedroom	70 sqm (+5sq add bathroom)	3 Bedroom	90 sqm (+5sq add bathroom)	Bedroom type	Min area	Min dimension	Master bedroom	10m <sup>2</sup>	3m	Other bedroom	9m <sup>2</sup>	3m	Dwelling type	Min width	Studio	3.6m	1br	3.6m	2br	4m	3br	4m	<p>The proposal is satisfactory and complies. The internal layout of rooms is satisfactory. The numerical requirements for dwelling size under this section are superseded by the requirements under Clause 14 (2)(b) of SEPP (ARH) 2009.</p>
Apartment Type	Minimum internal area																														
Studio	35 sqm																														
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3br	4m																														

	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.																
Private Open Space & Balconies	<p>All apartments are required to have primary balconies with minimum area and depth as set out under 4E-1.</p> <table border="1"><thead><tr><th>Dwelling type</th><th>Min pos area</th><th>Min pos depth</th></tr></thead><tbody><tr><td>Studio</td><td>4</td><td>-</td></tr><tr><td>1br</td><td>8</td><td>2m</td></tr><tr><td>2br</td><td>10</td><td>2m</td></tr><tr><td>3br</td><td>12</td><td>2.4m</td></tr></tbody></table> <p>The min balcony depth to be counted as contributing to balcony is 1m</p> <ul style="list-style-type: none"><li>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m.</li></ul>	Dwelling type	Min pos area	Min pos depth	Studio	4	-	1br	8	2m	2br	10	2m	3br	12	2.4m	The proposal is satisfactory and complies.
Dwelling type	Min pos area	Min pos depth															
Studio	4	-															
1br	8	2m															
2br	10	2m															
3br	12	2.4m															
Common circulation & spaces	<ul style="list-style-type: none"><li>The maximum number of apartments off a circulation core on a single level is 8.</li><li>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</li></ul>	The proposal is satisfactory and complies.															
Storage	<p>Adequate, well designed storage is provided in each apartment. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided as setout under 4G-1.</p> <p>Minimum volume requirement for storage</p> <table border="1"><thead><tr><th>Dwelling type</th><th>Storage size volume</th></tr></thead><tbody><tr><td>Studio</td><td>4m³</td></tr><tr><td>1br</td><td>6m³</td></tr><tr><td>2br</td><td>8m³</td></tr><tr><td>3br</td><td>10m³</td></tr></tbody></table> <ul style="list-style-type: none"><li>At least 50% of the required storage is to be located within the apartment.</li><li>Additional storage is conveniently located, accessible and nominated for individual apartments.</li></ul>	Dwelling type	Storage size volume	Studio	4m³	1br	6m³	2br	8m³	3br	10m³	The proposal is satisfactory and complies					
Dwelling type	Storage size volume																
Studio	4m³																
1br	6m³																
2br	8m³																
3br	10m³																
Acoustic Privacy	Noise transfer is minimised through the siting of buildings and building layout. Noise impacts are mitigated within apartments through layout and acoustic treatments.	The proposal is satisfactory and complies. An acoustic report supports the proposal.															
Noise Pollution	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings. Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	The site is not in a location with excessive or significant background noise.															
Apartment mix	A range of apartment types and sizes is provided to cater for different household types now and into the future. The apartment mix is distributed to suitable locations within the building.	The proposal is satisfactory and complies. The external materials are satisfactory.															
Ground floor apartments	Street frontage activity is maximised where ground floor apartments are located. Design of ground floor apartments delivers amenity and safety for residents.	The proposal is satisfactory and complies.															
Facades	Building facades provide visual interest along the street while respecting the character of the local area. Building functions are expressed by the façade.	The proposal is satisfactory and complies.															
Roof Design	Roof treatments are integrated into the building	The proposal is satisfactory															



	design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Roof design incorporates sustainability features.	and complies.
Landscape Design	Landscape design is viable and sustainable. Landscape design contributes to the streetscape and amenity.	The proposal is satisfactory and complies.
Planting on structures	Appropriate soil profiles are provided. Plant growth is optimised with appropriate selection and maintenance. Planting on structures contributes to the quality and amenity of communal and public open spaces	The proposal is satisfactory and complies.
Universal Design	Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are provided. Apartment layouts are flexible and accommodate a range of lifestyle needs.	The proposal is satisfactory and complies. Adaptable apartments (4) are included.
Adaptive Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. Adapted buildings provide residential amenity while not precluding future adaptive reuse.	N/A
Mixed use	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement. Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.	N/A
Universal design	Awnings are well located and complement and integrate with the building design. Signage responds to the context and desired streetscape character.	N/A
Energy Efficiency	Development incorporates passive environmental design. Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer. Adequate natural ventilation minimises the need for mechanical ventilation.	A Basix Certificate has been provided for each dwelling. Natural ventilation is to be provided under the design to the majority of dwellings.
Water Management & Conservation	Potable water use is minimised. Urban stormwater is treated on site before being discharged to receiving waters. Flood management systems are integrated into site design.	The proposal is satisfactory and complies with Council's requirements.
Waste Management	Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. Domestic waste is minimised by providing safe and convenient source separation and recycling.	The proposal is satisfactory and complies with Council's Waste Guidelines.
Building Maintenance	Building design detail provides protection from weathering. Systems and access enable ease of maintenance. Material selection reduces ongoing maintenance costs.	The proposal is satisfactory and complies. Materials have been carefully selected for durability.

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

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

	(l) to encourage a strategic approach to coastal management.	natural scenic quality of the surrounding area and will not adversely impact on the scenic amenity of the area.  The proposal does not undermine this aspect.	√  √
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	Existing public access to the foreshore is available via the end of View Street Therefore, such access is not diminished, under the proposal.	√
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	Access to the foreshore is not diminished under the proposal.	√
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The upper levels of the proposed development will be potentially visible from the lake and to the foreshore areas surrounding the lake. However, landscape screening is proposed to assist in sensitively integrating the proposal with the minimise the visual impacts.	√
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposal will not result in overshadowing of surrounding coastal areas including the foreshore reserve.  The proposal will not result in any significant loss of views from a public place to the coastal foreshore	√
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will not have any potential adverse impacts on the scenic qualities of the coastline	√
g	Measures to conserve animals (within the meaning of the <a href="#">Threatened Species Conservation Act 1995</a> ) and plants (within the meaning of that Act), and their habitats.	The proposal does not adversely impact on any threatened species or habitat.	√
h	Measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a> ) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no adverse impacts on the conservation of fish and marine vegetation.	√
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.	√
j	The likely impact of coastal processes and coastal hazards on development	The subject site is not identified within the Draft	√

	and any likely impacts of development on coastal processes and coastal hazards.	Wyong Shire Coastal Hazard Management Plan as being subject to coastal hazards.	
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal has no adverse impact on water-based coastal activities.	√
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain known aboriginal objects or relics.	√
m	Likely impacts of development on the water quality of coastal waterbodies.	Sediment and erosion controls will be adopted during construction and there is no likely adverse impact on water quality.	√
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The proposal does not contain any known heritage items or aboriginal objects.	√
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.	√
p(i)	The cumulative impacts of the proposed development on the environment.	There are no potential significant or unreasonable cumulative impacts associated with proposal.	√
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	The application includes water and energy efficiency fixtures.	√
<b>Cl.4</b>	<b>Development Control</b>	<b>Proposed</b>	<b>Satisfactory</b>
<b>Cl.13</b>	A provision of an environmental planning instrument that allows development within a zone to be consented to as if it were in a neighbouring zone, or a similar provision, has no effect.	The application does not propose to utilise any flexible zone provisions.	√
<b>Cl.14</b>	A consent authority must not consent to an if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.	There is no existing public access to or along the foreshore via the site. Public access along the foreshore is available via View Street and the access is not diminished under the proposal.	√
<b>Cl.15</b>	The consent authority must not consent to a development application in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.	The development can be connected to the existing reticulated sewer system.	√
<b>Cl.16</b>	The consent authority must not grant consent to a development application	Stormwater management is satisfactory and will not impact	√

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	if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.	on the coastal environment	
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***Attachment 4 – Applicant’s Clause 4.6 Exception to development standard – height of building***

**Attached Separately**

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**Attachment 5 - Draft Conditions****1. PARAMETERS OF THIS CONSENT**

- 1.1. Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "Development Consent" unless modified by any following condition.

**Architectural Plans:**

Description/Title	Drawing No	Rev	Date	Author
Site Plan	1010	C	01.02.18	Ghazi Al Ali Architect
Demolition Plan	1101	A	05.06.17	Ghazi Al Ali Architect
Basement 01 Plan	A1200	F	16.07.18	Ghazi Al Ali Architect
Ground Floor Plan	A1201	F	16.07.18	Ghazi Al Ali Architect
Level 01 Plan	A1202	F	04.05.18	Ghazi Al Ali Architect
Level 02 Plan	A1203	E	09.03.18	Ghazi Al Ali Architect
Level 03 Plan	A1204	E	09.03.18	Ghazi Al Ali Architect
Roof Plan	A1205	D	19.02.18	Ghazi Al Ali Architect
South Elevation	A1300	E	04.05.18	Ghazi Al Ali Architect
North Elevation	A1301	E	04.05.18	Ghazi Al Ali Architect
East and West Elevations	A1302	E	04.05.18	Ghazi Al Ali Architect
Section AA	A1400	E	04.05.18	Ghazi Al Ali Architect
Section BB and CC	A1401	D	19.02.18	Ghazi Al Ali Architect
Materials Schedule	A2200	E	04.05.18	Ghazi Al Ali Architect
Material Schedule	A2201	E	04.05.18	Ghazi Al Ali Architect
Material Schedule	A2202	E	04.05.18	Ghazi Al Ali Architect
Affordable Housing	A2001	D	19.02.18	Ghazi Al Ali Architect
Landscape Plan –Ground Floor	LPDA 17-292	D	03.05.18	Conzept Landscape Architects
Landscape Plan - Level 3	LPDA 17 - 292	D	03.05.18	Conzept Landscape Architects
Landscape Specification & Detail	LPDA 17 -292	B	02.06.17	Conzept Landscape Architects

**Supporting Documentation**

Document	Title and Author	Date
D12751144	Traffic Assessment Report – TTM (17SYT0026)	24 April 2017
D13221319	Noise from Waste Removal - Acoustic Consulting Engineers P/L (Ref 170863-04L-DD)	5 April 2018
D12888357	Environmental Noise from mechanical plant –	10 May 2017 and

	Acoustic Engineers P/L (Ref 170863-03L-DD (& related correspondence)	22 November 2017
D13285063	Social Impact Assessment- Willana Associates (9850c)	July 2018
D12751203 D12751167	Access Report and BCA Report – Design Right Consulting	10 May 2017
D12751153	Geotechnical Investigation Report – Geo-Environmental Engineering (G17032TE-R01F)	10 May 2017

- 1.2. Carry out all building works in accordance with the Building Code of Australia.
- 1.3. The development is to be carried out in accordance with the advice provided in correspondence from the NSW Roads and Maritime Services dated 21 July 2017.
- 1.4. Comply with all commitments listed in the BASIX Certificate for the development as required under clause 97A of the *Environmental Planning and Assessment Regulation 2000*.
- 1.5 Where conditions of this consent require approval from Council under the Roads Act 1993, Local Government Act 1993 or Water Management Act 2000, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.
- 1.6 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- 1.7 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.
- 1.8 The affordable housing dwellings shown in colour on the approved plan numbered A2001 issue D dated 19 Feb 2018 prepared by Ghazi Al Ali are to be used for affordable housing for a period of no less than 10 years from the date of issue of an Occupation Certificate. These dwellings are to be managed by a registered Community Housing Provider for the purpose of affordable housing in accordance with SEPP (Affordable Rental Housing) 2009.

## 2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1 All conditions under this section must be met prior to the issue of any Construction Certificate.



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2.2 No activity is to be carried out on-site until the Construction Certificate has been issued, other than:

- a) Site investigation for the preparation of the construction, and / or
- b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
- c) Demolition.

2.3 Pay developer contributions to Council as calculated in the formula below:

Developer contribution = \$273,948.00 (as at 5 September 2018) X Current CPI ÷ Base CPI

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

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

2.4 Where conditions of this consent require approval from Council as the Roads Authority, a Subdivision Construction Certificate application must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

2.5 The submission to Council of Civil Works design drawings and specifications detailing the following design requirements:

- Concrete footpath 1.2 metres wide for the full street frontage of the development.
- Street trees at a maximum of 15.0 metre spacing.
- Vehicle access crossing to the basement carparking area suitable for 2 way vehicle movements i.e. a minimum of 5.5m wide
- Vehicle access crossing suitable for access to the proposed waste collection area. The access shall be sized to cater for a heavy rigid vehicle for reverse entry and forward exit at the site without traversing outside the constructed access.

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- The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation.
  - Any associated works to ensure satisfactory transitions to existing infrastructure

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

- 2.6 Sight lines for vehicles and pedestrians are to be maintained in accordance with AS/NZS 2890.1. Confirmation shall be provided by a suitably qualified consultant and approved by the Accredited Certifier.
- 2.7 The submission to the Accredited Certifier of a detailed stormwater management plan with the majority of stormwater disposal to the kerb and gutter system in Battley Ave. The plan must be prepared generally in accordance with the plans prepared by SGC Engineering Value No 20170079-SW200-A, SW201-A, SW205-A, SW300-A dated October 24 2017, AS/NZS3500.3:2004 and Council's *Civil Works Design Guidelines*, and be approved by the Accredited Certifier prior to issue of the Construction Certificate. The plans shall include:-
- Suitably sized conduits across the footpath area to connect to the existing kerb and guttering.
  - Drainage pit at the boundary line.
  - The provision of an onsite stormwater detention system. The detention system must be designed to attenuate post developed flow rates to predevelopment flow rates for a full range of storm durations for the 5, 20 and 100 year average recurrence interval (ARI) design storms.
  - The provision of stormwater quality control facilities to treat stormwater in accordance with the Engineers Australia publication *Australian Runoff Quality – A Guide to Water Sensitive Urban Design* prior to entering Council's stormwater drainage system.
  - An emergency overland flow path catering for the 100 year ARI design flows.
  - Full details of the holding tank capacity, pump type and system, discharge rate and the delivery line size for the basement drainage.
  - The plans shall ensure that remaining stormwater flows not directed to the kerb and gutter system in Battley Ave are spread and attenuated prior to exiting the development site.
- 2.8 Stormwater drainage works external to the site and discharging into a public system or public land requires approval from Council under Section 68 of the *Local Government Act 1993*. Detailed design drawings prepared in accordance with Council's *Civil Works Design Guidelines* must be approved by Council prior to the issue of a Construction Certificate. All other stormwater management works must be approved by the Accredited Certifier.

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- 2.9 Any excavation below the adjoining land level requires the retaining of that land and the preservation and protection of any improvements or buildings upon that land including public roads and utilities from damage. If necessary, the improvements or buildings are to be supported in a manner designed by a suitably qualified Registered Structural Engineer. Any design proposals prepared in order to comply with this condition are to include geotechnical investigations and are to be submitted for the approval of the Accredited Certifier and in the case where excavation impacts upon public infrastructure, Council, prior to issue of the Construction Certificate.
- 2.10 A geotechnical report is to be undertaken for the area of the proposed development that is to be excavated or affected by groundwater. This report is to identify existing ground conditions and the most suitable method of support for the proposed development. Excavation and slope stability are to be included in the geotechnical investigation. The report is to be submitted to the Accredited Certifier and shall demonstrate that the construction will not have an impact upon surrounding area, dwellings or structures. Details are to be approved by Accredited Certifier prior to a Construction Certificate being issued
- 2.11 The proposed methods to control groundwater both during construction and ongoing shall be supported by a geotechnical report which specifically addresses issues including, but not limited to, water mounding and draw down of the water table and associated consolidation of surrounding materials. Any impact on the surrounding area, dwellings and structures shall be included in the report with proposed methods of mitigation of any effects.
- 2.12 Satisfactory structural plans prepared by a suitably qualified Structural Engineer must be submitted to the Principal Certifying Authority for piling / piling, retaining walls and structures prior to the issue of a Construction Certificate. Piling / piling, retaining walls and structures are to be designed in accordance with the findings and recommendations of the Geotechnical report. Details are to be approved by the Accredited Certifier prior to a Construction Certificate being issued
- 2.13 The structural design for all piling / piling, footings, retaining walls and structures is to be endorsed by a qualified geotechnical engineer prior to issue of the construction certificate.
- 2.14 Groundwater extraction / dewatering both during the construction and ongoing shall be approved and licensed in accordance with the requirements of the Office of Water under the Water Management Act. The approval and licence shall be obtained prior to issue of the Construction Certificate.
- 2.15 The design of the internal access ramp and carparking shall comply with the requirements of AS/NZS 2890.1 and shall include:-
- Pavement marking, appropriate signage and physical controls detailed for the ramps, access driveway and circulation roads.

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- Access road and ramp width requirements (including passing at intersections and bends) complying with Section 2.5.2 for one way traffic and two way traffic where identified. Two way passing movements shall ensure an 85<sup>th</sup> %ile vehicle can pass a 99<sup>th</sup> %ile vehicle including required clearance envelopes as identified in Appendix B section B3.
  - Grade requirements for all access roads and ramps complying with Section 2.5.3 (b) (d) (e) for the 99<sup>th</sup> %ile vehicle. Section 2.5.3 (e) (i),(ii) will require checks to be completed in accordance with Appendix C.
  - The provision of control points requirements for access gates in accordance with section 3.3 ensuring queuing is internal to the property boundary for a minimum of one 99<sup>th</sup>%ile vehicle.

The design of the internal access road, ramp and circulation roads shall include written certification by a suitably qualified engineer that the internal access roads, ramps and circulation roads comply with the requirements of AS/NZS2890.1 and are suitable for use. The design shall be approved by the accredited certifier prior to issue of the Construction Certificate

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

- Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway and circulation roads. Pavement marking and signage shall be included to assist with manoeuvring priorities within the basement carpark and access.
- Pavement design able to withstand anticipated vehicle loading.
- Wheel stops for all parking spaces
- The placement of clearance signage above the basement entry.
- Roof height (headroom) requirements in accordance with AS/NZS2890.1 and 6.

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

2.17 The entry / exit ramp and basement carparking area requiring one way traffic movements shall be controlled via a one way traffic movement system. The one way traffic movements within the carparking access ramps and entries shall be designed by a suitably qualified consultant and shall include:-

- Queuing at one way traffic movement control lines shall be on a maximum grade of 10%.
- Parking spaces identified past the one way traffic movement control lines shall be rear parking only and shall be identified with appropriate signage.

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- All parking spaces shall have a clear view of the proposed parking movement control.
  - Location of wheel stops for rear parking spaces shall be suitably positioned.
  - One way traffic movement control lines shall ensure a minimum of 0.6 meter clear passing distance for vehicles stopped at the control lines and passing vehicles.
  - Backup system suitable for a minimum 24 hour period.

The design of the one way traffic movement system shall be certified by an appropriately qualified consultant as safe and suitable for expected usage, and approved by the accredited certifier prior to issue of the construction certificate

2.18 The design of the internal access for the proposed waste disposal area shall comply with the requirements of AS 2890.2 and Council's waste disposal requirement for the proposed design vehicle to access the site. The design of the waste access and pick up area shall include:-

- An interim bulk waste bin storage/holding area/enclosure being provided at the northern end of a minimum 12.0m long waste truck presentation location. Plans to be fully dimensioned.
- The bulk bin access and loading area shall cater for a minimum of a heavy rigid vehicle.
- The waste vehicle must be entirely within the boundaries of the property while servicing bulk waste bins.
- The bulk waste bin storage/holding area, waste truck servicing location to be constructed out of reinforced concrete capable of supporting a truck loading of 23 tonnes, be free of grates, grilles steps etc, and be indicated at a maximum gradient of 3 %.
- Waste vehicle reverse entry/forward exit to be undertaken without crossing the centre line of the road.
- All waste vehicle manoeuvring to be designed and certified by the applicant's Traffic Engineer to AS 2890.2 and be demonstrated by swept turning path overlays to AS 2890.2 onto architectural plans.

The design of the waste disposal pick up area shall be certified by a suitably qualified engineer and approved by the accredited certifier prior to issue of the Construction Certificate.

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

2.20 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements

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letter. **Note:** The Section 306 Notice may contain requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

- 2.21 An Unexpected Finds Management Plan must be developed and implemented prior to the issue of any Construction Certificate for the discovery of any asbestos fragments, or any other unexpected contamination during any future construction works at the site.
- 2.21 The waste truck servicing area and the bulk bin holding area are to be at a maximum 3 % grade and this is to be indicated on the plans.
- 2.22 Prior to the issue of a Construction Certificate, suitable details must be provided for the approval of the Accredited Certifier of an appropriate system to control dust emissions from the site during construction works. The approved method of controlling dust emissions from the site is to be implemented and be maintained for the duration of construction works on the site.

### 3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1 All conditions under this section must be met prior to the commencement of any works.
- 3.2 No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
  - a) Site investigation for the preparation of the construction, and / or
  - b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
  - c) Demolition approved by this consent.
- 3.3 Appoint a Principal Certifying Authority for the building work:
  - a) The Principal Certifying Authority (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
  - b) Submit to Council a Notice of Commencement of Building Works or Notice of Commencement of Subdivision Works form giving at least two (2) days' notice of the intention to commence building or subdivision work. The forms can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)
- 3.4 Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:

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- a) The name, address and telephone number of the Principal Certifying Authority for the work; and
  - b) The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
  - c) That unauthorised entry to the work site is prohibited.
  - d) Remove the sign when the work has been completed.

3.5 Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- diverting uncontaminated run-off around cleared or disturbed areas, and
- preventing the tracking of sediment by vehicles onto roads, and
- stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

3.6 Erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works, if the works:

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

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

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

3.7 Prior to the demolition of nominated structures on site, all existing site services are to be disconnected, sealed and made safe. With regard to any sewer and water, service is to be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector as the Water and Sewer Authority. Romondis Customer Service Centre are also to be contacted on telephone number 1300 126 278 to arrange for the collection of the garbage bins.

- Any demolition work carried out is to be carried out in accordance with the requirements of AS 2601-2001 – The Demolition of Structures.

3.8 Prior to the commencement of construction an initial Erosion and Sediment Control Plan (ESCP) prepared in accordance with the latest edition of the Landcom Publication *'Soils and Constructions- Volume 1'* (The Blue Book) shall be provided to the Principal Certifying Authority. This plan shall be modified and updated during construction to

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reflect any changes due to the on-ground/site conditions. A copy of any modifications or updates to the ESCP shall be provided to the PCA and provided to Council upon request.

Erosion and sediment controls shall be monitored, maintained and adapted in accordance with the most recent ESCP until the site is fully stabilised and landscaped. Failure to comply with this condition may result in fines under the provision of the Protection of the Environment Operations Act

- 3.9 Prior to works associated with the development commencing, the owner of the adjoining property affected by the proposed excavation and/or structural protective works, must be given written notice of the intention to commence works. The required notice must be accompanied by details of the proposed work at least seven (7) days prior to the commencement of proposed excavation and/or structural protective works.
- 3.10 Prior to works associated with the development commencing, the applicant must supply the Principal Certifying Authority with a dilapidation report for the adjoining properties, which documents and photographs the condition of buildings and other improvements. The report must be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works. **Note:** The report is to be made available by the Principal Certifying Authority in any private dispute between neighbours regarding damage arising from construction works upon the development site.
- 3.11 Prior to commencing any works upon public roads the developer and their contractor will be required to:
- Obtain a copy of the Council approved Civil Works plans and pavement design (if applicable).
  - Obtain a copy of Council's *Civil Works Design Guidelines*. This is Council's Specification for Civil Works and is available on Council's web site.
  - Arrange a meeting on-site with Council's Principal Development Construction Engineer on (02) 4350 5555.
- 3.12 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.



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- 3.13 Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site.

Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- c) be a temporary chemical closet approved under the *Local Government Act 1993*.

## 4. DURING WORKS

- 4.1 All conditions under this section must be met during works.
- 4.2 Carry out construction or demolition works during the construction phase of the development only between the hours as follows:

- 7.00am and 5.00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.

- 4.3 During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:
- a) All excavation or disturbance of the area must stop immediately in that area, and
  - b) The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

**Note:** If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

- 4.4 Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 4.5 Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifying Authority or an officer of Council.

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- 4.6 Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the *Plumbing and Drainage Act 2011*. This condition only applies if no installation / alteration of plumbing and / or drainage works are proposed (excludes stormwater drainage).
- 4.7 Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 4.8 Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.
- 4.9 Arrange with the relevant service provider / Authority (eg. Ausgrid, Jemena, communications provider) for the supply of services concurrently with the engineering work approved by this consent. Arrangements must include, where required, any relocation of existing mains and services, and dedication of easements for mains and services.
- 4.10 During construction works, all cut or fill is to be constructed in such a manner that surface water will not be permanently or temporarily diverted to adjoining land and so that natural drainage from adjoining land will not be obstructed or affected.
- 4.11 Should acid sulphate soils be identified as part of the development works, all works shall cease until an Acid Sulphate Soil Management Plan is prepared by a suitably qualified consultant and works shall be completed in accordance with this plan.
- 4.12 During construction works, all fill is to be placed on site in such a manner that surface water will not be permanently or temporarily diverted to adjoining land.
- 4.13 The developer is solely responsible for any costs relating to alterations and extensions of existing roads, drainage, water and sewer infrastructure and other utilities for the proposed development.
- 4.14 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 4.15 All piercing / piling works shall be carried out under the supervision of a qualified geotechnical engineer and structural engineer with certification that all piercing / piling is founded as identified in the geotechnical engineers and structural engineers reports.

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- 4.16 Retaining wall construction including footings shall be entirely contained within the applicant's property. Incorporated subsoil drainage shall not be directed onto neighbouring properties unless appropriate 88B restrictions have been identified. Retaining walls shall be designed in accordance with AS4678 Earth Retaining Structures, for a minimum design life of 60 years.
- 4.17 Demolish all buildings and / or building components in a safe and systematic manner in accordance with Australian Standard AS 2601-2001: *The demolition of structures*. Waste materials must be disposed of at a waste management facility.
- 4.18 Undertake any demolition involving asbestos in accordance with the *Work Health and Safety Act 2011*.

The person having the benefit of this consent must ensure that the removal of:

- a) more than 10m<sup>2</sup> of non-friable asbestos or asbestos containing material is carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist, and
- b) friable asbestos of any quantity is removed by a licensed removalist with a friable (Class A) asbestos removal licence

The licensed asbestos removalist must give notice to the regulator before work commences in accordance with Clause 466 of the *Work Health and Safety Regulation 2011*.

- 4.19 A suitably qualified occupational hygienist must issue a "Clearance Certificate" which demonstrates that all the asbestos material has been successfully removed from off the property.
- 4.20 Suitable dust suppression measures shall be implemented and maintained by the developer during demolition, excavation and construction works associated with the development. Such measures are required to minimise the emission of dust and other impurities into the surrounding environment.
- 4.21 Sound attenuating devices shall be provided and maintained in respect of all power-operated plant used during demolition, earth works and the erection of the structure. The quietest available plant should be used and be regularly maintained and fitted with appropriate mufflers.
- 4.22 A minimum of five working days prior to any potentially noise generating construction works commencing, written notice shall be given to surrounding occupants advising of the time/date and duration for the works and the principal contractors contact details.

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- 4.23 Protect street trees by installing protective fencing. This includes the trees on Tamar Lane. Any street tree damaged during works must be immediately reported to Council, which may incur a compensation fee, rectifying and / or replaced with a tree of similar height and species at no cost to Council.

## **5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE**

- 5.1 All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority. The Occupation Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
- 5.3 Certification from a qualified structural/civil engineer shall be submitted prior to occupation that all piling / piling, foundations, load bearing retaining walls, and structures as built have been constructed in accordance with the submitted plans, accepted practice, and that the structure is stable and capable of catering for all anticipated loads.
- 5.4 A qualified geotechnical engineer shall certify that the development and associated works and structures, as constructed, comply with the requirements identified in the geotechnical report applicable to the development.
- 5.5 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.
- 5.6 All filled areas are to be compacted in accordance with the requirements of AS 3798-1996. The submission of test results and appropriate documentation attesting to this requirement having been achieved is to be provided for the approval of the Accredited Certifier prior to issue of the Occupation/Subdivision Certificate.
- 5.7 Prior to the issue of an Occupation Certificate, the developer must comply with the requirements (including financial costs) of any relevant utility provider (for electricity, water, sewer, drainage, gas, telecommunications, roads, etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

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- 5.8 The provision of any additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council as the Roads Authority prior to issue of the Occupation Certificate.
- 5.9 All works within the public road must be completed in accordance with the approved Civil Works design drawings and Council's *Civil Works Construction Specification* and be approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.
- 5.10 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.
- 5.11 The construction of stormwater drainage works external to the site and discharging into a public system or public land in accordance with the approved Stormwater Management Plan and Council's *Civil Works Construction Specification*. All works must be approved by Council under Section 68 of the Local Government Act 1993 prior to issue of the Occupation Certificate. All other stormwater management works must be approved by the Principal Certifying Authority.
- 5.12 The consolidation of Lot 31 DP 18372, Lot 32 DP 18372 and Lot 33 DP 18372 into one lot by registered subdivision prior to the issue of an Occupation Certificate. Documentary evidence of the Consolidation Plan registration with the Land and Property Management Authority must be submitted to the Accredited Certifier prior to the issue of the Construction Certificate.
- 5.13 The plan of subdivision and Section 88B instrument shall establish the following title encumbrances with Council being nominated as the sole authority to release, vary or modify each encumbrance unless specifically noted otherwise. Wherever possible the extent of the land affected shall be defined by bearings and distances shown on the plan of subdivision:
- 'Restriction on the Use of Land' prohibiting any alteration to the on-site stormwater detention system. The terms of the restriction are to be prepared to Council's standard requirements.
  - 'Positive Covenant' requiring the registered proprietor to ensure on-going maintenance is completed for the basement stormwater pump-out facilities. The terms of the covenant are to be prepared to Council's standard requirements.
  - 'Positive Covenant' requiring the registered proprietor to ensure on-going maintenance is completed for the on-site stormwater detention system. The terms of the covenant are to be prepared to Council's standard requirements.

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The encumbrances must be shown on the final plan of subdivision and Section 88B instrument, and be approved by Council with the Subdivision Certificate.

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

5.15 Any car wash bay must be bunded in accordance with AS 1940–1993 and AS/NZS 4452–1997, covered and discharges directed to sewer in accordance with Council’s Trade Waste requirements. A separate trade waste approval must be obtained prior to connection to the sewer.

5.16 For safety, amenity and maintenance reasons, the waste storage area must be constructed to the following standards prior to the issue of an Occupation Certificate:

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

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- The door to the storage area shall be weatherproof and shall be openable from the inside at all times; and
  - Hot and cold water hose cocks shall be located inside or within close proximity to the waste storage areas to facilitate cleaning.
- 5.17 An ongoing waste management plan shall be incorporated into a positive covenant for the development. The plan shall include, but not be limited to, ongoing maintenance of the waste area and the process for presenting the refuse receptacles for collection in accordance with the service provider's requirements.
- 5.18 The obtaining of a satisfactory final plumbing & drainage inspection advice or Section 307 Certificate of Compliance under the *Water Management Act 2000* for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority, prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.
- 5.19 Prior to the issue of an Occupation Certificate, to ensure landscaping works are properly completed, the landscape designer must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent. This includes street tree planting.
- 5.20 Prior to the issue the Occupation Certificate, the Principal Certifying Authority shall receive a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the Design Quality Principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development.
- 5.21 A minimum of 10% of all dwellings within the development are to be designed as suitable for adaptation for occupation by disabled/aged persons as outlined in AS 4299:Adaptable Housing. The adaptable housing should include a mix of outlook and include adaptable units located at the street front with a courtyard. Satisfactory plans demonstrating compliance are required to be provided. The plans are to demonstrate compliance including satisfactory circulation space and good layout design requiring minimal changes in accordance with the Australian Standard.
- 5.22 Execute a section 88E instrument under the Conveyancing Act 1919 to establish the following positive covenants; with Council having the benefit of these covenants and having sole authority to release and modify.

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- a) The positive covenant(s) must ensure that for a period of 10 years from the date of the issue of the Occupation Certificate.
- (i) All units must be used for the purposes of affordable housing as defined by the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, and as nominated on the approved plan (numbered A2001 issue D dated 19 Feb 2018 prepared by Ghazi Al Ali Architects), and
  - (ii) all accommodation that is used for affordable housing must be managed by a registered community housing provider; and
  - (iii) the rent of each unit, is not to exceed the formula for Affordable Housing as defined in Clause 6 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*; and
  - (iv) use for in-fill development under Division 1 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

5.22 A management plan specifically for waste collection is to be prepared and adopted for the site to ensure safe, orderly and efficient management of waste on the site and to mitigate adverse impacts to the street and residential amenity. The plan shall include, but not be limited to, ongoing maintenance of the waste area and the process for presenting the refuse receptacles for collection in accordance with the waste contractor's requirements. The plan shall include:

- A recyclables storage cupboard (adjacent to the garbage chute) is to be provided and identified on each floor.
- Identification of who will be responsible for monitoring and transferring recyclables bins within the interim recyclables storage rooms on each floor to the principal waste storage enclosure to ensure storage capability is available at all times and who will be responsible to transfer all bulk waste bins to the holding/servicing location the evening before collection.
- Details for the internal management of the waste storage enclosure/interim recyclables room will be required for the storage of waste deposited into the chute and the recyclables interim storage rooms when bulk waste bins are in the holding/servicing location waiting to be serviced.
- All residential waste vehicle manoeuvring is to be designed and certified to AS 2890.1 by a Traffic Engineer for the 10.5m long, dual rear axle HRV. The plans are to ensure sufficient room for other vehicles to enter the site while waste servicing is



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being undertaken to ensure no risk to the waste contractor, waste contractors vehicle or other vehicles.

- Garden/landscaping waste shall be removed off site by the garden/landscaping contractor

An 88B Instrument to indemnify Council and the contractor will be required to be a consent condition to be forwarded to Council prior to issue of any Occupation Certificate or issue of required bulk waste bins.

- 5.23 An unrestricted and convenient accessible path of travel is to be available between the dwellings and the communal open space.
- 5.24 Prior to the issue of an Occupation Certificate, to ensure landscaping works are properly completed, the landscape designer must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent.
- 5.25 An Operational Management Plan and tenancy agreements are to be developed and submitted to Council for review prior to the issue of a Construction Certificate. The Operational Management Plan is to be structured as follows:
- *Introduction* (description of building & location overview, details of Community Housing Provider, etc)
  - *Management Arrangements* (managing agent contact details & managing agent role)
  - *Becoming a resident* (application process, criteria and process for selecting residents, reference checks, occupancy agreements, ending agreements)
  - *Resident information* (resident information pack, resident's legal rights and duties and general rules, common area rules, car parking and bike storage)
  - *Emergency management* (emergency egress routes, evacuation plan, fire safety, important phone numbers, public display of name and number of managing agent and internal display of relevant information – house rules, emergency contacts)
  - *Maintenance* (dwelling maintenance and inspections, incidents register, waste management & recycling)
  - *Complaints/ Dispute handling and complaints register* (public display of name and number of managing agent and internal display of relevant information – rules, emergency contacts etc. All complaints should be entered into a register, purpose and function of complaints register, handling a dispute with a resident, handling a dispute between residents, dealing with aggression, liaison/relationship with neighbours and the local community and how impacts on residents will be mitigated and crime. Details should be provided on how liaison with neighbours will occur and what mitigation measures will be put in place to mitigate impacts on neighbours).

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- *Forms* (resident application form, occupancy agreement, condition report, incident report)

## 6. ONGOING

- 6.1 All stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective.
- 6.2 All on-site vehicle parking areas, markings, driveways and manoeuvring areas are to be maintained for the life of the development.
- 6.3 To minimise the opportunity for crime and in addition to the applicant's submitted Crime Risk Assessment (dated 18 Nov 2017), supporting information and Crime Prevention Through Environmental Design principles, the development shall incorporate the following:
  - i. In order to maintain a safe level of visibility for pedestrians within and around the development, adequate lighting to AS1158 is to be provided to all common areas including parking, and any pedestrian routes to these areas. All lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties.
  - ii. Ensure that the development minimises the opportunities for concealment or entrapment spaces.
  - iii. The means to isolate the various areas of the site shall be incorporated into the development, including measures for after-hours access.
  - iv. Ensure the development management adopts an ongoing policy of rapid repair of vandalism and graffiti and ensuring that all lighting is in working order.
  - v. Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- 6.4 The owner/operator(s) of the site must maintain the external finishes of the building(s), structures, walls and fences for the life of the development and any graffiti must be removed in a timely manner.
- 6.5 The owner/operator(s) must effectively manage any incidences of anti-social behaviour or nuisance on the site by implementing appropriate responses to such incidences if

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they occur. The owner/operator(s) must also take appropriate measures after any such incident to reduce the likelihood of such incidences reoccurring on the site.

- 6.6 All site landscaping is to be maintained for the life of the development in accordance with the approved landscape plan, as amended by the conditions of this consent, and with the approved maintenance schedule.
- 6.7 Replace all damaged, dead or missing areas of lawn and plantings at the completion of the landscaping maintenance period, including adjoining road reserve areas that are in a state of decline, to a healthy and vigorous condition in accordance with the approved detailed Landscape Plans and Development Consent Conditions.
- 6.8 The use of the rooftop terrace is limited to between the following hours:
- 8.00am and 8.00pm daily
- 6.9 All waste generated on the premises shall be stored in a manner so that it does not pollute the environment. All waste generated on the premises shall be transport to a facility which is licensed to receive that material.
- No disposal of recyclable waste via a waste chute is permitted. The recyclable waste in the recyclables cupboard on each floor is to be regularly serviced and transferred to the basement for collection.
  - Bulk waste bins will be transferred internally the evening before servicing to the interim bulk waste bin holding location and returned to the principal basement waste storage enclosure under private internal waste management practices after servicing. Transporting of the bulk bins to the bulk bin holding area the evening before servicing is the responsibility of the owner (or owners corporation).
  - Waste vehicle will reverse into the waste truck serving location and forward exit out of the location after servicing bulk waste bins.
- 6.10 All on-site vehicle parking areas, markings, driveways and manoeuvring areas are to be maintained for the life of the development.
- 6.11 Regular servicing and maintenance of 'plant' to ensure that it is run in a proper and efficient manner.
- 6.12 The Community Housing Provider is to undertake regular assessments of the rental levels for the local area to ensure that the development is affordable for the intended residents.
- 6.13 Implement and comply with the Council approved Operational Management Plan at all times during operation of the Affordable Housing component of the development.

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- 6.14 The Community Housing Provider is to consult with owners of adjoining properties on a regular basis and establish a complaints register to address any issues that arise, such as noise, parking and other amenity impacts, to ensure the safety and security for both residents of the proposed development and local residents. Any breach could result in a breach of the tenancy agreement and may result in termination of the contract.
- 6.15 Community information and resources relating to services and facilities, local and shire-wide events is to be provided to all residents to enable increased connections and wider participation within the surrounding community.

## PENALTIES

- 1.5. Failure to comply with this development consent and any condition of this consent may be a criminal offence. Failure to comply with other environmental laws may also be a criminal offence.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

### **Warnings as to Potential Maximum Penalties**

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and / or custodial sentences for serious offences.

## ADVISORY NOTES

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
  - a) Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
  - b) Jemena Asset Management for any change or alteration to the gas line infrastructure

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- c) Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
  - d) Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
  - e) Central Coast Council in respect to the location of water, sewerage and drainage services.
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.

#### Dial Before You Dig

- Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### Telecommunications Act 1997 (Commonwealth)

- Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.