

COUNCIL ASSESSMENT REPORT

Panel Reference	PPS-2017STH009
DA Number	RA17/1000
LGA	Shoalhaven City Council
Proposed Development	Concept masterplan for a mixed-use development (comprising of residential flat buildings, commercial premises and shop top housing) and associated minor boundary adjustment subdivision
Street Address	Anson Street, St Georges Basin
Applicant/Owner	Eastern Grey Developments Pty Ltd / David DeBattista
Date of DA lodgement	30 March 2017
Total number of Submissions Number of Unique Objections	Council received 250 submissions objecting to DA in 2017 and 83 submissions objecting to the amended DA in 2020 when the amended proposal was renotified as part of the LEC Court proceedings.
Recommendation	Refusal
Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021	General development over \$30 million: Development that has a capital investment value of more than \$30 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021; • State Environmental Planning Policy (Planning Systems) 2021; • State Environmental Planning Policy (Resilience and Hazards) 2021; • State Environmental Planning Policy (Transport & Infrastructure) 2021; • State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building; • Shoalhaven Local Environmental Plan 2014; and • Shoalhaven Development Control Plan 2014.
List all documents submitted with this report for the Panel's consideration	Attachment 1 - Section 4.15 Assessment Report Attachment 2 – Concept Masterplan Plans
Clause 4.6 requests	N/A
Summary of key submissions	<ul style="list-style-type: none"> • Development is out of character with the Basin area. • Traffic impacts – safety, increased volume. • Lack of public transport. • Adverse visual impact. • Appearance. • Unsuitable development that sets a precedent. • Adverse environmental impacts on the Basin and local flora and fauna. • Adverse social impacts due to significant population increase in the area • Lack of adequate utilities and facilities including water supply, sewage, transport, school and roads. • Increase and changes in flow of storm water that would adversely impact the Basin. • Does not meet the requirement of SEPP 65 in that the proposed development does not respond to or enhance the quality and identity of the area. • Does not meet the requirements of SEPP 71. • Adverse impact on the visual amenity and scenic qualities of the area. • Overshadowing on neighbouring properties. • Inadequate parking for residents and visitors. • Loss of privacy.

Report prepared by	Rebecca Lockart, Lead Development Services (North)
Report date	18 April 2022
Summary of s4.15 matters	
Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction	
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	No
Clause 4.6 Exceptions to development standards	
If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not applicable
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not applicable
Conditions	
Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	No Recommendation of refusal

1. Executive Summary

The subject site is located to the south of the St Georges Basin Village, some 300m to the north/north east of St Georges Basin. The land is legally identified as Lots 1 and 6 DP 1082382, Anson Street St Georges Basin.

The site is predominantly cleared with the exception of minor strands of trees and bushes including around 10m² of Commonwealth threatened plant species *Melaleuca biconvexa*. Historically, the site was heavily vegetated, with the site cleared in 2017. The site at lodgement was identified as being entirely bush fire prone land however recent change to mapping after 14 October 2021 has reduced the bushfire vegetation category applying to the site. Despite this as this application was lodged prior to this date, the old mapping applies, on which the site was not identified as 'Category 1' and 'buffer' bush fire prone land.

The site is surrounded by low density residential development to the west and east, manufactured housing estate to the south, low-rise village town centre and a new residential subdivision to the north.

The subject DA was lodged on 30 March 2017. The application is described as a staged development application (DA) per Section 4.22 of the *Environmental Planning and Assessment Act* (EP&A Act) for a concept masterplan for a mixed-use development (comprising of residential flat buildings, commercial premises and shop top housing) and associated minor boundary adjustment subdivision at Anson Street, St Georges Basin (Lots 1 and 6 DP 1082382).

Since lodgement, the application was the subject of a "Deemed Refusal" appeal in the Land and Environment Court. The proceedings were however discontinued, leaving the application undetermined. To resolve the application, the application is now reported to the Regional Planning Panel to finalise the matter.

The land is zoned R1 General Residential and B4 Mixed Use under the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014), under which mixed-use and residential flat development are permitted with the consent of Council.

As the development has a capital investment value (CIV) is more than \$30 million, in accordance with section 2 of Schedule 6 of SEPP (Planning Systems) 2021, the application constitutes a regional development application, and the Southern Regional Planning Panel is the determining authority for the application.

The proposal has failed to satisfy the critical matters for assessment and determination for the development the subject of the concept DA per Section 4.22(5) of the EP&A Act including:

- Compliance with the respective environmental planning instruments applying to the site;
- The visual compatibility of the development to surrounding development and neighbourhood character;
- Traffic impacts from the proposed parking spaces and the development's siting within the road network;
- The impact of the development on surrounding properties and the public domain;
- Social impacts of the development;
- The streetscape and urban design issues relating to the building heights, footprints and separations, traffic, accessibility and safety; and
- The shadow impacts of the development on the public domain and private properties.

The development application has been assessed against the following relevant environmental planning instruments:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)*
- Shoalhaven Local Environmental Plan 2014

There are areas of noncompliance and environmental impacts in relation to a number of these environmental planning instruments, including SEPP 65 and the accompanying Apartment Design Guidelines, and SLEP 2014 in relation to consistency with the objectives of the applicable zoning, provision of services and the maximum height of buildings.

The application has also been assessed against the following chapters of the Shoalhaven Development Control Plan 2014 (SDCP 2014):

Generic Chapters

- Chapter 2: General Environmental Considerations
- G1: Site Analysis, Site Design and Building Materials
- G3: Landscaping Design Guidelines
- G4: Removal and Amenity of Trees
- G5: Biodiversity Impact Assessment
- G6: Coastal Management Areas
- G7: Waste Minimisation and Management
- G13: Medium Density and Other Residential Development
- G17: Business, Commercial and Retail Activities
- G21: Car Parking and Traffic
- G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines

Specific Chapters

- N23: St Georges Basin Village Centre

The development is considered noncompliant with a number of these SDCP 2014 particularly Chapter N23 St Georges Basin Village Centre. These matters form reasons for the recommendation of the refusal of the DA.

The DA was notified in accordance with the *Environmental Planning & Assessment Regulation 2000* (the EP&A Regs) and Council's Community Consultation Policy for Development Applications on two occasions, the first being from 12 April to 15 May 2017 (Rev A plans). In response 250 submissions were received by Council, objecting to or raising concerns with the proposal. A further notification of the amended proposal was undertaken from 11 August 2020 to 11 August 2020 (Rev B plans).

Key objections in both instances relate to:

- Development is out of character with the Basin area.
- Traffic impacts – safety, increased volume.
- Lack of public transport.
- Adverse visual impact.
- Appearance.
- Unsuitable development that sets a precedent.
- Adverse environmental impacts on the Basin and local flora and fauna.
- Adverse social impacts due to significant population increase in the area
- Lack of adequate utilities and facilities including water supply, sewage, transport, school and roads.
- Increase and changes in flow of storm water that would adversely impact the Basin.
- Does not meet the requirement of SEPP 65 in that the proposed development does not respond to or enhance the quality and identity of the area.
- Does not meet the requirements of SEPP 71.
- Adverse impact on the visual amenity and scenic qualities of the area.
- Overshadowing on neighbouring properties.
- Inadequate parking for residents and visitors.
- Loss of privacy.

These matters have been addressed in this report and form reasons for the recommendation of this application.

The site is considered unsuitable for the proposed development in its present form, out of character with the existing and desired character of the St Georges Basin village. Approval of the proposal would not be in the public interest.

This report recommends that the application is refused for the reasons outlined in this report.

2. Application Details

Applicant: Eastern Grey Developments Pty Ltd

Owner: Mr David De Battista

Capital Investment Value: \$116, 000, 000 million inc. GST (as at 2017 lodgement)

Disclosures: No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made by any persons.

Note: The applicant for the DA at lodgement was Cowman Stoddart Pty Ltd, and the owner was and currently is Mr David De Battista.

The application was subject of a Class 1 Deemed Refusal appeal, filed on 28 June 2017 by Mr De Battista. As Mr De Battista commenced the appeal on the basis that he was the 'applicant' who was dissatisfied with the deemed refusal (refer s.97(1) now s.8.7(1) of the *Environmental Planning and Assessment Act 1979*), Council has assumed Cowman Stoddart Pty Ltd submitted the DA in 2017 as Mr De Battista's agent. Court proceedings were discontinued by Mr De Battista on 6 May 2021.

The same amended plans as those (Revision P2, dated 30 June 2020) were submitted by the owner on 13 May 2021 with a request to amend the applicant of the subject development application to 'Eastern Grey Developments Pty Ltd'. Confirmation has been received by Cowman Stoddart Pty Ltd confirming their agreement for the change of applicant.

3. Detailed Proposal

(a) Concept Development Application

The application as lodged sought consent for a staged development application under then section 83B of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) seeking consent for maximum building envelopes, land uses including estimated apartment unit mix, allocation of parking across the site and minor adjustments to property boundaries to facilitate the siting of proposed buildings.

Since lodgement of the DA, this section of the Act is now Section 4.22 of the EP&A Act and the application is considered a concept development application ('concept DA') as follows:

4.22 Concept development applications

(cf previous s 83B)

(1) For the purposes of this Act, a **concept development application** is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.

Comment: The application seeks consent for the Concept Master Plan (CMP) across the site for 15 new buildings as shown at **Figure 1**. The submitted Statement of Environmental Effects (SEE) states, "detailed proposals for each of the buildings identified in the [concept DA to] be the subject of separate development applications and will contain more details associated with these subsequent stages of the application" (p.9).

(2) In the case of a staged development, the application may set out detailed proposals for the first stage of development.

Comment: The application has not set out detailed proposals for the first stage of development nor does it seek consent for the staging of any future development for the site.

(3) A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.

Comment: The applicant has requested that the proposal be treated as a concept DA

(4) If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless—

(a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or

(b) the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.

The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.

Comment: This is further addressed later in this report, no consent is sought for the first or subsequent stages of the subsequent carrying out of the development.

(5) The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.

Note—

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

Comment: The Land and Environment Court has provided guidance in the form of a Planning Principle, handed down as part of the court hearing in relation to *Anglican Church Property Trust v Sydney City Council [2003] NSWLEC 353*. The judgement states that:

“Multi-stage applications are useful for large or controversial projects as they provide the applicant with certainty about the major parameters of a proposal before it embarks on the expensive exercise of preparing detailed drawings and specifications for a development application. The critical issue is: how much detail should be provided in the Stage 1 application as against the Stage 2 application?”

The principle we have adopted is that in multi-stage applications the information provided in Stage 1 should respond to all those matters that are critical to the assessment of the proposal. Where traffic generation is the critical issue, Stage 1 should include information on the precise number of cars accommodated on a site. Where the floor space is critical, Stage 1 should include the precise FSR. Where the major issue is the protection of vegetation, the footprints of the proposed buildings may be sufficient.”

Accordingly, to clarify the limitations of the subject concept DA, this application includes the conceptual details for the development of the site including the distribution of proposed buildings across the site, maximum building heights and minimum setbacks and envelopes, the approximate unit mix and parking provided, landscaped areas and vehicular access/egress.

It is noted that the built forms depicted on the plans may not necessarily be the same as the final form of the buildings which would normally be considered in the subsequent ‘Stage 2 development applications’. The plans subject to this application generally indicate the building envelopes within which the future buildings will be contained. The actual shapes of the buildings, including the number of floors, the elevations, the external finishes and the colours are to be shown in the subsequent development applications which follow the approval of the concept DA consent.

The critical matters to be assessed and determined are:

- Compliance with the respective environmental planning instruments applying to the site;
- The visual compatibility of the development to surrounding development and neighbourhood character;
- Traffic impacts from the proposed parking spaces and the development’s siting within the road network;
- The impact of the development on surrounding properties and the public domain;

- Social impacts of the development;
- The streetscape and urban design issues relating to the building heights, footprints and separations, traffic, accessibility and safety; and
- The shadow impacts of the development on the public domain and private properties.

The subject application does not approve tree removal which would be addressed and assessed under each subsequent DA. The application is however accompanied by an Ecological Assessment (Kevin Mills & Associates Pty Limited, dated February 2017, ref: 14/27/2) to provide a flora and fauna assessment of the subject proposal.

In addition to this the DA does not describe the stages in which the development is proposed to be carried out., nor have accurate 'proof-of-concept' floor plans for all proposed building envelopes showing the layout, number of units and intended uses of each building to demonstrate the workability of the concept and to allow amenity impacts to be properly considered against relevant controls. The number of apartments and mix shown in the Masterplan Yield table [Rev D] are unable to be verified.

It is considered that the level of supporting information inadequately responds to those matters that are regarded as being critical to the assessment of the proposal. Nonetheless, Council has sufficient information to form a view as to the appropriateness of the concept DA in its current form.



Figure 1. Site Plan of proposed development with Building Footprint (Dwg No. M02, Revision D, 17-Jul-20)

(b) Proposed concept masterplan (as amended)

The concept masterplan makes provision for a total of 15 buildings:

- One building comprising a mixture of lower level commercial (retail and business premises) & upper level shop top housing (Building J); and
- Fourteen residential flat buildings containing a mixture of 1, 2 and 3 bedroom apartments.

The two buildings which form part of the concept masterplan, described as Buildings A & B, have received separate development consent (Development Consent No DA16/1830). These buildings are four storey residential apartment buildings comprising a total of 54 residential units (2 x 1 bedroom units, 19 x 2 bedroom units, and 33 x 3 bedroom units) and two levels of basement parking providing car parking for 100 vehicles and 2 car wash bays.

The other 13 buildings are estimated to provide :

- i) approximately 14 x 1 bedroom apartments;
- ii) approximately 92 x 2 bedroom apartments;
- iii) approximately 131 x 3 bedroom apartments;
- iv) an approximate total of 237 apartments;
- v) one ground floor level of retail/commercial use, approximately 1990m² in gross floor area;
- vi) 485 car parking spaces (419 residential, 66 retail/commercial).

Further details of the proposed building envelopes and their uses are provided at **Table 1 & 2**.

The indicative buildings will vary in height between 2 storeys to 4 storeys. as follows:

- i) Buildings A and B (approved) - 4 storeys;
- ii) Buildings C, D, E, F, G, H, I, K, L, M, N, O – 3 storeys;
- iii) Building J – 2 storeys.

The proposal also includes minor boundary adjustments of the subdivision allotments approved under SF10111. **Table 3** provides an outline of the change to the approved lot areas that is proposed under the concept DA. These adjustments are proposed to ensure building separation compliance under the Apartment Design Guideline (ADG).

Table 1. Schedule of Buildings - Lot 6 (south of Anson St)

Building	Approved Lot	Maximum Building Height (m)	Number of Storeys	Number of apartments	Apartment Mix	Parking spaces
A (DA16/1830)	25	13	4	29	1 bed: 0 2 bed: 9 3 bed:20	107
B (DA16/1830)	24	13	4	29	1 bed: 0 2 bed: 9 3 bed:20	
C	24	8.5	3	14	1 bed: 2 2 bed: 6 3 bed:6	23
D	23	8.5	3	19	1 bed: 0 2 bed: 8 3 bed: 11	34
E	23	8.5	3	24	1 bed: 2 2 bed: 10 3 bed: 12	41
F	22	8.5	3	20	1 bed: 2 2 bed: 8 3 bed:10	34
G	22	8.5	3	20	1 bed: 2 2 bed: 9 3 bed: 9	34
H	22	8.5	3	13	1 bed: 3 2 bed: 4 3 bed: 6	21
I	22	8.5	3	17	1 bed: 3 2 bed: 6 3 bed: 8	28
Total (excl. Building A&B)		8.5	3	127	1 bed: 14 2 bed: 51 3 bed: 62	215
Total (incl. Building A&B)		8.5 - 13	3 – 4	185	1 bed: 14 2 bed: 69 3 bed: 102	537

Table 2. Schedule of Buildings - Lot 1 (north of Anson St)

Building	Approved Lot	Maximum Building Height (m)	Number of Storeys	Number of apartments	Apartment Mix / Land use	Parking spaces
J	29	8	2	10	1 bed: 0 2 bed: 9 3 bed: 1 Commercial /Retail: 1990sqm	Residential: 20 Retail/ Commercial 66
K	28	8.5	3	24	1 bed: 0 2 bed: 9 3 bed: 15	44
L	28	8.5	3	16	1 bed: 0 2 bed: 6 3 bed: 10	29
M	28	8.5	3	21	1 bed: 0 2 bed: 9 3 bed: 12	38
N	27	8.5	3	17	1 bed: 0 2 bed: 5 3 bed: 12	32
O	27	8.5	3	22	1 bed: 0 2 bed: 3 3 bed: 19	41
Total:		8 - 8.5	2 - 3	110	1 bed: 0 2 bed: 41 3 bed: 69 Commercial /Retail: 1990sqm	270
Combined Totals (excl A&B)		8 - 13	2 - 3	237	1 bed: 14 2 bed: 92 3 bed: 131 Commercial /Retail: 1990sqm	485
Combined Totals (incl A&B)		8 - 8.5	3 - 4	295	1 bed: 14 2 bed: 110 3 bed: 151 Commercial /Retail: 1990sqm	592

Table 3. Proposed boundary adjustments

Approved Lot	Current Area – SF10111	Proposed Area (Rev D)
22	6165 m ²	6311 m ²
23	4753 m ²	4427 m ²
24	4686 m ²	4800 m ²
25	4753 m ²	No change
26	2980 m ²	3024 m ²
27	4515 m ²	4420 m ²
28	4374 m ²	4428 m ²
29	3699 m ²	3699 m ²

4. Subject Site and Surrounds

Site Description



Figure 2. Aerial site photo

- Street address: Anson Street, St George Basin, NSW.
- Title details: Lots 1 and 6 DP 1082382. These lots are separated by Anson Street.
- Zoning: The site is partly zoned Mixed Use Business B4 and partly General Residential R1 under the *Shoalhaven Local Environmental Plan 2014* (SLEP).
- Site dimensions: The subject land comprises two rectangular parcels of land that are severed by Anson Street. The site comprises an area of 3.59 hectares (lot 1 being 1.62 ha and lot 6 being 1.97 ha).
- Topography: Land sloping to the west.
- Vegetation: Largely cleared of understorey vegetation and most trees. There are scattered trees and isolated patches of undisturbed vegetation. The site contains a local population of *Melaleuca Biconvexa*, a threatened species under the NSW *Biodiversity Conservation Act 2016*.
- Existing buildings: There are no buildings on the site except a metal shed which is located on the western boundary of lot 1.
- Bushfire: The site at lodgement was identified as being entirely bush fire prone land however recent change to mapping after 14 October 2021 has reduced the bushfire vegetation category applying to the site. Despite this as this application was lodged prior to this date, the old mapping applies, on which the site was not identified as 'Category 1' and 'buffer' bush fire prone land.



Figure 3. Lot 6 - Looking south-south east from Anson Street towards the site of approved Buildings A and B.



Figure 4. Lot 6 - Looking south-south west from Anson Street towards the approx. location of proposed Buildings C and D



Figure 5. Lot 6 - Looking west along Anson Street with St Georges Basin in the distance



Figure 6. Lot 6 - Looking south-south east from Anson Street towards the approx. location of proposed Buildings E and F



Figure 7. Lot 1 - Looking north-west from Anson Street towards the approx. location of proposed Buildings K & M



Figure 8. Lot 1 - Looking north from Anson Street towards the approx. location of proposed Buildings N & M



Figure 9. Lot 1 - Looking north-north east towards the approx. location of proposed Buildings N & O



Figure 10. Lot 1 - Looking north-east towards the approx. location of proposed Building N & O

Surrounding Site

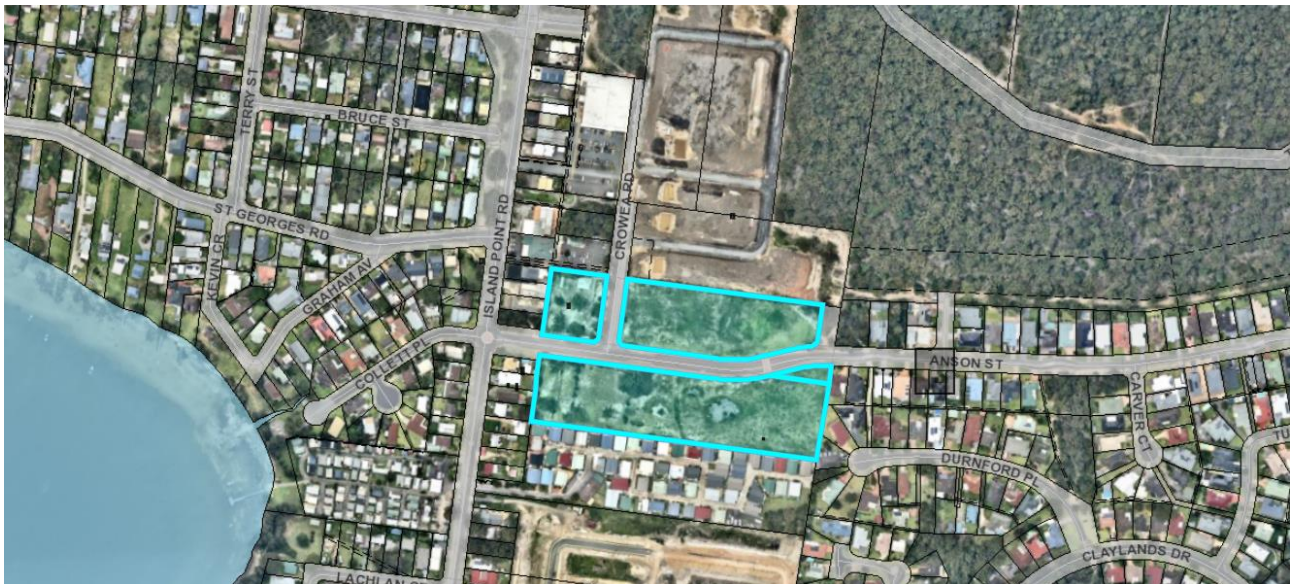


Figure 11. Aerial photo of site showing site context

The site is located adjacent to the St Georges Basin town centre which is located generally north of the subject land along Island Point Road.

The surrounding development comprises of the following:

- To the north: Forested vegetation.
- To the east: Residential development with the predominant residential housing being typified by single detached dwellings on individual allotments.
- To the south: A manufactured home estate.
- To the west of Lot 6: Predominantly detached single dwelling houses.
- To the west of Lot 1: A mix of commercial and industrial development with buildings limited to two storeys in height.

The photographs below outline the typical typology of development in the surrounding area.

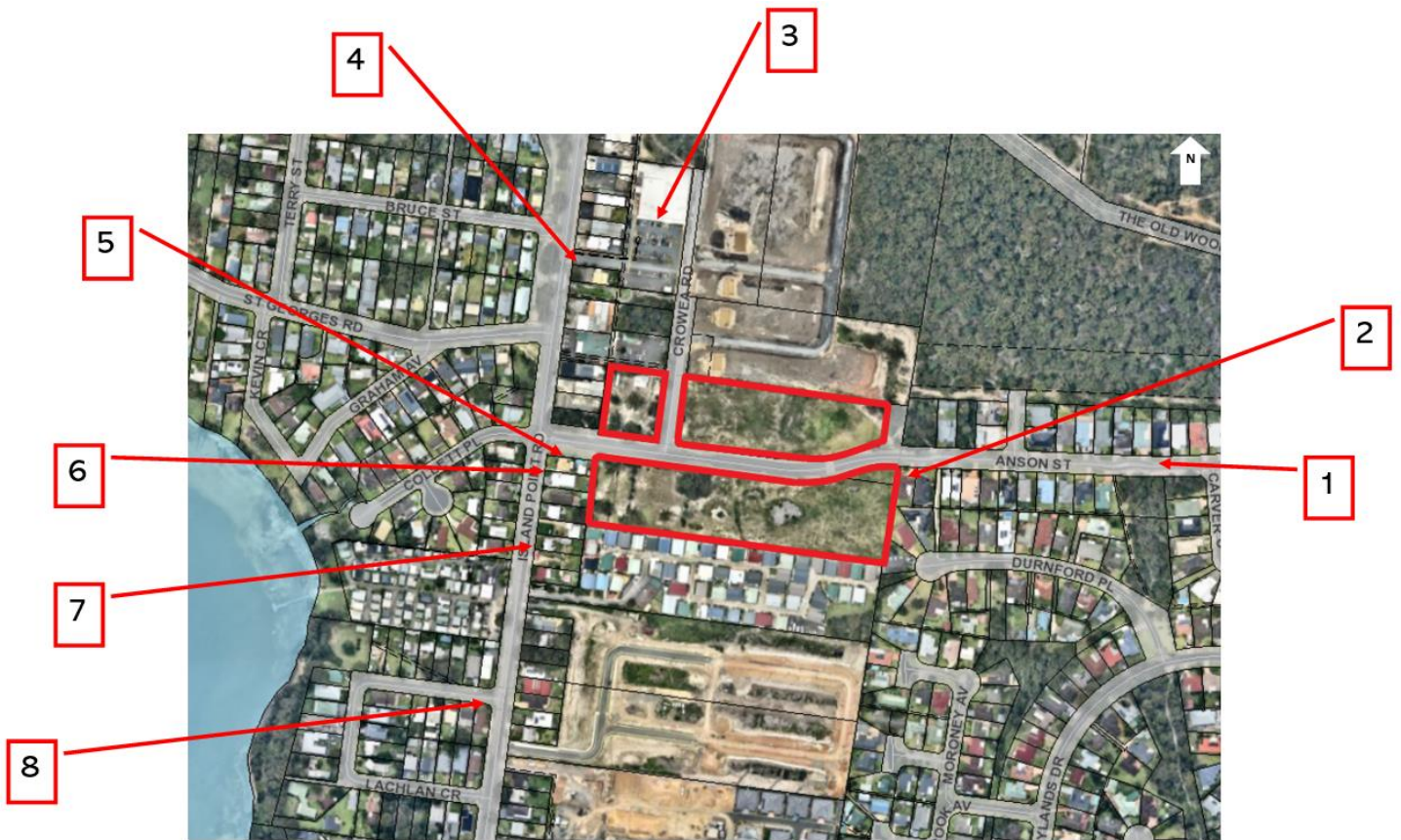


Figure 12. Site photo indicating position photos in Figure 13 - 21 are taken.



Figure 13. Surrounding Context Photo – Location 1



Figure 14. Surrounding Context Photo - Location 2



Figure 15. Surrounding Context Photo - Location 3



Figure 16. Surrounding Context Photo - Location 4



Figure 17. Surrounding Context Photo - Location 5



Figure 18. Surrounding Context Photo - Location 6



Figure 19. Surrounding Context Photo - Location 7



Figure 20. Surrounding Context Photo - Location 7



Figure 21. Surrounding Context Photo - Location 8

Deposited Plan and 88B Instrument

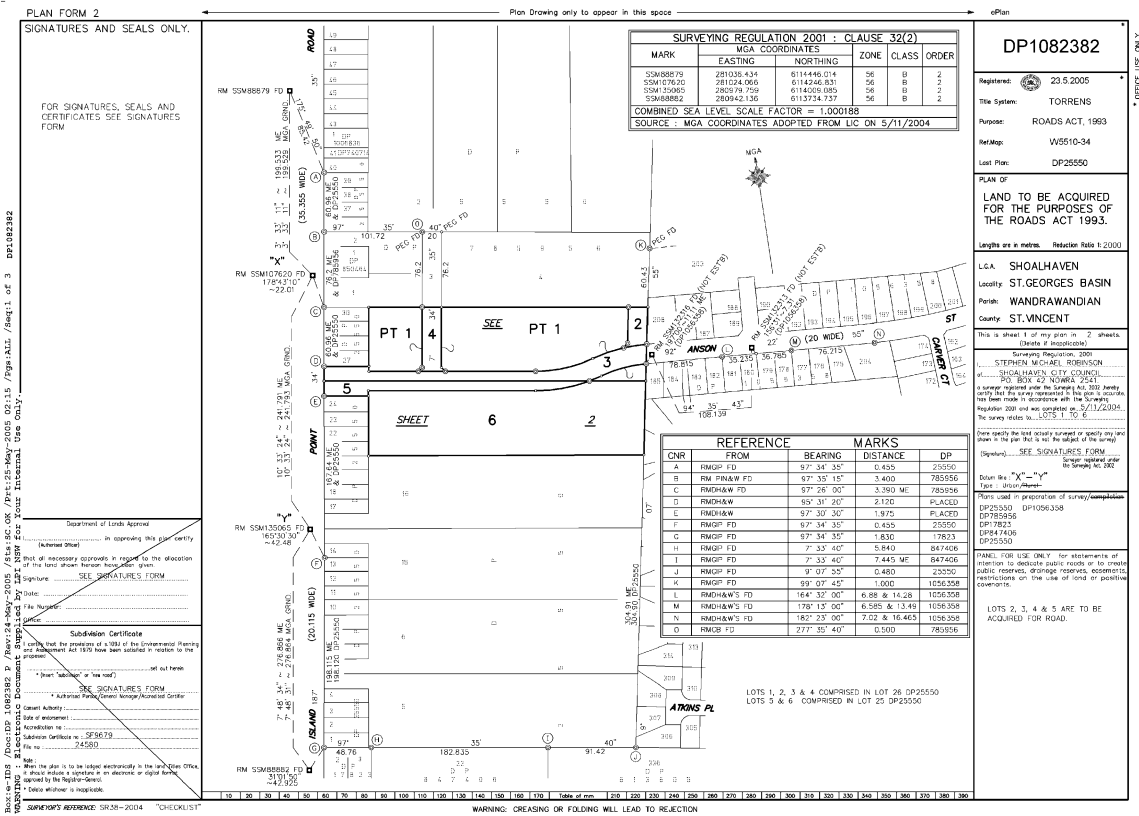


Figure 22. Deposited Plan for Lot 1 and 6 DP 1082382

Previous Approvals

The only notable determination is Development Application no. SF10111 approved 30 May 2011 which approved the subdivision of eleven lots over Lots 1 and 6 DP 1082382. This application was modified under subsequent section 96 (now s4.55) applications to reduce the number of lots to seven lots and to amend the staging of the subdivision (DS14/1409 and DS16/1334 respectively).

The two buildings which form part of the concept masterplan, described as Buildings A & B, have received separate development consent (Development Consent No DA16/1830). The approval was issued by the Land and Environment Court. These buildings are four storey residential apartment buildings comprising a total of 54 residential units (2 x 1 bedroom units, 19 x 2 bedroom units, and 33 x 3 bedroom units) and two levels of basement parking providing car parking for 100 vehicles and 2 car wash bays refer sales photomontages at **Figure 24 and 25**.

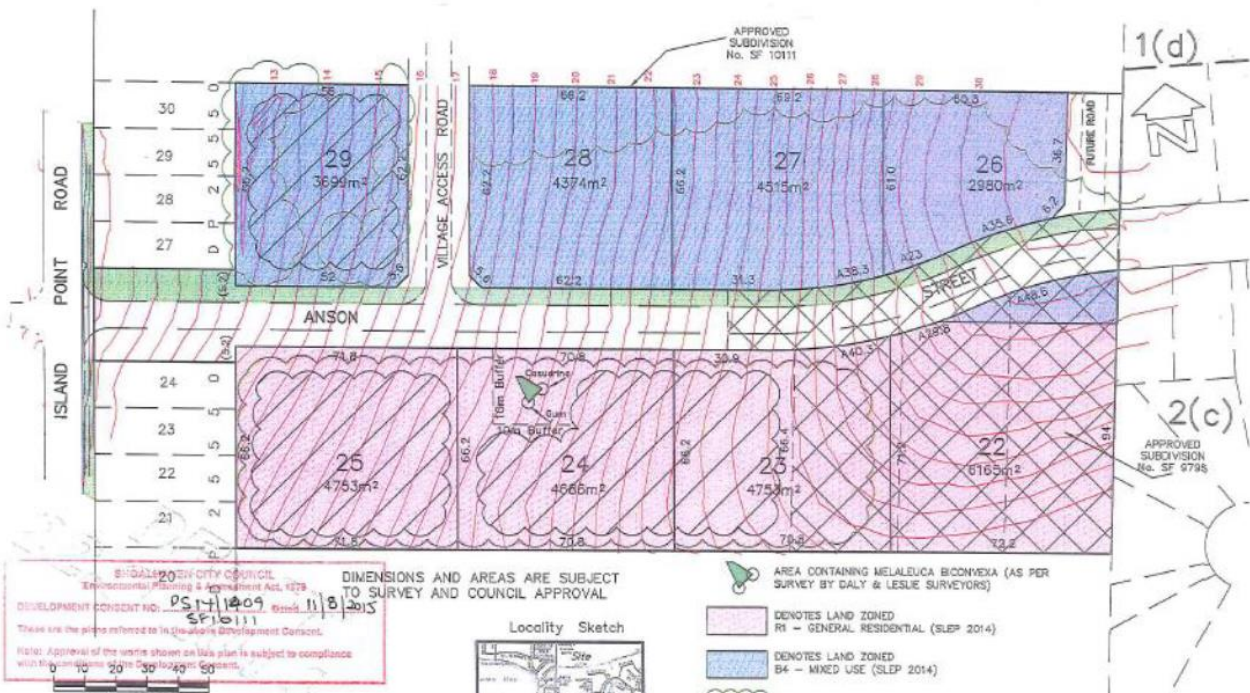


Figure 23. Approved subdivision plan of the subject site



Figure 24. Sales photomontage of approved Buildings A and B (Source: Realestate.com.au)¹

¹ Source Figures 24 and 25: <https://www.realestate.com.au/property-apartment-nsw-st+georges+basin-138180678> Accessed 13/4/22.



Figure 25. Sales photomontage of approved Buildings A and B (Source: Realestate.com.au)¹

5. Background Development Application and Site History

Date(s)	Action(s)
25 October 2016	<p>Council at its Ordinary meeting resolved (MIN16.785):</p> <p>That the General Manager prepare a report in respect to options that consider reducing the height limits at Lot 1 & 6 DP1082382 Anson Street, St Georges Basin.</p>
6 December 2016	<p>Council's Development Committee resolved (MIN 16.943):</p> <p>That Council retain the current 8m building height control over the western part of Lot 1 DP 1082382 and prepare a planning proposal to amend the height of buildings map over the remainder of Lot 1 and the whole of 6 DP 1082382 Anson, Street, St Georges Basin and remove the current 13m height and replace with 8.5m mapped height.</p>
24 March 2017	<p>Development application received.</p> <p>The development application was received and assigned application number RA17/1000 (the DA).</p> <p>The application as lodged (Rev A) was for:</p> <p><i>Concept Master Plan mixed use development being residential flat buildings and commercial development. Comprising 15 buildings up to 13m in height The buildings estimated to provide 88 x 2 bedroom apartments, 292 x 3 bedroom apartments, 2,233 square metres of commercial floor space and 783 parking spaces</i></p>
28 March 2017	<p>Council submitted a Planning Proposal to the Department of Planning for a Gateway Determination in accordance with resolution MIN 16.943 (Planning Proposal 023).</p>

Date(s)	Action(s)
4 April 2017	Email from the Council to the Applicant requesting a Social Impact Assessment and Concept Landscape Plan.
5 April 2017	DA registered with the NSW Planning Panels and assigned reference number 2017STH009.
Dates as specified opposite.	<p>Referral to concurrence and integrated approval bodies</p> <p>Council referred the DA to:</p> <ul style="list-style-type: none"> - Shoalhaven Water Group: SW Development Unit – 6 April 2017 - NSW Rural Fire Service - 6 April 2017 - NSW Police - 6 April 2017 - Endeavour Energy - 6 April 2017 - NSW Fire Brigades - 6 April 2017 - NSW Roads and Maritime Services– 3 May 2017 - NSW Department of Education- School Asset Planning – 21 June 2017 <p>Final responses from referral authorities were received as follows:</p> <ul style="list-style-type: none"> - NSW Rural Fire Service – 1 May 2017 - NSW Roads and Maritime Services – 16 May 2017
12 April 2017 – 3 July	<p>Notification Period</p> <p>The DA was advertised on Council's DA Tracking website in accordance with Council policy.</p> <p>A total of 250 submissions were received.</p>
1 May 2017	Email from Council to Applicant requesting additional information regarding bushfire assessment.
5 May 2017	Email from Council to Applicant requesting further information regarding the Flora and Fauna Assessment, particularly the critically endangered <i>Pterostylis Ventricosa</i> .
19 May 2017	Email from Council to the Applicant requesting further information regarding traffic and transport issues.
15 June 2017	Residents Briefing Meeting held at the St Georges Basin Community Centre for all interested members of the public to attend.
19 June 2017	Email from Council to the Applicant requesting further information regarding a Flora and Fauna Assessment of the adjoining land.
6 July 2017	Email from Council to Applicant requesting further information on various matters including a social impact assessment, updated and revised flora and fauna assessment, clarification of the staged concept masterplan and an assessment of the proposals design relationship and contextual setting to the existing neighbourhood.
10 July 2017	Email from Council to Applicant requesting further information on electronic traffic modelling files.
28 June 2017	Class 1 Application filed by the Applicant.

Date(s)	Action(s)
12 October 2017	Council submitted further supporting material for Planning Proposal PP023 to the Department.
29 November 2017	In a Gateway Determination, the delegate of the Minister for Planning determined that Planning Proposal PP023 should proceed. The delegate also provided authorisation to Council to amend the LEP in accordance with the Gateway Determination.
17 December 2017	The Court granted leave for the Applicant to amend the DA. (Rev B)
20 December 2017 to 2 February 2018	Planning Proposal PP023 was publicly exhibited by Council.
10 August 2020	The Court granted leave for the Applicant to amend the DA. (Rev D) This amended the proposed concept to that which is assessed under this report.
11 August – 10 September 2020	Council notified the further amended plans. 83 submissions were received.
7 May 2021	The Court proceedings were discontinued by the applicant.
13 May 2021	The same amended plans as those (Revision P2, dated 30 June 2020) were submitted by the owner along with a request to amend the applicant of the subject development application to Eastern Grey Developments Pty Ltd.
10 June 2021	Council wrote to the Applicant requested written confirmation that Cowman Stoddard Pty Ltd were no longer the applicant for the DA, an ASIC search on Eastern Grey Constructions Pty Ltd, and for a statement of the particulars changed in the application per (previous) cl. 55 of the EP&A regs 2000 to be submitted to Council along with an updated Statement of Environmental Effects to outline the amendments and compliance with eh relevant planning controls. No response was received to this letter.
4 April 2022	Council emailed the applicant to advise of Council's intention to report the application to the Southern Regional Planning Panel for determination.

6. Consultation and Referrals

Internal Referrals

Internal referrals were provided in response to the development application as lodged and as amended in November 2017.

Instructions for the November 2017 referrals were for conditions of consent to be issued for the purpose of a Court hearing.

Internal referral comments are referred to as required in the s4.15 assessment throughout this report in addition to expert advice provide to Council during the court hearing.

External Referrals

Agency	Comment
Rural Fire Service	GTAs issued dated 1/5/2017
Roads & Maritime Services	Response received 16/5/2017. No issues with regard to traffic generation or impacts on highway.
Endeavour Energy	The application was referred to Endeavour Energy however a response was not received.
NSW Police	No issues subject to the following: A full review of CCTV and lighting can be done at a later date. However it should be mentioned that all car parks should be adequately lit as per the Australian Standards. Security alarms would also be advantageous to reduce criminal entry to any residence and CCTV to be of a such quality that it would aid in the identification of offenders or offences if required by the authorities. Also that the CCTV be such that it is readily able to be downloaded to DVD or Thumb Drive.

It is noted that the application was not renotified to the State Agency referrals as part of the court proceedings.

7. Statutory Considerations

This report assesses the proposed development/use against relevant Commonwealth, State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

(a) Environmental Protection and Biodiversity Conservation Act 1999

The Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* specifies that approval is required from the Commonwealth Minister for the Environment for actions that have, will have or are likely to have a significant impact on a matter of “national environmental significance”.

The application is supported by an Ecological Assessment prepared by Kevin Mills & Associates in addition to supplementary reports . The assessment identifies the threatened plant species *Melaleuca biconvexa* as being associated with the subject land (refer **Figure 26**). This plant species is proposed to be protected and retained on the site.

A Plan of Management has been prepared for the population of *Melaleuca bioconvexa* on the site to set out the management approach to protect the species through construction and in the long term (prepared by Kevin Mills, October 2017).

With respect to the provisions of the EPBC Act the ecological assessment concludes that:

“The proposed action is not likely to have a significant impact on matters of national environmental significance listed under the Environment Protection and Biodiversity Conservation Act. Referral to the Commonwealth Minister for the Environment for assessment and approval is therefore not warranted.”

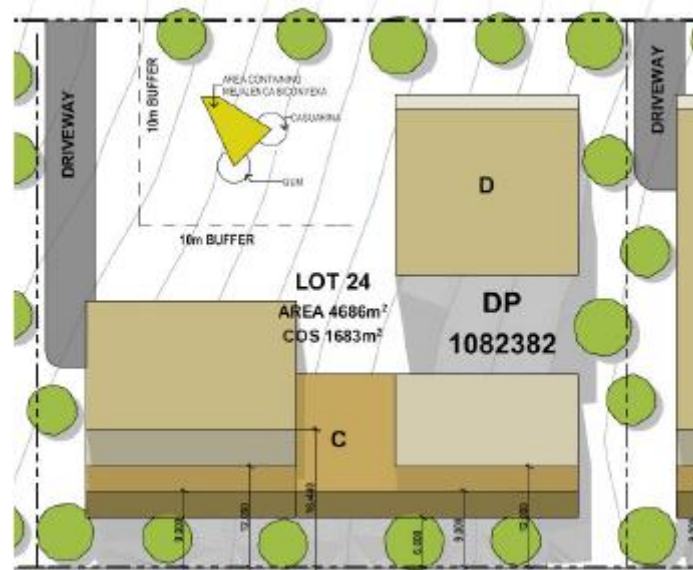


Figure 26. Indicative location of *Melaleuca bioconvexa* on the site (based on Rev B Masterplan)
 (Source: LEC Expert Ecology Supplementary Report, Dr Kevin Mills, November 2017)

Through the court proceedings, the applicant undertook a review of the site for *Pterostylis ventricosa* (Orchidaecece) which is a critically endangered orchid species known to occur within the area. No evidence of the species was found on the site.

(b) Environmental Planning and Assessment Act 1979

Section 1.7 - Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulation 2017

The purpose of the Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development (described in section 6 (2) of the Protection of the Environment Administration Act 1991).

Part 6 of the Act provides tools to avoid, minimise and offset biodiversity impacts from development and clearing through the Biodiversity Offsets Scheme (BOS). The BOS applies to development and clearing when;

- The thresholds under s.7.1 of the Regulation are exceeded;
 - The clearing of native vegetation of an area declared by cl. 7.2
 - The clearing of native vegetation on land included on the Biodiversity Values Map (BV map)
- A proposed development is likely to significantly affect threatened species based on the Test of Significance in section 7.3 of the Act
 - Area of clearing;
 - Biodiversity Values Map and Threshold Tool; and
 - Test of significance.

The proposed area of clearing is based off the minimum lot size. There is no minimum lot size for Lot 1 and the minimum lot size for Lot 6 subject site is 500m². Reference to the clearing thresholds provided under s.7.1 of the BC Regulation the clearing threshold is 0.25ha. The clearing required for the proposed development is minimal, and less than the nominated 0.25ha threshold as much of the site is already cleared.

An Ecological Assessment (prepared by Kevin Mills & Associates) has been submitted as part of the application, in conjunction with an Expert Ecology Supplementary Report (the Report) by Dr Kevin Mills (dated November 2017) written for the applicant in the Land and Environment Court No. 19159 of 2017. In particular, Attachment F of the Report being a “*Report on hazard reduction area on land to north*” and Attachment G of the Report being a “*Management Plan for Melaleuca biconvexa*”, which shows the proposed development does not trigger the Biodiversity Offsets Scheme (BOS).

The reports conclude the proposed development is unlikely to have a significant impact. This has been reviewed by Council’s Threatened Species officers who have concluded that the application is capable of support subject to conditions of consent (outlined earlier in this report).

Section 1.7 - Fisheries Management Act 1994

The proposed development would not have a significant impact on the matters for consideration under Part 7A of the *Fisheries Management Act 1994*.

Section 4.4 - Concept development applications

As indicated earlier within this report, the application specifically requests that the proposal be treated as a concept development application and the proposal meets the requirements of this section.

Section 4.24(2) however states that: (2) While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.

Council’s expert Urban Designer has provided the following concerns in relation to the information submitted with the subject Concept DA and the ability for the future development applications (i.e. ‘Stage 2’ applications) to comply with the Concept DA as proposed:

“I consider that the building envelopes would not be capable of providing sufficient certainty that the ‘determination of any further development application in respect of the site (would not) be inconsistent with the consent for the concept proposals for the development of the site’ (EP&A Act 4.24(2)). Whilst it is always possible to modify a Stage 1 development consent if required in the future, the issue is that the building envelopes as proposed may be used to justify undesirable non-compliances with a Stage 2 development application if the issues are inherent in the building envelope design. As an example, if the approved building envelopes do not permit for adequate solar access to units, the attempt may be made at Stage 2 to argue that the building envelopes as approved were acceptable, therefore the deficient solar access permitted by those envelopes must also be acceptable”.

Accordingly, while section 4.55(5) requires only the likely impact of the concept proposals to be assessed, it is considered that the development application as proposed has not adequately demonstrated that the future applications are capable of complying with critical elements of environmental planning instruments and guides, including SEPP 65 (ADG matters) and maximum building heights (under SLEP 2014) and thus comply with the requirements of section 4.24(2).

Despite this however per section 4.22(5) of the EP&A Act, the critical matters to be assessed and determined are:

- Compliance with the respective environmental planning instruments applying to the site;
- The visual compatibility of the development to surrounding development and neighbourhood character;

- Traffic impacts from the proposed parking spaces and the development's siting within the road network;
- The impact of the development on surrounding properties and the public domain;
- Social impacts of the development;
- The streetscape and urban design issues relating to the building heights, footprints and separations, traffic, accessibility and safety; and
- The shadow impacts of the development on the public domain and private properties.

These are further addressed below:

Compliance with the respective environmental planning instruments applying to the site

This report assesses the compliance of the proposal with the relevant provisions of section 4.15 of the EP&A Act. It is noted that there are multiple areas of noncompliance or where compliance cannot be established due to inadequate information. These form reasons for the refusal of the application.

The visual compatibility of the development to surrounding development and neighbourhood character

The proposal for three storey residential flat building development in this location is incompatible with the desired future character of the locality and will have a significant impact on the neighbourhood character of the St Georges Basin village. Fifteen (15) substantial residential flat buildings of the scale proposed by this application is distinctly out of character with the village character of the local areas.

The proposed building envelopes will not facilitate building design that are of a compatible bulk and scale with the locality and when viewed as a collective the development reads as something suitable for an inner-city metro area not a coastal south coast village.

In relation to the future desired character of the area, Council's DCP 2014 Chapter N23: St Georges Basin, Village Centre of SDCP 2014 applies to Lot 1 DP 1082382 on the northern side of Anson Street. SDCP outlines the desired future character of the village. While Lot 6 on the southern side of Anson is not within the N23 Chapter of the SDCP 2014, this serves to highlight that the scale of development proposed within this area of St Georges Basin, is inappropriate being outside of a village centre.

SDCP 2014 outlines Performance Criteria which development is required to meet, and provides Acceptable Solutions to identify how a development can meet the Performance Criteria. Performance Criteria P8 of Chapter N23, SDCP 2014 states:

Height, bulk and scale of development within the Neighbourhood Centre relates to the existing surrounding development and the natural attributes of the area.

Acceptable Solution A8.1 specifies:

The maximum height of any building must comply with clause 4.3 of SLEP 2014.

The proposed development, including buildings on both Lots 1 and 6 are out of character with the desired character of the St Georges Basin Village Centre. 15 residential flat buildings of significant bulk and scale has no relationship with the existing surrounding development and natural attributes of the area. The height of the proposed buildings are unlikely to be capable of complying with the maximum height control under SLEP 2014.

The submitted SEE prepared by Cowman Stoddart states with regard to this control:

“The CMP has been formulated in a manner that is consistent with the Building Height Map that supports the SLEP 2014”

While compliance with the maximum height control is contended, the proposal has ignored the context in which is situated and aimed to squeeze as much height and bulk as possible within the site with no consideration of surrounding development.

Performance Criteria P12 of Chapter N23, SDCP 2014 states:

As the majority of buildings in St Georges Basin have small frontages, new development is designed to reflect this built scale.

Acceptable Solutions A12.1 and A12.2 state:

*A12.1 Infill development, particularly on Island Point Road, should be compatible with the existing bulk and scale of development in the street frontage and building mass to the rear.
A12.2 Building mass and scale should be designed to complement rather than dominate its natural surroundings*

The submitted SEE prepared by Cowman Stoddart states with regard to this control:

“The building envelopes have been designed with the setting back of upper floors from front and rear setbacks to reduce the visual bulk of development. Future development applications for staged development will need to further demonstrate compliance with this requirement”.

20m+ wide residential flat buildings on 40m+ frontages does not reflect the built scale of St Georges Basin. The building mass and scale will significantly dominate within the neighbourhood and the natural surroundings the site is situated. Setbacks are insufficient to minimise the dominance of 15 large residential flat buildings which are out of character with the village.

The proposed development if approved, will have significant impact on the character of the St Georges Basin area and the broader Bay and Basin locality.

Traffic impacts from the proposed parking spaces and the development’s siting within the road network

Council’s Principal Traffic Engineer has reviewed the additional Traffic Report provided to Council on 27 November 2017 as part of the court proceedings (prepared by Traffic Solutions, 27/11/2017, ref 16.17.084) and has raised the following issues with the proposal as modified. The key issue is that there is insufficient information to satisfy the consent authority that the likely future traffic generated by the development will not have an adverse impact on the surrounding road network, which would be necessary to be conditioned in the event of any consent of the proposal.

- *“The traffic report that accompanied the application is inadequate to assess the likely traffic impacts of the development. The traffic report did not provide a realistic assessment of base traffic conditions prior to assessing the developments impacts. Notwithstanding, it is considered that the likely adverse traffic impacts associated with the proposal could be adequately resolved by conditions. The conditions would need to detail the extent of external works required to ensure safe traffic and pedestrian conditions could be provided along all frontages of the development, to the satisfaction of Council.*
- *The DA shows proposed roundabouts on Anson Street at the intersections with the Village Access Road and the eastern future road. The size of the roundabouts is of concern (appear very small). This may be addressed by including a condition specifying the appropriate standard for the construction of the roundabouts in accordance with*

AUSTROADS. Conditions would also need to address the need to obtain Local Traffic Committee approval required for all external traffic and pedestrian facilities, including the proposed roundabouts. The current masterplan drawings show diagrammatically very small circles that were intended to represent roundabouts, but the drawings significantly under-represent the more realistically larger scope of works that would be required to construct roundabouts at the proposed locations in accordance with standards, and sufficient to obtain approval from local Traffic Committee and Council. This will need to be addressed with conditions.

- *There is insufficient information to show that the “future road” located on the eastern boundary of the development will be constructed (in full or in part) to facilitate access between the proposed eastern roundabout and the driveway to Lot 26 (Block O). The current masterplan drawings do not indicate any proposed works within the future eastern road reservation, not even indicating how access is proposed to be provided to Block O.*
- *There is insufficient information to show that the width of the “future road” will be consistent with the width of access required in accordance with AS2890.1 + 1m (east side) for pavement protection, and it is contended that this road should be built wider at the southern end to facilitate a satisfactory connection to the proposed roundabout in accordance with Council standards. Kerb and guttering should be provided along the western side of the road for the full frontage of the development, and along the eastern side sufficient to facilitate a satisfactory connection to the proposed roundabout in accordance with Council standards. The current masterplan drawings do not indicate any proposed works within the future eastern road reservation, not even indicating how access is proposed to be provided to Block O. Conditions would need to specify the extent of works required to construct the roundabout in accordance with standards, and sufficient to obtain approval from local Traffic Committee and Council. Conditions would need to further detail the minimum extent of works required within the eastern road reservation to provide satisfactory access to Block O (whilst ensuring that roadworks within the eastern road reservation is consistent with, and will not hinder, the future extension of the road).*
- *There is insufficient information in the application to show that the 1.5m footpath network (located on the northern side of Anson Street) will be maintained and extended along all frontages of the development (including along both sides of the Village Access Road) and connect with existing path networks. The current masterplan drawings now indicate the required footpath works along the northern side of Anson Street, and on both sides of the Village Access Road, but the plans are not dimensioned. Accordingly, conditions would need to confirm the extent of the works and specify the required 1.5m footpath width for the northern network of footpaths.*
- *There is insufficient information in the application to show that a 2m shared path network will be provided along the southern side of Anson Street, including along all frontages of the development and extended both to the east and west to connect with existing path networks. The current masterplan drawings now indicate the required shared path works along the southern side of Anson Street, but the plans are not dimensioned. Accordingly, conditions would need to confirm the extent of the works and specify the required 2m shared path width for the southern shared path network.*
- *There is insufficient information in the application to show that all internal footpaths within the development will connect with the external footpath network. The current masterplan drawings appear to have been amended to address some of the locations where the internal footpaths were previously shown not connecting to the external path networks, but not all. For example, this doesn’t appear to have been addressed for the northern Blocks J, K, L, M, N, O. Further, this also does not appear to have been*

addressed for Blocks A & B (subject to current DA approval), which is considered could also be addressed by conditioning the master plan development accordingly. Conditions would need to address these pedestrian connections to ensure seamless access will be provided for all pedestrians between the development and the proposed external path networks.

- *The application does not provide sufficient provision for pedestrian crossings. Raised pedestrian crossings should be provided both on Anson Street (to the east of the Village Access Road) and on the Village Access Road (to the immediate north of the development's boundary).. The current masterplan drawings appear to have been amended to show a proposed pedestrian crossing on Anson Street (to the east of the Village Access Road), but not a raised facility, and further, does not show a pedestrian crossing on the Village Access Road. Accordingly, conditions would need to specify the scope of these pedestrian crossing improvements, and further, address the Local Traffic Committee approval required for the pedestrian crossings.*
- *The existing speed table located approximately 145m to the east of the Village Access Road should be removed and the road pavement reinstated to match the adjoining Anson Street pavement, to Council satisfaction. Due to the proximity of the existing device to the proposed eastern roundabout. The current masterplan drawings do not appear to have addressed this. Accordingly, a condition would need to specify the works required to address the removal of the existing speed threshold.*
- *The application does not show adequate street lighting improvements for the roundabout intersections and pedestrian crossings required in accordance with AUSTRROADS this whoever can be conditioned as part of any concept approval.*
- *The proposed service bays should be supported by swept path plans demonstrating they can be efficiently accessed by an 8.8m service vehicle from either direction (AUSTRROADS swept path templates, including all required clearances). In accordance with Council's DCP, the service bays and associated driveway cross overs are to be constructed of differing pavement material texture or colour (to be in contrast with the proposed footpaths and shared paths) to Council satisfaction, to ensure pedestrian safety is not compromised by the proposed service bays, pursuant to Council's DCP and NSW Road Rules. A preliminary review of the amended masterplan drawings has identified that the plans appear to have satisfied the minimum AUSTRROADS swept path templates, but not all required clearances (which could lead to poor traffic and pedestrian safety outcomes, if not addressed). similarly, this issue can be conditioned to ensure amended plans are prepared that address this”.*

Additionally it is noted that the Masterplan Yield table [D] provides indicative car parking numbers along with estimated units. The car parking numbers for Buildings C, D, E, F, G, H, I, K, and L do not provide any visitor car spaces. Building O provides 2 less resident car spaces than required under the ADG and SDCP2014 G21 5.1.

Further to this, given the broad nature of the 'commercial' land use proposed in Building J, the parking for commercial uses within this building may not provide sufficient car parking for its 'retail/commercial' component depending on proposed land use (SDCP2014 G21 5.1). Any consent for the proposed concept DA would include a condition that parking for future 'Stage 2' DAs be provided in accordance with the ADG and SDCP 2014 parking rates.

The impact of the development on surrounding properties and the public domain

Impacts on the surrounding properties and public domain relates to compatibility within the urban environment, which is an issue that has been given detailed consideration by the Land and

Environment Court. In the decision of *Project Ventures Development Pty Limited and Pittwater Council*, the Senior Commissioner of the Court was asked to consider the process of deciding whether a building is compatible with its surroundings. This led to the development of a Planning Principle as a guide on this issue. The planning principle states there are two important aspects of compatibility that need to be satisfied:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

The physical impacts of the development on the surrounding development are considered to be unacceptable.

Advice from Council's expert urban designer Michael Zanardo has stated:

"... the three storey height of the building envelopes in the form proposed will not be compatible with the existing or desired future character of the locality and would have an unacceptable negative visual impact on the amenity of the surrounding development, contrary to the objectives of SLEP2014 Clause 4.3 Height of buildings".

While the impact on character is detailed thought this report, the matter of overshadowing (as addressed below) have been unable to be accurately assessed. Other aspects of this consideration include overshadowing and bulk and scale which are further addressed elsewhere in this report and considered to have a negative impact on surrounding properties, the village character of the area and the public domain (refer in particular to ADG Assessment at **Appendix A**).

Social impacts of the development

The DA is supported by a Social Infrastructure Assessment prepared by Cardno (November 2017) which conducted an analysis of social infrastructure in the St Georges basin Area in relation to the proposed development as lodged (i.e. Rev A). This review states that, "*Cardno has undertaken a review of the availability and capacity of community and social infrastructure within the Bay and Basin area, which demonstrates there is a significant oversupply both now and at 2036.*" Further, it states, "*spatial analysis of community and social infrastructure was completed, which demonstrated the suitability of the site for medium density development in relation to the proximity and density of community infrastructure and services*".

This report was reviewed by Council's Social Planning expert, Judith Stubbs as part of the Court appeal process, in which it is stated that the submitted report inadequately addresses the social impacts of the development having regard to existing and future social infrastructure within the locality, such as schools, road, and health care services. The review by Dr Stubbs states, "*there is no proper analysis of current or future capacity, demand or adequacy of such social infrastructure to meet the needs of future residents because the Social Infrastructure Assessment does not undertake the detailed investigations required, has not consulted with service providers, and has not done any demographic profiling of current or future residents to understand the nature and quantum of likely need or demand for key services*".

Further to this, the site and immediate locality are not suitable to a development of the size and with the (arguably high density) density proposed, and with the likely demography, given the lack of employment opportunities, major retail, recreational community and specialist health services, and relatively poor public transport to Nowra/Bomaderry, and is poor social planning practice in this regard. The reasons for this are numerous:

- The size and nature of the proposed development increased the risk of social isolation for older and more frail residents, and of disengagement from the labour force for lower income workers and unemployed residents.

- The development encourages car dependency, and is not a sustainable urban practice, particularly for the majority of residents who will be low income, and for older people facing increased rates of driving cessation. However, it is also noted that public transport is not to the same standard in larger metropolitan or regional centres and residents are heavily reliant on their cars. This warrants the provision of adequate parking but also promotes and encourages car dependency.
- The size and density of the development and the uniformity of housing typology does not provide for social and urban integration with surrounding development, for example, with regard to lack of housing mix and diversity, and graduated urban form.
- A development of the size, scale and housing typology of the proposed development is distinctly out of character with the type of development typical for the area and will have an adverse impact on the social amenity and way of life of the local community.
- It is considered that the proposed development is poor social planning practice and will result in poor social outcomes in the context of the locality and the likely demography of the proposed development.

The streetscape and urban design issues relating to the building heights, footprints and separations, traffic, accessibility and safety

Each of these individual elements of this critical element are addressed throughout this report. Building heights is of key concern with the development, not only as it is not considered a future ‘Stage 2’ DA would be capable of complying with the Concept DA, but due to the bulk and scale this type of development will present to Anson Street and the impacts this will have on the character of the neighbourhood. **Figure 27** shows the appearance of the proposed buildings (building envelopes and potential development) in the streetscape with **Figure 28** depicting the current character of the neighbourhood at this location. The dominance of the development as a whole will cause detrimental impacts to the streetscape and from an urban design perspective is not consistent with the vision intended for the St Georges Basin area as outlined in SDCP 2014.



Figure 27. Perspective View plan looking east along Anson Street [M11D]



Figure 28. Site photo of similar position on Anson Street

The shadow impacts of the development on the public domain and private properties.

Council’s expert urban designer has provided comment on this matter specifically stating:

*“The Shadow Analysis [M04D and M05D] technique (e.g. **Figure 29**) is unclear and does not assist in the assessment of building amenity. ‘View from the sun’ diagrams should be provided at half hour intervals.*

The public domain and neighbouring development should be included in the diagrams, particularly the site to the south. (m) The Shadow Diagrams [M06D to M09D] show that proposed Buildings J, K, L, M, N and O overshadow the northern footpath of Anson Street (SDCP2014 N23 5.2 A5.1). This is not consistent with minimising shadowing of publicly accessible open spaces (SDCP2014 N23 5.2 A4.1)”

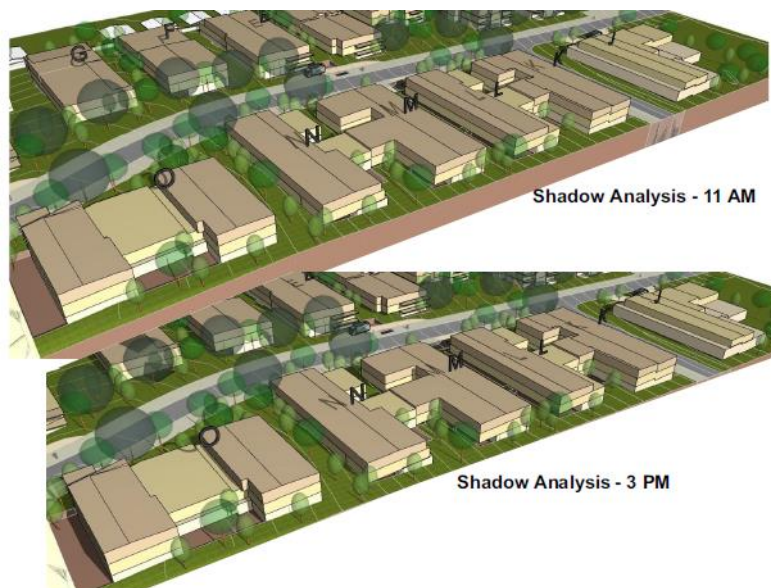


Figure 29. Excerpt of 3D View with shadow analysis plan [M05D] - Northern side of Anson Street at 11am and 3pm

Section 4.46 – Integrated Development

The subject development is considered integrated development as separate approvals are required to undertake the subject development.

A Rural Fires Act 1997 authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes is required. As detailed earlier in this report, General terms of Approval (dated 1/5/2017) have been issued by the RFS satisfying the provisions of Section 4.46 of the EP&A Act.

Section 7.11 - Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). In accordance with the Plan:

“Development contributions requirements for staged developments proposed under Division 4.4 of Part 4 of the EP&A Act shall only be imposed as a condition on development consent where that consent also authorises the carrying out of stage 1 of that development. Consents for subsequent stages of the development shall be levied contributions commensurate with the increase in demand for community infrastructure attributable to each stage.”

As no Stage 1 proposal is included in the DA, no contributions are to be levied with this application, however any determination by way of approval would include a condition per the above.

8. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

i) Environmental Planning Instruments

The following Environmental Planning Instruments apply to the assessment of the subject DA:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development*
- Shoalhaven Local Environmental Plan 2014

State Environmental Planning Instruments Policies

On 1 March 2022, the thematic State Environmental Planning Policies (SEPPs) commenced with 11 new SEPPs introduced which re-organised and repealed 45 former SEPPs. Former SEPPs which applied at the time of the lodgement of this DA, now exist as ‘Chapters’ within the new instruments.

There are no savings and transitional provisions contained in the new instruments. Rather, each instrument contains a ‘transferred provision’ clause which states that section 30A of the Interpretation Act 1987 is taken to apply. This means that the transfer of clauses to the new instruments will not affect their operation, and the clauses should be construed as if they had not been transferred.

Accordingly the following assessment assesses the proposal under the new SEPPs as the former SEPPs no longer apply to existing development applications and consents, and the new SEPPs apply instead. The operation and meaning of the transferred provisions has not changed, unless modified in the new SEPPs – this is identified where required in this assessment.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

This SEPP replaced 11 previous SEPPs, including:

- SEPP (Vegetation in Non-Rural Areas) 2017,
- SEPP (Koala Habitat Protection) 2020 (which repealed SEPP (Koala Habitat Protection) 2019, which repealed and replaced SEPP No. 44 – Koala Habitat Protection which applied at the time of the lodgement of this DA); and
- SEPP (Koala Habitat Protection) 2021.

The following provides an assessment of the applicable sections of the SEPP (Biodiversity and Conservation) 2021 as it applies to the subject DA.

Chapter 3 Koala habitat protection 2020

The subject site has an area of greater than 1ha and is in relation to land in which a DA has been made. The site however is not considered 'potential koala habitat' as areas of native vegetation where trees of the types listed in Schedule 2 of the SEPP (feed tree species) do not constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

The proposal is accordingly considered satisfactory under the SEPP.

Chapter 4 Koala habitat protection 2021

The subject site does not have an approved koala management plan for the site and is not located within the South Coast Koala Management Area (KMA 3) which extends from the Shoalhaven region to the Victorian border on the New South Wales south coast.

Being lodged before the commencement of this SEPP, information has not specifically been provided to Council by a suitably qualified consultant to demonstrate that the land the subject of the development application:

- a) *Does not include any trees belonging to the koala use tree species listed in Schedule 2 of the SEPP for the relevant koala management area, or*
- b) *Is not core koala habitat, or*
- c) *There are no trees with a diameter at breast height over bark of more than 10cm, or*
- d) *The land only includes horticultural or agricultural plantations*

Despite this however, the submitted Flora and Fauna Assessment (Kevin Mills & Associates, February 2017) concludes that "*The land is essentially cleared of natural vegetation and habitats, with only a few scattered trees remaining in the west and south.... These trees are not important habitat trees; they are isolated from forest, have no hollows and are not especially important for any threatened species*". Further, none of the species identified as being on site are feed tree species or koala use species for the South Coast koala management area.

The proposal is accordingly considered satisfactory under the SEPP.

State Environmental Planning Policy (Planning Systems) 2021

The proposal is categorised as a 'General Development over \$30 million' under Schedule 6 of the above planning instrument. The project will have a CIV of \$116 million as advised at the time of lodgement in 2017. As such the proposal is required to be determined by the Southern Planning Panel in accordance with Section 4.7 of the EP&A Act.

State Environmental Planning Policy (Resilience and Hazards) 2021

This SEPP repealed and replaced:

- SEPP 33 – Hazardous and Offensive Development;
- SEPP (Coastal Management) 2018; and
- State Environmental Planning Policy 55 – Remediation of Land.

The latter two apply to the subject development and have been replaced with Chapter 2 and 4 of the new SEPP respectively.

Chapter 2 Coastal management

In accordance with **Figure 30** below, the site is mapped as being located within the 'Coastal Environment Area' but not within the 'Coastal Use Area' in accordance with the SEPP (Resilience and Hazards) 2021.

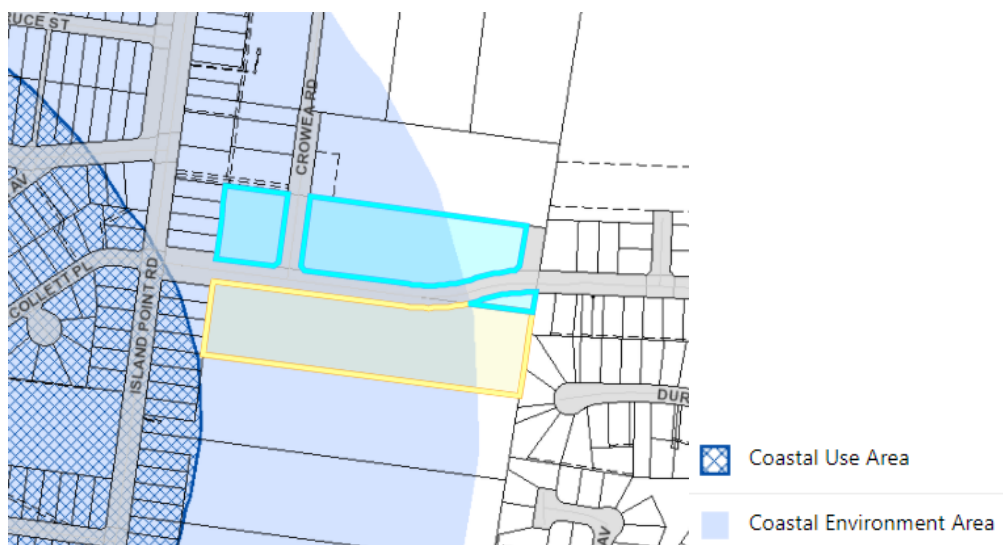


Figure 30 - Coastal Management SEPP Mapping

Section 2.10 – Development on land within the coastal environment area

Development consent is not permitted to be granted to development on land within the 'coastal environment area' unless the consent authority has considered whether the proposal is likely to have an adverse impact upon the following:

- the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- coastal environmental values and natural coastal processes,*
- the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- Aboriginal cultural heritage, practices and places,*
- the use of the surf zone.*

It is noted that the works are proposed to take place within the part of the site mapped as coastal environment area. Whilst the works are proposed within the part of the site mapped as a coastal

environment area, works are proposed in an already disturbed area. As such there would be minimal impact upon the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment beyond that already undertaken. Further, the site is not mapped on Council's system as being of significant Aboriginal Cultural Heritage. In the event of an approval, standard conditions of consent could be applied for unexpected finds.

The submitted Flora and Fauna Assessment (Kevin Mills & Associates, February 2017) identifies there is unlikely to be adverse impacts on native vegetation with the site is already largely disturbed with clearing already undertaken on the site. *Melaleuca biconvexa* site is the only valuable vegetation on the site in Anson Street, for which provision is made in the development plan to retain the site and for which a draft Plan of Management has been submitted as part of the DA (Kevin Mills, October 2017).

Additionally, the proposal does not give rise to concern per subclause 2.10(g) as there is no existing safe access to the beach / foreshore area to the south through the site which would be otherwise adversely impacted by the proposal.

Section 2.11 – Development on land within the coastal use area

Development consent must not be granted to development on land that is within the coastal use area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—

- (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (ii) *(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) *Aboriginal cultural heritage, practices and places,*
- (v) *cultural and built environment heritage,*

The proposed works are not within the coastal use area, though abut it to the south-west. The works are adjoining an existing urban area and are not likely to have any further impact upon visual amenity and scenic qualities of the coast. The works would not impact upon safe access to the foreshore, beach, etc, given the site is not adjacent to the water and are not proposed to take place within the vicinity of any items of aboriginal or European cultural heritage significance. Standard conditions would apply in the event of a determination by way of approval with regard to unexpected finds for heritage.

Chapter 4 Remediation of land: Section 4.6 – Contamination and remediation to be considered in determining development application

The requirements of this SEPP apply to the subject site. In accordance with Section 4.6(1), the consent authority must consider if the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out; and if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The site was zoned Residential 2(c) under Shoalhaven LEP 1985, and has had various subdivisions approved for residential purposes however no development has been undertaken in this time. The assessment officers report for the recent approval of a four-storey apartment building on Lot 6 under DA16/1830 states:

“The previous land use, vacant undeveloped land, was assessed at the time of subdivision and was deemed as being suitable for residential use. In this regard, an evaluation of the

subject site has indicated that there is no obvious visual evidence of any land contamination being present, and Council has no record of former uses referred to in Table 1 to the contaminated land planning guidelines known to have been carried out on site.

It is considered that the proposed development does not conflict with the aims and applicable provisions of the SEPP and further assessment is not required”.

Despite this however the considerations under the Resilience & Hazards SEPP require further considerations to be addressed in consideration of a DA to that required under DA16/1830. Subsection (2)-5 states:

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is—

- (a) land that is within an investigation area,*
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—*
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Table 1 of the *Managing Land Contamination Planning Guidelines SEPP 55–Remediation of Land* includes asbestos disposal, landfill sites, and agricultural/horticultural activities. Residential 2(c) (Residential “C” (Living Area) Zone) under Shoalhaven LEP 1985 permitted the following land uses outlined at **Figure 31**.

Zone No 2 (c) (Residential “C” (Living Area) Zone)	
1 Objectives of zone	The objectives are to provide for new residential areas with a range of housing types with provision for urban facilities to serve the local community.
2 Without development consent	Nil.
3 Only with development consent	Any purpose other than a purpose for which development is prohibited.
4 Prohibited	Advertising structures; amusement parks; animal boarding establishments; bulk stores; bulky goods premises; car repair stations; caravan parks; drive-in theatres; industries (other than those specified in Schedule 6); intensive animal husbandry; junk yards; liquid fuel depots; motor showrooms; retail plant nurseries; road transport depots; roadside stalls; sawmills; sexual services premises; timber yards; transport terminals; turf farming; warehouses.

Figure 31. Excerpt from Shoalhaven LEP 1985 Land Use Table for Zone No 2 (c)

Schedule 6 (Clause 9) as mentioned under ‘industries’ included the following land uses:

- | | | |
|--|--|-----------------------------------|
| - Aerated water and cordial manufacture. | - Furniture storage and repairing. | - Printing (Jobbing). |
| - Boot and shoe repairing. | - Ice works Joinery workshop. | - Radio and television repairing. |
| - Cabinet making. | - Laundry. | - Signwriting. |
| - Cycle repairing. | - Lawn motor repairing. | - Tailoring. |
| - Dressmaking. | - Musical, surgical and scientific instrument and apparatus repairing. | - Toy making. |
| - Electrical appliance repairing | | - Upholstering |

While it is noted that laundry is listed as a permissible use, which is also within Table 1 of the *Managing Land Contamination Planning Guidelines*, it is considered that due to the vacant state of the site (see **Figure 32**), and no record of previous approvals for this land use type, that it is unlikely for this use to have been undertaken on the site. Further, there is no evidence of land fill having occurred on the site or visible disposal of asbestos. Accordingly the preconditions of SEPP (Resilience and Hazards) 2021 are considered to be adequately met and land is suitable for residential purposes. Standard conditions would apply to any ‘Stage 2’ consent in relation to unexpected finds for contamination or the like.



Figure 32. Aerial photo of the site circa 2001

State Environmental Planning Policy (Transport and Infrastructure) 2021

This SEPP repealed and replaced SEPP (Infrastructure) 2007. Under the new SEPP (Transport and Infrastructure) 2021, section 2.121 relates to *Traffic-generating development* and applies to development specified in Column 1 of the Table to Schedule 3.

Schedule 3 identifies residential accommodation of 300 or more dwelling with access to a road (generally) is development specified for the purpose of Section 2.121.

The proposal (as amended) includes 237 residential units within the proposed Buildings C to O, with 54 approved under existing approvals for Buildings A and B, totalling 291 residential units under the Concept DA.

Accordingly this section does not apply to the subject development. It is noted that Council’s Traffic Engineers have identified significant concerns in relation to traffic impacts associated with the subject development application which are addressed later in this report.

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) applies to the development as the proposal is for new buildings, is 3 storeys in height and would have more than 4 units. SEPP 65 requires that residential flat buildings satisfactorily address 9 design quality principles, be reviewed by a Design Review Panel (where applicable), and consider the recommendations in the Apartment Design Guide.

It is noted that Shoalhaven City Council does not have a design review panel. The following accordingly provides an assessment of the Design Quality Principles of the SEPP and the Apartment Design Guide per Section 29(2)(b) & (c).

It is specifically noted that Section 30(2) of the SEPP states:


- (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.*

As demonstrated in this report, the opinion of Council is that the proposal has not given adequate regard to either the design quality principles or the objectives of the ADG, and it is therefore recommended that development consent must not be granted in accordance with this section.

Design Quality Principles

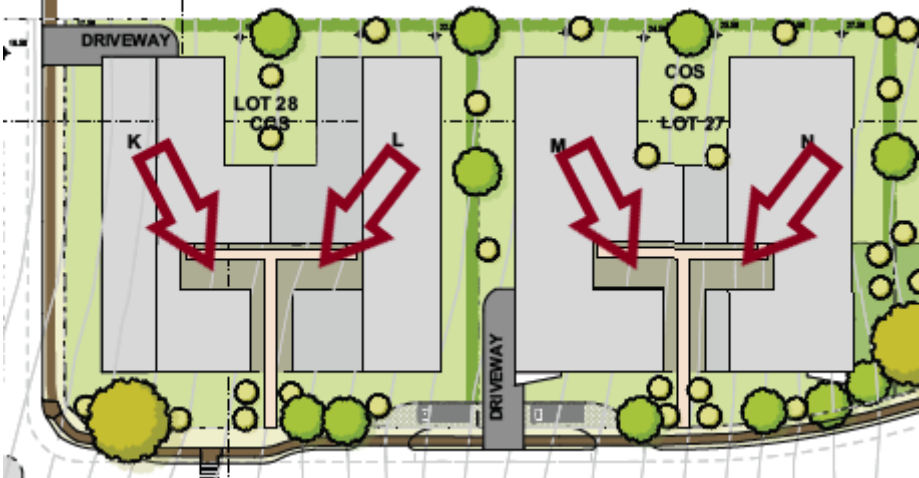
A design statement addressing the quality principles prescribed by SEPP 65 was prepared by the project architect and submitted with the application. The proposal is considered to be inconsistent with the design principles for the reasons outlined below:

Requirement	Council Officer Comments
<p>Principle 1: Context and Neighbourhood Character</p>	<p>It is considered that the proposed development would be out of character with the existing character of the local area. The three storey heights of 14 buildings within the village locality is incompatible with the existing character of the locality. The overlay of the concept DA masterplan over a current aerial photograph highlights the incongruity of the proposal within the neighbourhood, which currently has no density of this scale, nor are any proposed within the subdivisions of nearby and adjoining approved developments.</p> <p>The building envelope footprints are excessively large when compared to all other buildings in St Georges Basin. In this regard, it is considered the proposal will not be compatible with the existing character of the local area due to the bulk of the massing and relatively large scale of the building envelopes.</p>

Requirement	Council Officer Comments
 <p data-bbox="164 896 842 925"><i>Figure 33. Aerial photograph with proposed masterplan overlay</i></p>	
<p data-bbox="164 952 422 1019">Principle 2: Built Form and Scale</p>	<p data-bbox="443 952 1428 1120">St George’s Basin and the broader Bay and Basin area are typified by low density residential housing – predominantly single detached dwellings on individual allotments. The town centre has a range of commercial and industrial developments with a maximum of two storeys in height. There are no apparent examples of three storey development.</p> <p data-bbox="443 1153 1428 1321">Planning controls of 8.5m in Mixed Use Business B4 and General Residential R1 residential zoning, envisages maximum 2 storey development (i.e. ground and first floor) taking into consideration 3.1m floor to floor heights, services, clearance heights for parking/loading and potential loft overruns.</p> <p data-bbox="443 1355 1428 1456">The proposal for a three storey residential flat building development of this scale is inconsistent with the zoning and height controls applying to the site and is conspicuously out of character with the St Georges Basin village.</p> <p data-bbox="443 1489 1428 1724">Chapter N23: St Georges Basin, Village Centre of SDCP 2014 outlines the desired future character of the village. The proposal’s built form and scale does not meet the relevant controls of the DCP for St Georges Basin and the proposed building envelopes do not reflect that which is envisaged for St Georges Basin. Being some 300m from the St Georges Basin shoreline, the proposed buildings will dominate the locality and diminish the quality of the natural surroundings within which the site is situated.</p> <p data-bbox="443 1758 1428 1859">The proposed development if approved, will have significant impact on the character of the St Georges Basin area and the broader Bay and Basin locality.</p>
<p data-bbox="164 1897 422 1964">Principle Density</p>	<p data-bbox="443 1897 1428 1993">3: The proposal demonstrates poor design that is out of context with the locality. The proposal is not an example of a density appropriate to the site and its context.</p>

Requirement	Council Officer Comments
	<p>Per Schedule 1 of the SEPP: “<i>Appropriate densities are consistent with the area’s existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment</i>”.</p> <p>The 2016 ABS Population Census and Housing identifies 47.8% of the St Georges Basin – Basin View are over the age of 50. Seniors aged 70-84 are the largest population change from the 2011 and 2016 census – from 13.4% to 15.8% of the total population.</p> <p>The proposed type of development will not meet the needs of the existing and emerging population demographics of the locality. The site has poor public transport options, uneven and steep topography and generally poor access to major services needed by these age groups.</p> <p>The concentration of 54 (existing approved) plus 237 (indicative proposed) residential units within this location is inappropriate and does not provide for positive ‘aging in place’.</p> <p>The proposed densities are unable to be sustained by existing and proposed infrastructure (refer Cl. 7.11 of SLEP 2014 assessment) and has inadequate access to public transport particularly for the demography likely to be serviced within this type of development.</p>
<p>Principle Sustainability 4:</p>	<p>Good design combines positive environmental, social and economic outcomes. The proposed development does not achieve a balance of environmental, social and economic outcomes. The proposed impacts of the development on the character of the locality are compromised by the proposed al to fit high yields on the site with little consideration of the compatibility of the proposal.</p> <p>Inadequate information has been submitted with the proposal at this stage to demonstrate the detailed design of the proposed residential flat buildings.</p>
<p>Principle Landscape 5:</p>	<p>The Concept Landscape Plan [M10D] does not appear to have been prepared by a suitably qualified landscape professional in accordance with SDCP2014 Chapter G3 5, Acceptable Solution A2.1.</p> <p>Despite this the application states that a total of 9,409m² of Communal Open space and 12,677m² of deep soil zone are proposed across Lots 22 to 29 (excluding Lot 25 with has existing approved Buildings A and B). This represents 26.2% and 35.3% respectively.</p> <p>Despite this representing a large component of the development the high level ‘master plan document’ is high level, showing only rectangular boxes for building envelopes and no clear indication of the usability or functionality of the proposed landscaping and communal open space area or how the landscape will contribute to the landscape character of the streetscape and neighbourhood.</p> <p>In addition to this, Council’s expert Urban Designer Michael Zanardo in this regard states:</p> <p style="text-align: center;"><i>“I have confirmed that the ‘Anson Street - South Streetscape’ elevation on the ‘Sections and Elevations’ drawing (M03 Issue D)</i></p>

Requirement	Council Officer Comments
	<p><i>show that there are large level changes between Buildings C and D and between Buildings E and F. These spaces are identified as ‘communal open spaces’ shared between these pairs of buildings and are also the location of building entry pathways as shown on the ‘Building Envelope Plan’ (M02 Issue D). In my opinion, these large level changes are undesirable in this location and raise questions about the usability of the communal open space and the accessibility of the entry paths”.</i></p>
<p>Principle 6: Amenity</p>	<p>The three storey height of the building envelopes as proposed will not be compatible with the existing or desired future character of the locality and would have an unacceptable negative visual impact on the amenity of the surrounding development. Insufficient information has been submitted with the application to demonstrate that the internal and external amenity for residents and neighbours can be achieved.</p> <p>Council’s expert Urban Designer Michael Zanardo in this regard states:</p> <p><i>“I acknowledge that the concept of ‘compatibility’ is different from ‘sameness’, and that buildings ‘can exist together in harmony without having the same density, scale or appearance’ (planning principle in Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191 22), however in this instance, in my opinion, the difference in the number or storeys proposed (three storeys as compared to the predominant one or two), combined with the bulk of the massing and relatively large scale of the footprints (as compared to all other buildings in St Georges Basin), and the disparity in appearance that this will cause means that the difference in these attributes will be significant and detrimental such that the desired ‘harmony’ would not be able to be achieved.”</i></p> <p>The amenity impacts for the broader neighbourhood and character of the Village are considered to be unacceptable.</p>
<p>Principle 7: Safety</p>	<p>The proposed concept DA contains high-level information that makes the assessment of ‘safety’ difficult to ascertain. This Principle states: <i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p>The position of driveways and entry points appear to provide opportunity for concealment particularly the corner access arrangements proposed for Buildings K, L, M & N as shown at Figure 34.</p>

Requirement	Council Officer Comments
	 <p data-bbox="446 750 1433 806"><i>Figure 34. Excerpt of Urban Design Strategy & Building Envelope Plan [M0, Rev D] indicating areas of concealment</i></p> <p data-bbox="446 840 1433 963">It is considered that the lack of due consideration of this design principle has resulted in building envelopes which, in order for future DAs to 'not be inconsistent with' would result in poor design outcomes for the future Stage 2 DAs.</p>
<p data-bbox="162 976 421 1104">Principle 8: Housing diversity and social interaction</p>	<p data-bbox="446 976 1433 1104">The size and density of the development and the uniformity of housing typology does not provide for social and urban integration with surrounding development, for example, with regard to lack of housing mix and diversity, and graduated urban form;</p> <p data-bbox="446 1137 1433 1232">A development of the size, scale and housing typology of the proposed development will have an adverse impact on the social amenity and way of life of the local community</p>
<p data-bbox="162 1245 421 1305">Principle 9: Aesthetics</p>	<p data-bbox="446 1245 1125 1272">This Principle provides the following considerations:</p> <p data-bbox="542 1310 1433 1438"><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></p> <p data-bbox="542 1473 1433 1579"><i>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p> <p data-bbox="446 1615 1433 1742">There are no clear examples of three storey developments within St George's Basin and the broader Bay and Basin area. In this area, single detached dwellings on individual allotments, or two storey commercial and industrial developments are the typical development type in the area.</p> <p data-bbox="446 1778 1433 2011">The proposal for three storey residential flat building development is at odds with the zoning and height controls applying to the site and inconsistent with the SDCP 2014 design controls for the locality. Fifteen (15) substantial residential flat buildings of the scale proposed by this application is distinctly out of character with the village character of the local area and is out of proportion with the type of development typified in the village context. The proposal's bulk and scale will have a negative impact on the overall</p>

Requirement	Council Officer Comments
	aesthetics of the area, and are also a poor representation of the buildings themselves which will be distinctly out of place.

Apartment Design Guide

The relevant provisions of the ADG are considered within the table at Appendix A of this report.

Shoalhaven LEP 2014

Land Zoning

The site is partly zoned Mixed Use Business B4 and partly General Residential R1 under the LEP as shown at **Figure 35**.

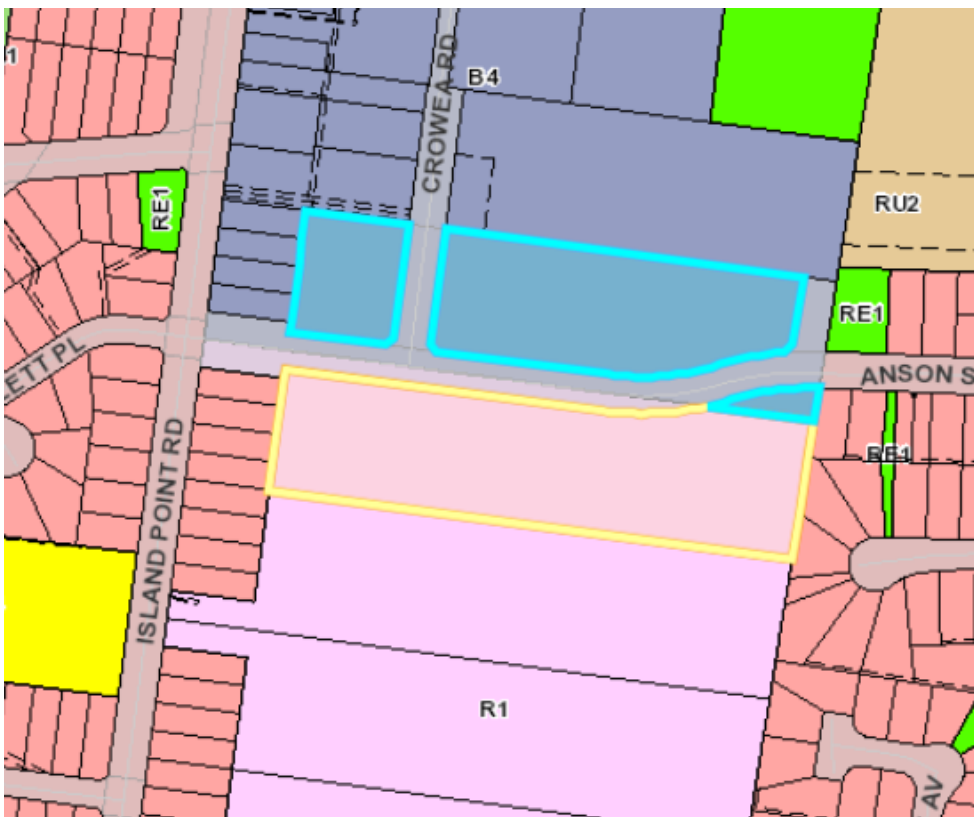


Figure 35. Shoalhaven LEP 2014 zoning map excerpt

Characterisation and Permissibility

The proposal is best characterised as mixed-use development (comprising of residential flat buildings, commercial premises and shop top housing) and associated minor boundary adjustment subdivision under the SLEP 2014. The proposal is permissible in both zones, with commercial premises proposed only within the Mixed Use Business B4 zone.

Clause 2.3 - Zone objectives

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives of the Mixed Use Business B4 and partly General Residential R1 zones are outlined in the tables below.

R1 General Residential

Objective	Comment
To provide for the housing needs of the community.	<ul style="list-style-type: none"> The proposed development does not meet the needs of the community with regard to the to the size and uniformity of housing typology. The proposed development does not provide for the needs of the much higher than average proportion of people with a disability with regard, for example, with accessibility of the site, adaptable housing and design.
To provide for a variety of housing types and densities.	<ul style="list-style-type: none"> This is a general residential zone in which a range of different housing types and densities are permissible including dwelling houses, attached dwellings, semi-detached dwellings, dual occupancies, multi dwelling housing, residential flat buildings and shop top housing. With a total area of 3.59 hectares, this site provides an excellent opportunity for the provision of a variety of housing types in close proximity to the St Georges Basin shopping centre. The applicant proposes the construction of residential flat buildings containing a mixture of 1, 2 and 3 bedroom apartments. While residential flat buildings are a permissible use in the zone, the development of only residential flat buildings on such a large site is contrary to the zone objective of providing a variety of housing types and densities. A development over such a large site as this should provide for a variety of housing types and densities – not development of the same typology to the highest density possible over the entire site.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	<ul style="list-style-type: none"> The proposal is for a mixed use and commercial concept development in proximity to an existing village. The proposal includes 1990sqm of commercial floor space within Building J. The proposal is considered consistent with this objective.
To identify land suitable for future urban expansion.	<ul style="list-style-type: none"> The site proposes permissible uses within an area identified to support future urban expansion. To this effect the proposal complies with the objective of the zone, however the intensity and scale of the development is not in keeping with the character of the area and the type of urban expansion envisaged under the DCP.

B4 Mixed Use

Objective	Comment
To provide a mixture of compatible land uses.	<ul style="list-style-type: none"> It is not considered that the proposed development will provide land uses that are compatible with the surrounding character of the locality. The proposed density is incompatible with the village character of St Georges Basin and with the development types typified within the neighbourhood
To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	<ul style="list-style-type: none"> The site has poor public transport options, uneven and steep topography and generally poor access to major services needed by the age groups most likely to reside in St Georges Basin.

SLEP 2014 Clauses

Clause	Comments	Compliance
Part 2 Permitted or prohibited development		
2.6 Subdivision Consent requirements	The application does not seek consent for the subdivision of the site, however, seeks concept approval for the future development of the site which includes subdivision of the site generally in accordance with the building configuration under the Concept DA Masterplan.	Complies.
2.7 Demolition requires development consent	Concept DA only. The site is vacant with no existing structures onsite.	Complies.
Part 4 Principal development standards		
4.3 Height of buildings	Refer detailed assessment below this table.	Does not comply.
4.4 Floor space ratio	Not applicable.	N/A
4.6 Exceptions to development standards	A Clause 4.6 variation has not been submitted with the application which is unlikely to comply with the maximum height of building development standard under Clause 4.3(2).	None submitted.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	The site is not heritage significant nor is it within a heritage conservation area or nearby a heritage item.	N/A
5.21 Flood planning	The site is not within a flood planning rea.	N/A
Part 7 Additional local provisions		
7.1 Acid sulfate soils	<p>This clause requires the consideration of an acid sulfate soils management plan for <u>works</u> undertaken below the water table.</p> <p>The site is identified as being Class 5 land for the purpose of this clause, which identifies that Works 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.</p> <p>The subject site is within 500m of adjoining Class 2 and 4 lands however no works are sought under this DA, being for a concept DA only.</p> <p>In the event of an approval of the DA, this would be required to be considered at each DA stage, and relevant conditions would be imposed on a concept DA outlining matters to be considered at subsequent DAs.</p>	Capable of complying via condition.

<p>7.2 Earthworks</p>	<p>The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. The impacts of the earthworks would be capable of being managed by conditions of consent in the event of an approval.</p>	<p>Capable of complying via condition.</p>
<p>7.4 Coastal planning</p>	<p><i>risk</i> This clause applies to the land identified as “Coastal Risk Planning Area” on the Coastal Risk Planning Map. The site is not identified on the map and accordingly this clause does not apply.</p>	<p>N/A</p>
<p>7.5 Terrestrial biodiversity</p>	<p>This clause applies to land— <i>(a) identified as “Biodiversity—habitat corridor” or “Biodiversity—significant vegetation” on the Terrestrial Biodiversity Map, and</i> <i>(b) situated within 40m of the bank (measured horizontally from the top of the bank) of a natural waterbody.</i> The site is not identified on the map nor is it within 40m of a natural waterbody. Accordingly, this clause does not apply.</p>	<p>N/A</p>
<p>7.11 Essential services</p>	<p>This clause states: <i>(1) Development consent must not be granted for development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</i> <i>(a) the supply of water,</i> <i>(b) the supply of electricity,</i> <i>(c) the disposal and management of sewage.</i> <i>(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any of the services referred to in subclause (1).</i></p> <p>A Utilities Investigation Report has been submitted with the DA (prepared by Allan Price & Scarratts, Rev 03, 6/3/17). The conclusion of this report identifies that</p> <p><i>“Assessment of the existing gravity sewer indicates that the sewer transportation system is inadequate for orderly development permissible for the current zonings for the whole precinct. There is no proposal currently to upgrade the gravity lines outside the development site (both upstream and downstream of the site). The inadequacy of the existing downstream gravity lines is a potential constraint to the development, however as this affects development for the whole precinct these works are the responsibility of Shoalhaven Water. Gravity sewer reticulation will be provided within the site by the developer, designed to cater for the proposed development,</i></p>	<p>Not compliant.</p>

	<p><i>and is not a constraint to development proceeding.”</i></p> <p>Accordingly, while sewer connections within the site are not of concern, the applicants report identifies that the sewer transportation system is inadequate for the orderly development of the development. Accordingly, it cannot be satisfied the disposal and management of sewer is available or that adequate arrangements have been made to make them available when required.</p>	
<p>7.20 Development in the Jervis Bay region</p>	<p>The subject site is mapped within the Jervis Bay Region. The proposed development is not suitable for the Jervis Bay region given it is considered that the proposed development may threaten the natural or cultural values of the Jervis Bay region.</p> <p>Accordingly, the proposed Concept DA is not considered to meet the objectives of this clause. The bulk, scale and density proposed within the development will have a detrimental impact on the natural and cultural values of the region. The development is at odds with the existing and desired future character of the area by condensing the scale of residential apartments in a singular location, only 300m from the St Georges Basin foreshore, the proposed concept DA will have a poor outcome on the character and enjoyment of the natural values of the region.</p> <p>It is noted that:</p> <ul style="list-style-type: none"> • The site is not located on a rocky headland, in a coastal sand dune or on an area along a major creek line. • The site is not within the vicinity of the Point Perpendicular lighthouse group or the Huskisson Tapalla Point rock platform. • The site is not identified on the Terrestrial Biodiversity map nor does the development dissect any identified habitat or disturbed habitat. • The proposal does not seek consent for development for tourist and visitor accommodation. 	<p>Not compliant.</p>

Clause 4.3 – Height of building

The maximum height of buildings for the site under SLEP 2014 accommodating proposed Buildings C, D, E, F, G, H, I, K, L, M, N and O is 8.5m. The maximum height of buildings for the site on which proposed Building J is located is 8m as shown at **Figure 36**.



Figure 36. Shoalhaven LEP 2014 Height of Building Map Excerpt

This height control was amended under SLEP 2014 (Amendment No 25) which adopted Height of Building Map - Sheet HOB_014, applying to the Site on 19 December 2017. The proposal has been amended during the LEC Court proceedings to comply with the new height control.

Buildings C, D, E, F, G, H, I, K, L, M, N and O are proposed to be three storeys in height per the Masterplan Yield table [D] and Building Envelope Plan [M02D] (comprised of ground, first and second floor levels) (refer **Figure 1**). Building J is proposed to be two storeys in height.

The Sections and Elevations Plan [M03D] shows a typical floor-to-floor height of 3m Buildings C, D, E, F, G, H, I, K, L, M, N and O. An excerpt of Buildings L and K is shown below at **Figure 37**, noting the 3m floor to floor heights shown.

It is noted that a survey of the land which accurately reflects existing ground levels of the site has not been submitted so that the Height Plane [M09D] can be verified and the overall maximum height of the building envelopes can be accurately assessed.

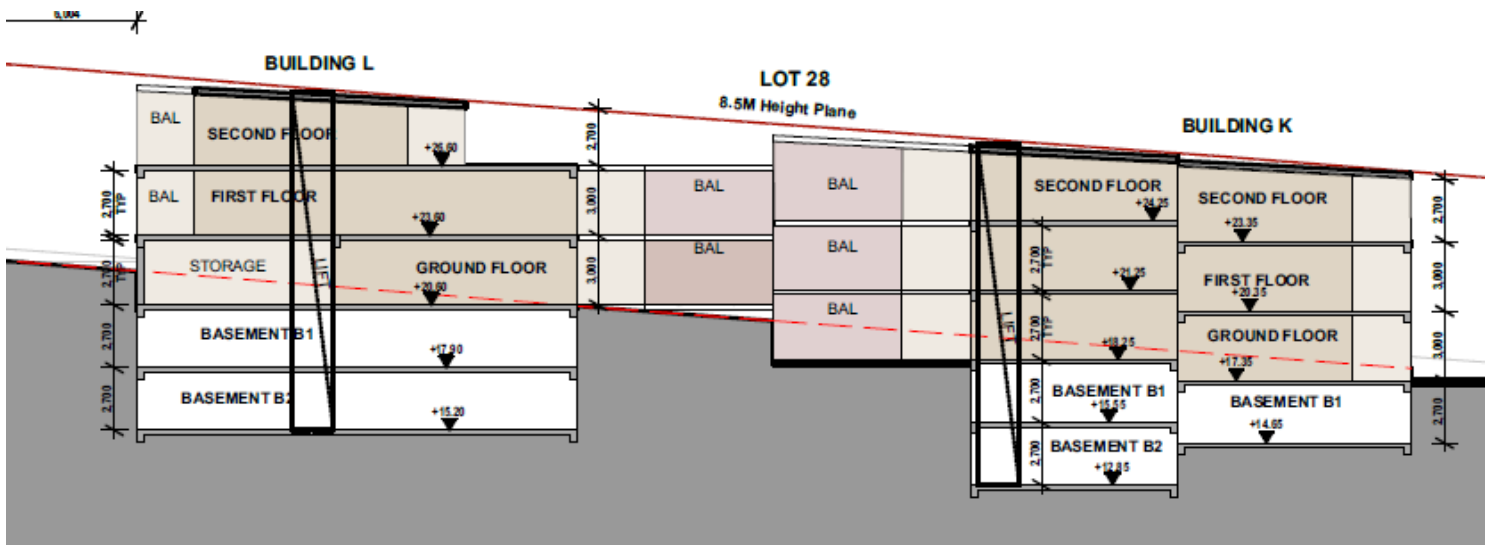


Figure 37. Building L and K cross-section plan [Shoba Designs, M03D, 17/7/2020]

The Apartment Design Guide (ADG) Design Criteria 2C-1 1 and ADG Figure 4C.5 specifies a floor-to-floor height of 3.1m is required to achieve the required floor-to-ceiling height of 2.7m (ADG 4C-1 1). Floor-to-floor heights of 3m are insufficient to fit the required services bulkhead for a residential flat building, and reduced floor to ceiling height results in reduced and unacceptable amenity for future apartments.

If the floor-to-floor height is increased to 3.1m, this produces a total overall height of 9.3m and exceeds the 8.5m maximum building height under SLEP 2014.

No Clause 4.6 request accompanies the application to vary the maximum height control. It is not considered that there would be reasonable environmental planning grounds to justify exceeding the height control under the concept plan.

It is considered however the proposed concept DA is unable to comply with the maximum height control under SLEP 2014, and any future DA would not be able to be consistent with the building envelopes approved under the concept DA.

Further, per *MS Windsor St Pty Ltd v Hawkesbury City Council* [2021] NSWLEC 1223, *Michael Brown Planning Strategies Pty Ltd v Wingecarribee Shire Council* [2020] NSWCA 137 and *Ballina Shire Council v Palm Lake Works Pty Ltd* [2020] NSWLEC 41, a condition cannot not be used to satisfy a development standard as the determination of a DA needs to be based on the information contained in the application. Accordingly a condition to require design changes to be made to the concept DA approval is accordingly not considered possible in the circumstances.

Alternatively to comply with the SLEP 2014 maximum height and provide adequate floor-to-ceiling heights, while providing 3 storeys, the proposal could sink the buildings some 0.8m below existing ground level. This would reduce yield and/or create subterranean units. Subterranean units raises related amenity issues (such as restricting solar access and cross ventilation), poor amenity for associated private open space for these units, excessive excavation below natural ground level and potential for failure of waterproofing for units below existing ground level.

Numerous buildings are shown on the Sections and Elevations Plan [M03D] to 'touch' the height plane as shown in the example at **Figure 37**. Three sections are provided on the Sections and Elevations Plan [M03D], which over a development of this scale and site area is insufficient to give an accurate representation of the actual heights of the buildings given the minimal margin for error. Additionally, lift overruns are not indicated and are likely to further increase overall building heights, and the roof of Building J for instance touches the 8m height limit, with no allowance for lift overruns. It is likely the lift overrun will exceed the maximum height control.

The objective (a) of Clause 4.3 of SLEP 2014 clause is as follows—

to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality.

An 8.5m maximum building height is considered to anticipate a maximum of two storeys plus roof rather than full three storeys, the same can be said of 8m for Building J being a mixed use development. Three storey residential buildings of this scale is not in keeping with the existing and desired future character of the area. Furthermore, any exceedance of the maximum building height will exacerbate the visual impacts of the proposal in the context of the site. The proposal is not consistent with the objective of the maximum height of buildings LEP clause.

Buildings C, D, E, F, G, H, I, K, L, M, N and O cannot achieve the minimum floor to ceiling heights under the ADG and are likely to exceed the SLEP 2014 maximum building height of 8.5m, and Building J, 8m, for the reasons outlined above, and the proposal is recommended to be refused.

ii) Draft Environmental Planning Instrument

None applicable.

iii) Any Development Control Plan

Shoalhaven DCP 2014

The following chapters of Shoalhaven Development Control Plan 2014 apply to the subject development application assessment:

Generic Chapters

- Chapter 2: General Environmental Considerations
- G1: Site Analysis, Site Design and Building Materials
- G3: Landscaping Design Guidelines
- G4: Removal and Amenity of Trees
- G5: Biodiversity Impact Assessment
- G6: Coastal Management Areas
- G7: Waste Minimisation and Management
- G13: Medium Density and Other Residential Development
- G17: Business, Commercial and Retail Activities
- G21: Car Parking and Traffic
- G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines

Specific Chapters

N23: St Georges Basin Village Centre

These chapters are assessed in **Table 4** and **Table 5** below.

Table 4. Chapter 2 SDCP 2014 Assessment

Chapter 2 General and Environmental Considerations		Achieved
Potentially Contaminated Land	<p>The site is within an established town centre and in the area has been largely developed, but the site has not been disturbed and was well vegetated until it was cleared in 2017. The application was assessed under the table relating to SEPP (Resilience and Hazards) 2022 and further assessment under the SEPP and SDCP 2014 is not required.</p> <p>A precautionary condition would be recommended to apply on any consent during site works should contaminated land be found, to ensure compliance.</p>	Yes, subject to standard conditions
European Heritage	<p>The site is not a heritage item nor is it within a heritage conservation area. The nearest listed heritage items are about 280m away and there are no conservation areas in the vicinity. The proposed development will not have an adverse impact on those items.</p> <p>A precautionary condition would be recommended to apply during site works should European heritage be found, to ensure compliance.</p>	Yes, subject to standard conditions
Aboriginal Cultural Heritage	<p>A search of the OEH register of notified Aboriginal objects and declared Aboriginal places in NSW (AHIMS) revealed no Aboriginal sites are recorded in or near the site and no Aboriginal places have been declared in or near the location. The site is not identified as containing any Aboriginal cultural heritage, practices or places.</p> <p>A precautionary condition would be recommended to apply during site works should Aboriginal cultural heritage be found, to ensure compliance.</p>	Yes, subject to standard conditions

<p>Crime Prevention Through Environmental Design (CPTED)</p>	<p>While the proposal is for concept building envelopes only, the proposed arrangements of the proposed buildings is of concern, with corners proposed in the buildings to provide areas of concealment and no clear line of sight for pedestrian access to building entrances. As detailed within this report the proposed concept DA if approved, would facilitate future development of residential flat buildings which would struggle to meet the CPTED principles. Any consent of the DA however would include a requirement for a professional CPTED report to accompany the lodgement of any subsequent 'Stage 2' DA.</p>	<p>No</p>
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Table 5. Generic chapters assessment SDCP 2014

<p>Generic Chapters</p>	<p>Achieved</p>
<p>G1: Site Analysis, Sustainable Design and Building Materials</p>	
<p>A plan labelled 'site analysis' was lodged with the amended plans. The plan does not provide any indication as to why the development has been designed in the way it has, or how the objectives of the controls are met. Specifically, the plan does not include:</p> <ul style="list-style-type: none"> • Clear location/heights of dwellings on adjoining land; • Identification of constraints and opportunities; • Identification of potential noise sources; or • The likely impact on surrounding development, particularly regarding overshadowing, privacy and obstruction of views. 	<p>No</p>
<p>G3: Landscaping Design Guidelines</p>	
<p>The proposed landscaping is concept only. While numerically the provision of open space appears to meet the requirements of the ADG, subsequent 'Stage 2' DAs will be required to provide further details that the application meets the minimum requirements. In accordance with the provisions of Chapter NB3 of this Plan, a landscape strategy, prepared by a suitably qualified person, will be required for each 'Stage 2' DA. The strategy is to include as a minimum a landscape plan as per the requirements of this chapter. In the event of the approval of the Concept DA, conditions of consent would include a requirement for this to occur with the lodgement of each DA.</p>	<p>Can be achieved via conditions.</p>
<p>G4: Removal and Amenity of Trees</p>	
<p>The site is largely cleared with only minor strands of trees to be removed. The provisions of this chapter have been considered and Council's Environmental Assessment Officer has raised no objections subject to conditions of consent being imposed (as detailed under the 'Referrals' section of this report) and as shown in the recommended draft conditions of consent.</p>	<p>Yes</p>
<p>G5: Biodiversity Impact Assessment</p>	
<p>The provisions of this chapter have been considered and Council's Environmental Assessment Officer (EAO) has raised no objections subject to conditions of consent being imposed should the DA be approved.</p>	<p>Yes, subject to conditions</p>
<p>G6: Coastal Management Areas</p>	
<p>Refer SEPP (Resilience and Hazards) 2021 above.</p>	<p>Yes</p>
<p>G7: Waste Minimisation and Management Controls</p>	
<p>Council's Waste Section considered the subject DA as part of the assessment of the Rev B plans. These have not changed substantially in Rev D.</p> <p>Comments raised the following concerns:</p>	<p>Yes, subject to conditions to be demonstrated with each</p>

<p><i>“My primary concern with the Master Plan for this area is the lack of detail with particular reference to how waste will be managed at each of the development sites indicated in the Master Plan.</i></p> <p><i>As it is not indicated in the MP how waste would be management then I would prefer that any conditions of consent regarding waste management for the proposed sites be in accordance with the proposed Waste Minimisation and Management Guidelines (October 2017) which will be placed on exhibition with the Shoalhaven City Council DCP in early 2018”.</i></p> <p>Any consent would include the following conditions: <i>“All waste collection must occur on site either within the individual property boundary or in the basement area. Further, each of buildings indicated on the MP must be able to accommodate in a basement area or on a site close to the street frontage but within the property boundary, an area for the collection of bins.</i></p> <p><i>The Council kerbside collection service would not be suitable for this proposed development. A Waste collection service would need to be provided using a rear or front lift collection truck currently operated in the Shoalhaven by a number of private waste contractors. Further, if the service is provided by a private waste collection company then that service MUST still comply with the DCP conditions and the Guidelines. The applicant MUST also take into consideration WHS and contract requirements associate with the service conditions for a service provided separately and by a private provider”.</i></p>	<p>subsequent 'Stage 2' DA.</p>
<p>G11: Subdivision of Land</p>	
<p>Minor boundary adjustment is proposed as part of the concept DA proposal to be undertaken with each subsequent 'Stage 2' DA. This subdivision generally complies with the provisions of this chapter with only minor amendments to the original approved subdivision.</p>	<p>Yes</p>
<p>G13: Medium Density and other Residential Development</p>	
<p>Refer to detailed assessment in the Appendix C.</p>	<p>Yes.</p>
<p>G17: Business, Commercial and Retail Centres</p>	
<p>The matters required to be addressed by G17 are similar to those regarding <i>G13: Medium Density and other Residential Development</i> and <i>N23: St Georges Basin Village Centre</i> and have been discussed extensively in the Tables in Appendices 1 and 2 (specifically regarding landscape and built form). The proposed commercial / retail uses on Building J would provide active uses at the ground level at the street (primary) frontage. The 'Stage 2' DA for Building J would be required to address this DCP chapter in more detail.</p>	<p>No concerns raised.</p>
<p>G21: Car Parking and Traffic</p>	
<ul style="list-style-type: none"> • Commercial /Retail: 1 space / 40sqm • Residential Flat Building Parking Rate: <ul style="list-style-type: none"> ○ 1 bed: 1 Space ○ 2 bed: 1.5 Spaces ○ 3 bed: 2 Spaces ○ Any parking above this is to be provided as visitors spaces. <p>A full assessment of proposed and required parking per building is shown in the table below. In summary, Building O provides 2 fewer resident car spaces than required for the development mix proposed to satisfy the parking rate Further to this, the general parking rate of 1 space per 40sqm for Building J may not provide sufficient car parking for its 'Commercial/Retail' component to satisfy the parking rate of SDCP2014 G21 5.1 depending on the particular retail use proposed. No specific retail use has been nominated in the documentation which raises questions about the sufficiency of the proposed car parking given the rate of parking can vary depending on the retail use proposed.</p>	<p>No</p>

Building	Proposed Units / sqm	Required	Total	Proposed	Compliance
A	1 bed: 0 2 bed: 9 3 bed:20	1 bed: 0 2 bed: 13.5 3 bed: 40	53.5	107	Approved
B	1 bed: 0 2 bed: 9 3 bed:20	1 bed: 0 2 bed: 13.5 3 bed: 40	53.5		
C	1 bed: 2 2 bed: 6 3 bed:6	1 bed: 1 2 bed: 9 3 bed: 12	23	23	✓
D	1 bed: 0 2 bed: 8 3 bed: 11	1 bed: 0 2 bed: 12 3 bed: 22	34	34	✓
E	1 bed: 2 2 bed: 10 3 bed: 12	1 bed: 1 2 bed: 15 3 bed: 24	40	41	✓ +1
F	1 bed: 2 2 bed: 8 3 bed:10	1 bed: 1 2 bed: 12 3 bed: 20	33	34	✓ +1
G	1 bed: 2 2 bed: 9 3 bed: 9	1 bed: 1 2 bed: 13.5 3 bed: 18	22.5	24	✓ +1.5
H	1 bed: 3 2 bed: 4 3 bed: 6	1 bed: 1.5 2 bed: 6 3 bed: 12	19.5	21	✓ +1.5
I	1 bed: 3 2 bed: 6 3 bed: 8	1 bed: 1.5 2 bed: 9 3 bed: 16	26.5	29	✓ +2.5
J	1 bed: 0 2 bed: 9 3 bed: 1 Commercial /Retail: 1990sqm	1 bed: 0 2 bed: 13.5 3 bed: 2 Commercial /Retail: 49.75	15.5	20	✓ +4.5
			50	66	✓ +16
K	1 bed: 0 2 bed: 9 3 bed: 15	1 bed: 0 2 bed: 13.5 3 bed: 30	43.5	44	✓
L	1 bed: 0 2 bed: 6 3 bed: 10	1 bed: 0 2 bed: 9 3 bed: 20	29	29	✓
M	1 bed: 0 2 bed: 9 3 bed: 12	1 bed: 0 2 bed: 13.5 3 bed: 24	37.5	38	✓
N	1 bed: 0 2 bed: 5 3 bed: 12	1 bed: 0 2 bed: 7.5 3 bed: 22	29.5	32	✓ +2.5
O	1 bed: 0 2 bed: 3 3 bed: 19	1 bed: 0 2 bed: 4.5 3 bed: 38	42.5	41	✗ -1.5
Total (excl. A & B)	237 1 bed: 14 2 bed: 92 3 bed: 131 Commercial /Retail: 1990sqm	1 bed: 0 2 bed: 13.5 3 bed: 40	502 residential	517	✓ +15
			50 retail/ commercial	66 retail/ commercial	✓ +16

G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines	
Refer SLEP 2014 Clause 7.1 above.	Yes, subject to standard condition

Area specific Chapters – North Shoalhaven
N23: St Georges Basin, Village Centre
Refer Appendix B .

iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

None applicable.

iv) **Environmental Planning and Assessment Regulation 2000**

Environmental Planning & Assessment Regulation 2021 was introduced 17 December 2021. Schedule 6 Savings, transitional and other provisions, clause 3 states:

3 Development applications and applications for complying development certificates
The 2000 Regulation continues to apply instead of this Regulation to a development application and an application for a complying development made but not finally determined before 1 March 2022.

This applies to the subject DA.

Section 49 (1) Persons who can make development applications

Section 49(1) of *the EP&A Regulation 2000* which applied at the time of lodgement of the subject DA stated that :

- (1) A development application may be made—
 - (a) by the owner of the land to which the development application relates, or
 - (b) by any other person, with the consent of the owner of that land.

The subject DA was lodged on 30 March 2017

The applicant for the DA at lodgement was Cowman Stoddart Pty Ltd, and the owner was and currently is Mr David De Battista.

The application was subject of a Class 1 Deemed Refusal appeal, filed on 28 June 2017 by Mr De Battista. As Mr De Battista commenced the appeal on the basis that he was the ‘applicant’ who was dissatisfied with the deemed refusal (refer s.97(1) now s.8.7(1) of the *Environmental Planning and Assessment Act 1979*), Council has assumed Cowman Stoddart submitted the DA in 2017 as Mr De Battista’s agent. Court proceedings were discontinued on 6 May 2021.

During the court proceedings, the Court granted the applicant leave to amend the DA on 17 December 2017 and then again on 10 August 2020. Accordingly, as the Court exercises the functions on behalf of the consent authority under former cl.55 of the *Environmental Planning and Assessment Regulations 2000* (now cl. 37 of the EP&A Regs 2021) when an application is made to amend the DA, and no further amendments have been made to the application since this time.

The same amended plans as those (Revision P2, dated 30 June 2020) were submitted by the owner on 13 May 2021 with a request to amend the applicant of the subject development application to 'Eastern Grey Developments Pty Ltd'. The email from Mr De Battista stated:

"The applicant's name has changed; it is no longer Cowman and Stoddard.

The applicant's name is now Eastern Grey Developments Pty Ltd

Contact name David De Battista".

...

"The Master Plan DA has been modified to comply with the current requirements. Please find the Modified Plan below.

Council and applicants consultants to enter into Mediation to determine what additional information is required. In particular the collection of waist.

Please respond with a date to meet thank you".

In relation to the matter of the applicant of the DA Council has emailed Mr De Battista on 10/6/2021, 20/7/2021, and 4/4/2022 requesting he confirm in writing that Eastern Grey Developments Pty Ltd is acting as his agent in respect of the DA. There has been no response from Mr De Battista to these requests. A response was however received from an email sent to Cowman Stoddard Pty Ltd (Stephen Richardson) on 8/4/2022 requesting they provide written consent to the change of the applicant from Cowman Stoddard Pty Ltd to Eastern Grey Developments Pty Ltd, or to confirm that Cowman Stoddard is no longer the DA applicant. The email from Stephen Richardson on 11/4/2022 stated *"Cowman Stoddard Pty Ltd gives consent to change the Applicant for the above application from Cowman Stoddard Pty Ltd to Eastern Grey Developments Pty Ltd"*.

An ASIC Current Company Extract for Eastern Grey Developments Pty Ltd (ACN 113 566 260) identifies Mr David DeBattista as the sole Director, Secretary and Member of the Company with a company address the same as that listed by Mr De Battista in his email of 13 May 2021.

As the request to amend the applicant for the DA came from Mr David De Battista as owner, the consent from the owner of the land per (1)(b) is considered to be given.

Section 50 (1A) Design verification statement

Section 50 (1A) of the EP&A Regulation 2000 stated that :

(1A) If a development application that relates to residential apartment development is made on or after the commencement of the Environmental Planning and Assessment Amendment (Residential Apartment Development) Regulation 2015, the application must be accompanied by a statement by a qualified designer.

(1AB) The statement by the qualified designer must:

(a) verify that he or she designed, or directed the design, of the development, and

(b) provide an explanation that verifies how the development:

(i) addresses how the design quality principles are achieved, and

(ii) demonstrates, in terms of the Apartment Design Guide, how the objectives in Parts 3 and 4 of that guide have been achieved.

(1B) If a development application referred to in subclause (1A) is also accompanied by a BASIX certificate with respect to any building, the design quality principles referred to in that subclause need not be verified to the extent to which they aim:

- (a) to reduce consumption of mains-supplied potable water, or reduce emissions of greenhouse gases, in the use of the building or in the use of the land on which the building is situated, or
- (b) to improve the thermal performance of the building.

In response, the submitted SEE (prepared by Cowman Stoddard Pty Ltd Ref 11/70 Mar 17) stated:

“Clause 70B of the Environmental Planning and Assessment Regulations however stipulates:

70B Staged development applications – residential flat development

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

Since this proposal is for a staged development application with the first stage comprising a CMP only; and does not include detailed proposals for the future buildings; verification against SEPP 65 design principles is not required to be provided at this stage pursuant to clause 70B of the Regulations as outlined above, but will be required with subsequent development applications for individual buildings identified by this CMP (Concept Master Plan). However, as far as possible, each of the design principles have been assessed within this CMP”.

It is noted that this same clause applies similarly under Section 33 of EP&A Regulation 2021 to have the effect of excluding concept DAs from requiring a design verification statement by a qualified designer.

v) REPEALED

(b) The Likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality

Head of Consideration	Comment
Natural Environment	<p>Council’s Threatened Species Officers / Environmental Assessment Officers have reviewed the subject DA and advised there is unlikely to be impacts on significant elements of the natural environment, subject to conditions of consent.</p> <p>The impacts on the natural surroundings of the site however cannot be overlooked particularly in relation to the impacts on cl7.20 of SLEP 2014 and the Jervis Bay region. Being some 300m from the Basin waterfront, the proposed building bulk and scale will detract from the natural character of the area and have a detrimental impact on the natural environment.</p>
Built Environment	<p>The proposed development will have significant impacts on the built environment. The development is inconsistent with the existing and desired future character and does not meet the LEC planning principle for <i>Compatibility of proposal with surrounding development</i>.</p> <p>The proposal has also submitted insufficient information for the traffic impacts to be adequately assessed and to adequately demonstrate no impacts arise on the local network as a result of the DA.</p> <p>Refer detailed assessment under the Section 4.22 of the E&A Act assessment earlier in this report on both these matters.</p>

Head of Consideration	Comment
Social Impacts	The proposed development not suitable to a development of the size and with the density proposed, and with the likely demography, given the lack of employment opportunities, major retail, recreational community and specialist health services, and relatively poor public transport to Nowra/Bomaderry, and is poor social planning practice in this regard and will have poor outcomes and social impacts. Refer detailed assessment under the Section 4.22 of the E&A Act assessment earlier in this report..
Economic Impacts	The economic impacts of the development are not considered to be significant or warrant the refusal of the DA.

(c) Suitability of the site for the development

The site is considered unsuitable for the proposed development for the following reasons:

- The proposed buildings are noncompliant with the SEPP 65 and ADG Design Principles and Guidelines;
- The proposal is non-compliant with objectives and requirements of SLEP 2014 particularly in relation to the maximum height of building control and provision of utilities to the site;
- Inconsistent with objectives and acceptable solutions outlined in SDCP 2014, particularly Chapter N23;
- The proposal will have significant impacts on the existing and desired future character of the Bay and Basin area;
- The proposal is incompatible with surrounding land uses;
- The site is poorly serviced by public transport;
- The proposal raises concerns in relation to social impacts, the lack of housing variety proposed for a site of this size, and proposes a development that will not provide for the housing needs of the community; and
- Details of the traffic impacts associated with the future traffic generation of the development has not been adequately provided to confirm the development will not have an adverse impact on the surrounding road network.

(d) Submissions made in accordance with the Act or the regulations

Council received 250 submissions objecting to DA in 2017 and 83 submissions objecting to the amended DA in 2020 when the amended proposal was renotified as part of the LEC Court proceedings. These submissions have raised concerns about the following:

Issues raised	Comment
<i>Development is out of character with the Basin area</i>	Council agrees with this submission as outlined in this report.
<i>Traffic impacts – safety, increased volume</i>	Council’s Traffic Engineer has raised concerns with traffic impacts as a result of the proposal.
<i>Lack of public transport</i>	It is recognised that the site has poor public transport. The only public transport to the site consists of busses which operate to and from Bay & Basin to Nowra via Nowra Coaches (Routes 102 and 103), with a bus stop at St Georges Basin Shops some 450m from the site in an uphill direction. These services operate four times a day weekdays and once a day on weekends in each direction.
<i>Adverse visual impact</i>	The proposal for three storey residential flat building development is inconsistent with the SLEP 2014 zone objectives and height controls applying to the site and will have an adverse impact on the village character of the area.

Issues raised	Comment
<i>Appearance</i>	It is agreed that the proposed building envelopes will not facilitate building design that with a compatible bulk and scale with the locality.
<i>Unsuitable development that sets a precedent</i>	While each applications must be assessed on its merits, it is considered the concentration of 15 residential flat buildings is out of scale with the area and any approval may set precedents for future development which would further erode the village character of the local area.
<i>Adverse environmental impacts on the Basin and local flora and fauna</i>	Council's Threatened Species Officer has reviewed the subject application and supporting documentation and concluded that subject to conditions, the DA is satisfactory. The site is in an existing cleared state and the only pocket of flora of noteworthy preservation is to be retained.
<i>Adverse social impacts due to significant population increase in the area</i>	<p>The 2016 ABS Population Census and Housing identifies 47.8% of the St Georges Basin – Basin View are over the age of 50. Seniors aged 70-84 are the largest population change from the 2011 and 2016 census – from 13.4% to 15.8% of the total population.</p> <p>The proposed type of development will not meet the needs of the existing and emerging population demographics of the locality. The site has poor public transport options, uneven and steep topography and generally poor access to major services needed by these age groups.</p> <p>The concentration of 54 (existing approved) plus 237 (indicative proposed) residential units within this location is inappropriate and does not provide for positive 'aging in place'.</p>
<i>Lack of adequate utilities and facilities including water supply, sewage, transport, school and roads</i>	No analysis has been provided to identify if the locality and supporting infrastructure can service an increase in density of this scale in a concentrated location.
<i>Increase and changes in flow of storm water that would adversely impact the Basin</i>	Council's Development Engineers have reviewed the subject DA and raised no concerns with relation to stormwater management.
<i>Does not meet the requirement of SEPP 65 in that the proposed development does not respond to or enhance the quality and identity of the area</i>	Agreed. Refer SEPP 65 assessment.
<i>Does not meet the requirements of SEPP 71</i>	SEPP No. 71 – Coastal protection, was repealed by the SEPP (Coastal management) 2019 which has been repealed by SEPP(Resilience and Hazards) 2021. The proposal is considered adequate when assessed under this SEPP (refer earlier in this report).
<i>Adverse impact on the visual amenity and scenic qualities of the area</i>	Agreed. Refer assessment of bulk and scale earlier in this report.
<i>Overshadowing on neighbouring properties</i>	The submitted shadow diagrams [M05-M09 Rev D] identifies that the impacts of the heights of the buildings will not be unacceptable.
<i>Inadequate parking for residents and visitors</i>	Building O provides 2 fewer resident car spaces than required for the development mix proposed to satisfy the parking rate of SDCP2014

Issues raised	Comment
	G21 5.1. and Building J may not provide sufficient car parking for its 'Commercial/Retail' component to satisfy the parking rate of SDCP2014 G21 5.1 depending on the particular retail use proposed. No specific retail use appears to have been nominated in the documentation which raises questions about the sufficiency of the proposed car parking.
<i>Loss of privacy.</i>	Setbacks of 6m to the ground floor and first floor; and 12m to the second for to neighbouring low density residential properties are proposed. This complies with the relevant setbacks required under the ADG, however as the proposed uses of these levels is unknown (i.e. habitable or non-habitable), it is unable to be ascertained if future development will strictly comply with the building separation and setback proposed, while being compliant with ADG setback requirements.

(e) The Public Interest

The public interest has been taken into consideration, including assessment of the application against applicable planning controls, public notification and significant public opposition to the proposed development, internal referrals, and consideration of relevant policies. The assessment identified the development does not comply with:

- SEPP 65 as it relates to the specified Design Quality Principles outlined above.
- SLEP 2014 as it relates to compliance with the zone objectives, maximum height of building control and provision of services; and
- SDCP 2014 as it relates to CPTED principles, site specific controls of Chapter N23, site analysis controls and overshadowing impacts.

Accordingly, the proposal does not promote good design and amenity of the built environment and is not considered to be in the public interest.

9. Delegations

Guidelines for use of Delegated Authority

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Given the proposal is regionally significant development under Schedule 6 of SEPP (Planning Systems) 2021, the application must be determined by the Southern Regional Planning Panel.

10. Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. RA17/1000 be refused.

This application has been assessed having regard for section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. RA17/1000 be refused for the following reasons:

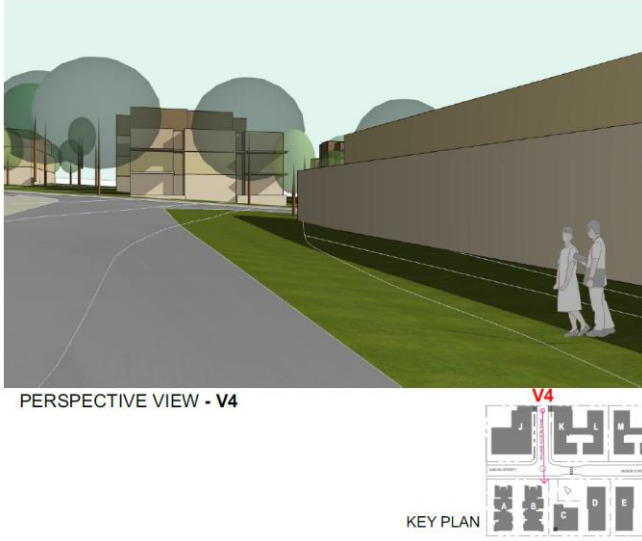
1. The application will have adverse impacts when considering the likely impacts of the critical matters to be assessed for the subject concept development application (s4.22(5) of the EPA Act).

- (a) Compliance with the respective environmental planning instruments applying to the site;
 - (b) The visual compatibility of the development to surrounding development and neighbourhood character;
 - (c) Traffic impacts from the proposed parking spaces and the development's siting within the road network;
 - (d) The impact of the development on surrounding properties and the public domain;
 - (e) Social impacts of the development;
 - (f) The streetscape and urban design issues relating to the building heights, footprints and separations, traffic, accessibility and safety; and
 - (g) The shadow impacts of the development on the public domain and private properties.
2. Non-compliance with SEPP 65 in relation to the Design Quality Principles and Apartment Design Guide (s4.15(1)(a)(i) of the EPA Act).
 - (a) The development does not meet the design quality principles per section 28(2)(b) of SEPP 65 (Principle 1: Context and Neighbourhood Character, Principle 2: Built form and scale; Principle 3: Density; Principle 4: Sustainability; Principle 5: Landscape; Principle 6: Amenity, Principle 7: Safety, Principle 8: Housing Diversity and social interaction and Principle 9: Aesthetics),
 - (b) The development fails to satisfy the preconditions of clause 30(2)(a) and (b) of SEPP 65, in that the development does not demonstrate that adequate regard has been given to:
 - i. the design quality principles; and
 - ii. the objectives specified in the Apartment Design Guide for the relevant design criteria (3A-1 Site Analysis; 3B-1 and 3B-2 – Orientation; 3C-1 and 3C-2 Public Domain Interface, 3D-3 Communal and Public Open Space, 3E-1 Deep Soil Zones, 3F-1 Visual Privacy, 3G-1 and 3G-2 Pedestrian Access and Entries, 3H-1 Vehicle Access, 3J-4 Bicycle and Car Parking, 4A-1, 4A-2 and 4A-3 Solar and Daylight Access, 4B-1 and 4B-2 Natural Ventilation, 4C-1 and 4C-2 Ceiling Heights, 4E-1 Private Open Space and Balconies, 4D-1 and 4D-2 Apartment Size and Layout, 4H-1 Acoustic Privacy, 4K-1 and 4K-2 Apartment Mix, 4L-1 and 4L-2 Ground Floor Apartments and 4W-1 Waste Management).
3. The proposed concept development application proposes a development which will be unable to comply with the maximum building height development standard under clause 4.3 of SLEP 2014. No written request to vary the maximum building height development standard under clause 4.6 of SLEP 2014 has been submitted. (s4.15(1)(a)(i) of the EPA Act).
4. The proposed development does not meet the zone objectives of the SLEP 2014 B4 Mixed Use and R1 General Residential (s4.15(1)(a)(i) of the EPA Act).
5. The proposed development is not consistent with the objectives of SLEP 2014 clause 7.20 Development in the Jervis Bay Region as it is considered the development will have a detrimental impact and will not contribute to the natural and cultural values of the Jervis Bay Region (s4.15(1)(a)(i) of the EPA Act).
6. The proposed concept development application has not demonstrated it is able to provide all essential services under clause 7.11 of SLEP 2014. (s4.15(1)(a)(i) of the EPA Act).
7. The proposed development is inconsistent with the Objectives, Performance Criteria and Acceptable Solutions as they relate to the following provisions of Chapter G21: Car Parking and Traffic Shoalhaven Development Control Plan 2014 (SDCP 2014) (s4.15(1)(a)(iii) of the EPA Act):
 - (a) 5.1 Car Parking Schedule.

8. The proposed development is inconsistent with the Objectives, Performance Criteria and Acceptable Solutions as they relate to the following provisions of Chapter N23: St Georges Basin Village Centre Shoalhaven Development Control Plan 2014 (SDCP 2014) (s4.15(1)(a)(iii) of the EPA Act):
 - (a) 5.1.1 Traffic, facilities, access, pedestrians and car parking
 - (b) 5.2 Civic Domain
 - (c) 5.3.1 Design and siting
 - (d) 5.3.2 Landscaping
9. The development is likely to have adverse impacts on the built environment (s4.15(1)(b) of the EPA Act).
10. The site is not suitable for the development as proposed (s4.15(1)(c) of the EPA Act).
11. The development is not in the public interest (s4.15(1)(e) of the EPA Act).

Appendix A - Apartment Design Guide Compliance Table

Objective	Assessment	Achieved?
Apartment Design Guide Part 3 - Siting the development		
<p>3A-1 Site Analysis</p> <p><i>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.</i></p>	<p>The 'Site and Analysis Plan' (M01 Issue D) provided does not meet ADG 3A-1 or its Design Guidance and therefore it has not been demonstrated that the proposal responds and contributes to its context positively".</p>	No
<p>3B-1 Orientation</p> <p><i>Building types and layouts respond to the streetscape and site whilst optimising solar access within the development.</i></p>	<p>The proposed building envelopes strongly define Anson Street. 20m+ wide residential flat buildings on 40m+ frontages does not reflect the built scale of St Georges Basin. The building mass and scale will significantly dominate within the neighbourhood and the natural surroundings the site is situated. Setbacks are insufficient to minimise the dominance of 15 large residential flat buildings which are out of character with the village.</p> <p>Insufficient information has been provided with regard to the ability for individual buildings to achieve sufficient solar access and cross ventilation.</p>	No
<p>3B-2 Orientation</p> <p><i>Overshadowing of neighbouring properties is minimised during mid-winter.</i></p>	<p>As noted earlier, a survey of the land is required which accurately reflects existing ground levels of the site so that the Height Plane [M09D] depicted height planes [M09] can be verified.</p> <p>The Shadow Analysis [M04D] technique is unclear and does not assist in the assessment of building amenity. In particular to demonstrate that the proposed buildings do not overshadow each other or neighbouring buildings, 'View from the sun' diagrams should be provided at half hour intervals, with the public domain and neighbouring development should be included in the diagrams.</p> <p>The Shadow Diagrams [M06D to M09D] show that the proposed Buildings J, K, L, M, N and O overshadow the northern footpath of Anson Street. This is not consistent with minimising shadowing of publicly accessible open spaces per Shoalhaven DCP 2014 Chapter N23 5.2 A4.1.</p>	No
<p>3C-1 Public Domain Interface</p> <p><i>Transition between private and public domain is achieved without compromising safety and security.</i></p>	<p>The proposed setbacks to Anson Street of all buildings and the design and layout of buildings do not promote suitable transitions between private and public domain spaces without compromising safety and security. The setback distances, building envelope designs and landscaped areas proposed would provide areas of concealment and discourage pedestrian connectivity to the street.</p>	No
<p>3C-2 Public Domain Interface</p> <p><i>Amenity of the public domain is retained and enhanced.</i></p>	<p>The bulk and scale of the proposed buildings are contrary to the existing and desired future character of St Georges Basin. The proposed buildings will dominate the street and public domain (refer Figure 38</p>	No

	<p>with Buildings C and B in the distance and J on the right). The amenity of the public domain will not be retained or enhanced by the proposed development.</p>  <p>PERSPECTIVE VIEW - V4</p> <p>KEY PLAN</p> <p>Figure 38. Perspective view of proposed built form as viewed down the Village Access Road (now known as Crowea Rd)</p>	
<p>3D-1 Communal and Public Open Space</p> <p><i>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.</i></p> <p><i>Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)</i></p> <p><i>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 and 3 pm on 21 June (mid-winter)</i></p>	<p>No design information provided at Concept DA stage.</p>	<p>N/A</p>
<p>3D-2 Communal and Public Open Space</p> <p><i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</i></p>	<p>No design information provided at Concept DA stage.</p>	<p>N/A</p>
<p>3D-3 Communal and Public Open Space</p> <p><i>Communal open space is designed to maximise safety.</i></p>	<p>Communal open spaces (COS) between buildings at the ground level would be visible from habitable rooms and balconies of units facing into the communal area.</p> <p>Insufficient information regarding safety and design is provided at Concept DA stage.</p>	<p>No</p>

<p>3E-1 Deep Soil Zones</p> <p><i>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.</i></p>	<p>The concept landscape plan does not provide details of how the numerical compliance of the proposed development has been calculated. Plan M01 includes a compliance table for each proposed lot, however how this number has been arrived at is not demonstrated. The total area of deep soil landscaping of the development as modified has not been provided and cannot be ascertained based on the high level detail provided with the concept DA.</p>	<p>Inadequate information provided</p>
<p><i>Deep soil zones are to meet the following minimum requirements: Minimum dimension: 6m Percentage of site area: 7%</i></p>		
<p><i>On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:</i></p> <ul style="list-style-type: none"> • <i>10% of the site as deep soil on sites with an area of 650m² - 1,500m²</i> • <i>15% of the site as deep soil on sites greater than 1,500m²</i> 	<p>The site exceeds 1500m² Deep Soil Zone (DSZ) and therefore it may be appropriate to require 15% of the site as deep soil landscaped area</p> <p>Plan No. M01 have been provided which states there would be numerical compliance, however these are not prepared by a suitably qualified landscape architect and are of a high-scale that the actual demonstration of compliance cannot be ascertained.</p>	<p>No.</p>
<p>3F-1 Visual Privacy</p> <p><i>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</i></p>	<p>Setbacks under this control for up to 4 storeys require 6m between habitable rooms and balconies and 3m between habitable rooms. A note is included in this Design Criteria stating <i>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2 – reproduced at Figure 39).</i></p>	<p>No</p>
<p><i>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows (for building heights up to 12m):</i></p> <ul style="list-style-type: none"> – <i>Habitable rooms and balconies: 6m</i> – <i>Non-habitable rooms: 3m</i> <p><i>Note: Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)</i></p>	<p>While the building envelopes are generally compliant, the uses of the adjoining units e.g. habitable or non-habitable rooms, is unknown as the 'proof-of-concept' plans are not able to be reconciled with the proposed masterplan layout. For instance the separation between Building H and I is 9m. This would assume that one building has non-habitable uses facing the other building while habitable rooms could be within the other building.</p> <p>Without adequate 'proof-of-concept' plans being provided, the ability for a future DA to comply with this, and not require variations or future modifications cannot be assessed.</p>	



Figure 39. Figure 3F.2 of the ADG showing required building separation distances

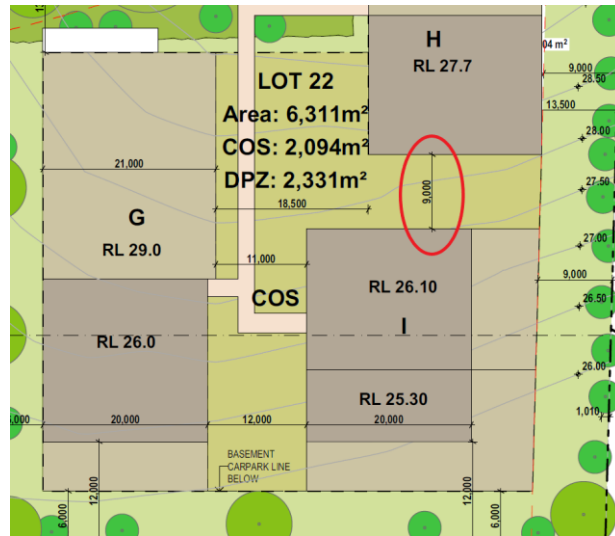


Figure 40. Building Envelope Plan of Buildings G, H and I [M02, Rev D] identifying setbacks between buildings that have not been adequately addressed.

<p>3F-2 Visual Privacy</p> <p><i>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.</i></p>	<p>This level of detail would be assessed with any subsequent 'Stage 2' DA.</p>	<p>N/A</p>
<p>3G-1 Pedestrian Access and Entries</p> <p><i>Building entries and pedestrian access connects to and addresses the public domain.</i></p>	<p>Pedestrian entry points for buildings are in some instances (e.g. Building I) some 56m from the street frontage at Anson Street. This design does not connect to or address the public domain. Other instances such as Buildings K&L and M&N, the pedestrian entrances are tucked behind the courtyard design of the buildings, creating areas of potential concealment and a maze like navigation to reach the front entry points of the buildings.</p>	<p>No</p>

<p>3G-2 Pedestrian Access and Entries</p> <p><i>Access, entries and pathways are accessible and easy to identify.</i></p>	<p>As noted under the Design Quality principles assessment earlier in this report. The proposed pedestrian entrances are poorly designed with areas of concealment and maze-like access from the street – particularly Buildings K, L, M & N (refer Figure 34).</p>	<p>No</p>
<p>3H-1 Vehicle Access</p> <p><i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</i></p>	<p>The Concept Landscape Plan [M10D] and 3D Illustrative Views ['V1' M11D and 'V6' M12D] shows 'slip lanes for service vehicles' [M01D] within the front setback, and driveways within side and rear setbacks. This will prevent trees being planted and will not enhance the appearance of the streetscape through provision of substantial landscaping to the street frontage or integrate the development into the streetscape ((SDCP2014 G3 5 A2.2/P2.1) or maintain the principle of allowing landscape to dominate over built structures (SDCP2014 N23 5.3.2 A13.1).</p> <p>Furthermore, the 'slip lanes for service vehicles' within the front setback implies that waste bins (for 237 apartments) will also be located at the street edge to enable collection.</p> <p>Inadequate detail has been provided to demonstrate how waste collection of the proposed buildings will function. Basement building heights and access arrangements approved under a Concept DA would be difficult to be 'not be inconsistent with' at a Stage 2 DA without resulting in poor design outcomes.</p>	<p>No & Inadequate Information</p>
<p>3J-1 Bicycle and Car Parking</p> <p><i>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.</i></p>	<p>The applicable parking rate is that of SDCP 2014.</p> <p>485 car parking spaces (419 residential, 66 retail/commercial).are proposed within proposed Buildings C to O.</p> <p>The Masterplan Yield table [D] provides indicative car parking numbers along with estimated unit numbers. The car parking numbers for Buildings C, D, E, F, G, H, I, K and L do not provide any visitor car spaces. Building O provides 2 fewer resident car spaces than required under the ADG and SDCP2014 G21 5.1. Building J may not provide sufficient car parking for its 'retail/commercial' component depending on proposed land use (SDCP2014 G21 5.1).</p> <p>Any consent would provide conditions requiring parking to comply with SDCP 2014 Chapter G21 for the respective land uses as they are proposed.</p>	<p>No</p>
<p>3J-2 Bicycle and Car Parking</p> <p><i>Parking and facilities are provided for other modes of transport.</i></p>	<p>No design information provided at Concept DA stage.</p>	<p>N/A</p>
<p>3J-3 Bicycle and Car Parking</p> <p><i>Car park design and access is safe and secure.</i></p>	<p>No design information provided at Concept DA stage.</p>	<p>N/A</p>

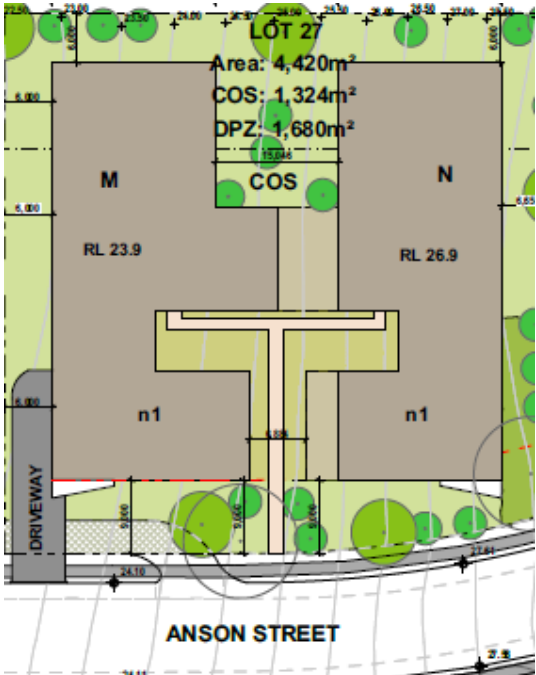
<p>3J-4 Bicycle and Car Parking</p> <p><i>Visual and environmental impacts of underground car parking are minimised.</i></p>	<p>Insufficient information provided to outline how basement parking, and semi-basement parking will be provided and any necessary mitigation of visual and environmental impacts would be addressed.</p> <p>Semi basement parking and level changes are proposed within the concept DA which, with no site survey to demonstrate existing levels makes the assessment of potential visual impacts difficult.</p>	<p>Insufficient detail.</p>
<p>Apartment Design Guide Part 4 - Designing the building</p> <p>It is noted that ‘proof-of-concept’ floor plans for all proposed building envelopes showing the layout, number of units and intended uses of each building have been provided to demonstrate the workability of the concept and to allow amenity impacts to be properly considered against relevant controls, including the ADG. However, the ‘proof-of-concept’ plans provided on 19 December 2017 for all proposed building envelopes showing the layout, number of units and intended uses of each building are not reconcilable with the current Building Envelope Plan [M02D] (with the exception of Building J).</p> <p>The number of apartments and mix shown in the Masterplan Yield table [D] are unable to be verified. For instance, the ‘Lot 24’ proof-of-concept plan shows only a single floor plan of Building C with six units (1 x 1 bedroom, 2 x 2 bedroom and 3 x 3 bedroom). The Yield table Indicates 14 units overall (2 x 1 bedroom, 6 x 2 bedroom and 6 x 3 bedroom). The plans thus cannot usefully assist with current assessment, accordingly the current documentation does not provide any certainty or comfort that future development applications submitted will be capable of being approved per section 4.22(4) of the EP&A Act.</p> <p>The following provides an assessment of the proposal based on the information provided to date recognising the deficiencies in information.</p>		
<p>4A-1 Solar and Daylight Access</p> <p><i>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</i></p> <ol style="list-style-type: none"> 1. <i>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.</i> 2. <i>In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight</i> 3. <i>between 9 am and 3 pm at mid-winter. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</i> 	<p>The ‘3D View with Shadow Analysis’ drawings (M04 and M05 Issue D) are unclear and do not assist in the assessment of solar access.</p>	<p>Insufficient detail.</p>
<p>4A-2 Solar and Daylight Access</p>	<p>The submitted ‘proof-of-concept’ plans are reconcilable with the proposed footprints shown in the Building Envelope Plan [M02D] and access to daylight</p>	<p>Insufficient detail.</p>

<p>Daylight access is maximised where sunlight is limited.</p>	<p>of units within the nominated building envelopes are unable to be confirmed.</p>	
<p>4A-3 Solar and Daylight Access Design incorporates shading and glare control, particularly for warmer months.</p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4B-1 Natural Ventilation All habitable rooms are naturally ventilated.</p>	<p>The ability for natural ventilation of each room within the nominated building envelopes are unable to be confirmed. Which this may be considered to be design details for a future DA, the 'proof-of-concept' plans are not reconcilable with the proposed building envelopes and compliance with this control us unable to be confirmed.</p>	<p>Insufficient detail.</p>
<p>4B-2 Natural Ventilation The layout and design of single aspect apartments maximises natural ventilation.</p>	<p>The final orientation and configuration of units within the nominated building envelopes are unable to be confirmed. This is something that future 'Stage 2' DAs would be required to demonstrate.</p>	<p>Insufficient detail.</p>
<p>4B-3 Natural Ventilation The number of apartments with natural cross ventilation is maximized to create a comfortable indoor environment for residents.</p>	<p>The submitted 'proof-of-concept' plans are reconcilable with the proposed footprints shown in the Building Envelope Plan [M02D] and satisfaction of cross ventilation targets for future buildings within the nominated building envelopes are unable to be confirmed.</p>	<p>Insufficient detail.</p>
<p>1. 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</p>	<p>This is something that future 'Stage 2' DAs would be required to demonstrate, however it remains unclear whether the proposed concept building envelopes can accommodate future buildings with the proposed unit mix as proposed.</p>	
<p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>		
<p>4C-1 Ceiling Heights Ceiling height achieves sufficient natural ventilation and daylight access.</p>	<p>The proposal includes 3m floor-to-floor heights which is inconsistent with the ADG requirements, and does not provide sufficient room for services and bulkheads within the development to provide 2.7m floor-to-ceiling heights.</p>	<p>No.</p>
<p>4C-2 Ceiling Heights Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</p>		<p>No.</p>

<p>4D-1 Apartment Size and Layout</p> <p><i>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p><i>Apartments are required to have the following minimum internal areas:</i></p> <p>Studio: 35m² 1 Bedroom: 50m² 2 Bedroom: 70m² 3 Bedroom: 90m²</p> <p><i>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</i></p>		
<p><i>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.</i></p>		
<p>4D-2 Apartment Size and Layout</p> <p><i>Environmental performance of the apartment is maximized.</i></p> <ol style="list-style-type: none"> <i>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</i> <i>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</i> 	<p>The submitted 'proof-of-concept' plans are reconcilable with the proposed footprints shown in the Building Envelope Plan [M02D] and satisfaction of the apartment layout for future buildings within the nominated building envelopes are unable to be confirmed.</p>	<p>No</p>

<p>4D-3 Apartment Size and Layout</p> <p><i>Apartment layouts are designed to accommodate a variety of household activities and needs.</i></p> <ol style="list-style-type: none"> 1. <i>Master bedrooms have a minimum area of 10m² and other bedrooms 9m (excluding wardrobe space)</i> 2. <i>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)/.</i> 3. <i>Living rooms or combined living/dining rooms have a minimum width of:</i> <ul style="list-style-type: none"> • <i>3.6m for studio and 1-bedroom apartments</i> • <i>4m for 2- and 3-bedroom apartments</i> 4. <i>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</i> 	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4E-1 Private Open Space and Balconies</p> <p><i>Apartments provide appropriately sized private open space and balconies to enhance residential amenity.</i></p> <ol style="list-style-type: none"> 1. <i>All apartments are required to have primary balconies as follows:</i> <i>Studio: 4m²</i> <i>1 Bedroom: 8m², 2m minimum depth</i> <i>2 Bedroom: 10m², 2m minimum depth</i> <i>3 Bedroom: 12m², 2.4m minimum depth</i> <i>The minimum balcony depth to be counted as contributing to the balcony area is 1m</i> 2. <i>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.</i> 	<p>N/A - Concept DA. This is design details for a future building.</p> <p>What remains unresolved however is whether the positioning of apartments within the envelopes would be capable of siting proposed balconies within the building envelopes nominated while still complying with relevant solar access and cross ventilation requirements of the ADG.</p>	<p>Insufficient information.</p>

<p>4E-2 Private Open Space and Balconies</p> <p><i>Primary private open space and balconies are appropriately located to enhance liveability for residents.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4E-3 Private Open Space and Balconies</p> <p><i>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4E-4 Private Open Space and Balconies</p> <p><i>Private open space and balcony design maximizes safety.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4F-1 Common Circulation and Spaces</p> <p><i>Common circulation spaces achieve good amenity and properly service the number of apartments.</i></p> <p><i>1. The maximum number of apartments off a circulation core on a single level is eight</i> <i>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4F-2 Common Circulation and Spaces</p> <p><i>Common circulation spaces promote safety and provide for social interaction between residents.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4G-1 Storage</p> <p><i>Adequate, well designed storage is provided in each apartments.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4G-2 Storage</p> <p><i>Additional storage is conveniently located, accessible and nominated for individual apartments.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4H-1 Acoustic Privacy</p> <p><i>Noise transfer is minimized through the siting of buildings and building layout.</i></p>	<p>The design of Buildings M and N, with the central courtyard design is of concern of noise reverberation and transmission. While the 'proof-of-concept' plans have been submitted, these are not able to be reconciled with the development as proposed under the current revision of plans, and thus the amenity</p>	<p>No</p>

	<p>impacts of the proposed building envelopes not adequately assessed.</p>  <p><i>Figure 41. Building Envelope Plan of Buildings M And N [M02, Rev D] identifying courtyard portion of the buildings likely to cause acoustic impacts</i></p>	
<p>4H-2 Acoustic Privacy</p> <p>Noise impacts are mitigated within apartments through layouts and acoustic treatments.</p>	<p>N/A - Concept DA. This is design details for a future building. IN any event a condition could be imposed with regard to benchmarks to demonstrate vertical and horizontal noise transition can be adequately mitigated within buildings.</p>	<p>N/A</p>
<p>4K-1 Apartment Mix</p> <p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p>	<p>The overall proposed development consists of the following units mix across the proposed 13 new buildings:</p> <ul style="list-style-type: none"> • approximately 14 x 1 bedroom apartments; • approximately 92 x 2 bedroom apartments; • approximately 131 x 3 bedroom apartments; and • an approximate total of 237 apartments. <p>While the number of apartments and mix shown in the Masterplan Yield table [D] are unable to be verified, the proposed development does not meet the needs of the community with regard to the to the size and uniformity of housing typology.</p> <p>The proposed development does not provide for the needs of the much higher than average proportion of people with a disability with regard to, for example, with accessibility of the site, adaptable housing and design.</p> <p>The assessment provided by Council’s Social Planning Expert, Judith Stubbs, states:</p> <p><i>“The first issue related to mismatch is that of bedroom number to meet projected need. As noted, there will be</i></p>	<p>No.</p>

	<p>around 291 apartments across the masterplan area. Of these</p> <ul style="list-style-type: none"> • 6% are 1 bedroom apartments; • 38% are 2 bedroom apartments; and • 56% are 3 bedroom apartments. <p>However, as discussed, 47% of future growth is projected to come from lone person households, and 41% of growth from couple only households (88% of projected demand in total). As such, projected need would indicate that there should be significantly more 1 bedroom dwellings, and also more 2 bedroom dwellings, in the mix, and less 3 bedroom dwellings.</p> <p>Despite this, it is also noted that 12% of household growth will be from couples and single parents with children, and from multi-family and group households. It is therefore important to provide for some dwellings that are appropriate for families, such as townhouses, villas and separate houses in the mix of dwellings, noting also that some older singles and couples may prefer to downsize into a villa or townhouse that still has the opportunity to provide a small garden or ground floor outdoor area, and that this may also be needed for visiting grandchildren or more flexible living arrangements.</p> <p>For these reasons, it would be preferable that there were at least 15-20% of dwellings provided as villas, townhouses and separate houses on smaller lots to provide for diversity of need and some degree of social mix”.</p>	
<p>4K-2 Apartment Mix</p> <p><i>The apartment mix is distributed to suitable locations within the building.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4L-1 Ground Floor Apartments</p> <p><i>Street frontage activity is maximized where ground floor apartments are located.</i></p>	<p>The submitted ‘proof-of-concept’ plans are reconcilable with the proposed footprints shown in the Building Envelope Plan [M02D] and the design of ground floor apartments not able to be considered. While this could be considered design details for a future building, the setting and context of each building envelope is to be set within this DA, which will affect the future ability of a DA to comply with these controls.</p>	<p>Insufficient information</p>
<p>4L-2 Ground Floor Apartments</p> <p><i>Design of ground floor apartments delivers amenity and safety for residents.</i></p>		<p>Insufficient information</p>
<p>4M-1 Facades</p> <p><i>Building facades provide visual interest along the street while respecting the character of the local area.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4M-2 Facades</p> <p><i>Building functions are expressed by the façade.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>

<p>4N-1 Roof Design</p> <p><i>Roof treatments are integrated into the building designed and positive respond to the streets.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4N-2 Roof Design</p> <p><i>Opportunities to use roof space for residential accommodation and open space are maximized.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4N-3 Roof Design</p> <p><i>Roof design incorporates sustainability features.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4O-1 Landscape Design</p> <p><i>Landscape design is viable and sustainable.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4O-2 Landscape Design</p> <p><i>Landscape design contributes to the streetscape and amenity.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4P-1 Planting on Structures</p> <p><i>Appropriate soil profiles are provided.</i></p>	<p>N/A - Concept DA. This is design details for a future building. It is noted that the COS for Buildings C & D, D&F, and G, H & I are shown to be over the basement levels for these buildings. Conditions would be included on any consent requiring the planting over these basement levels to demonstrate compliance with these controls.</p>	<p>N/A</p>
<p>4P-2 Planting on Structures</p> <p><i>Plant growth is optimized with appropriate selection and maintenance.</i></p>		<p>N/A</p>
<p>4P-3 Planting on Structures</p> <p><i>Planting on structures contributes to the quality and amenity of communal and public open spaces.</i></p>		<p>N/A</p>
<p>4Q-1 Universal Design</p> <p><i>Universal design features are included in apartment design to promote flexible housing for all community members.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4Q-2 Universal Design</p> <p><i>A variety of apartments with adaptable designed are provided.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4Q-3 Universal Design</p> <p><i>Apartment layouts are flexible and accommodate a range of lifestyle needs.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>

<p>Part 4S – Mixed Use</p> <p><i>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement</i></p>	<p>The commercial component of the proposed development within Building J is of a scale and in a located that is not considered unsuitable for its location and will provide convenience for the local community. Active frontages and pedestrian access to the commercial use has not been demonstrated and would be required to provide further detail with a 'Stage 2' DA.</p>	<p>Yes.</p>
<p>Part 4S – Mixed Use</p> <p><i>Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents</i></p>	<p>Residential units are integrated within the Building J development. The consideration of safety and amenity in relation to this control is something to be considered under a future 'Stage 2' DA(s).</p>	<p>Yes.</p>
<p>Part 4T – Awnings</p> <p><i>Awnings are well located and complement and integrate with the building design</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>Part 4T – Awnings</p> <p><i>Signage responds to the context and desired streetscape character</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4U-1 Energy Efficiency</p> <p><i>Development incorporates passive environmental design.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4U-2 Energy Efficiency</p> <p><i>Development incorporates passive solar design to optimize heat storage in winter and reduce heat transfer in summer.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4U-3 Energy Efficiency</p> <p><i>Adequate natural ventilation minimises the need for mechanical ventilation.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4V-1 Water Management and Conservation</p> <p><i>Potable water use is minimised.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4V-2 Water Management and Conservation</p> <p><i>Urban stormwater is treated on site before being discharged to receiving waters.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4W-1 Waste Management</p> <p><i>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</i></p>	<p>Insufficient information provided to outline how waste collection points will be positioned within future buildings and to demonstrate that the layout and position of service lanes will not cause future 'Stage 2' to be incompatible with this control.</p>	<p>Insufficient detail.</p>

<p>4W-2 Waste Management</p> <p><i>Domestic waste is minimised by providing safe and convenient source separation and recycling.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4X-1 Building Maintenance</p> <p><i>Building design detail provides protection from weathering.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4X-2 Building Maintenance</p> <p><i>Systems and access enable ease of maintenance.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>
<p>4X-3 Building Maintenance</p> <p><i>Material selection reduces ongoing maintenance costs.</i></p>	<p>N/A - Concept DA. This is design details for a future building.</p>	<p>N/A</p>

Appendix B – Shoalhaven DCP 2014 - Chapter N23. St Georges Basin Village Centre

It is noted that only the Lot 1 (to the north of Anson Street) is subject to this DCP chapter.

Principle Controls			
5.1.1 Traffic facilities, access, pedestrians and car parking			
Performance Criteria	Acceptable Solutions	Comment	Achieved
<p>P1 Major pedestrian pathways connecting retail anchor developments with specialty shops are wide enough to allow passing by of a variety of users, pedestrians, scooters for the aged or disabled, shopping trolleys, wheelchairs etc</p>	<p>A1.1 Major pedestrian desire lines should have footpaths a minimum of 2.5m wide.</p> <p>A1.2 Where major pedestrian desire lines occur between development modules (as shown on the supporting map), footpaths should be designed to not exceed 3% grades over their longitudinal length. Scissor type ramps are to be discouraged.</p> <p>Note: The location of footpaths is shown indicatively on Supporting Map 1.</p>	<p>The location of the site in relation to Supporting Map 1 is shown at Figure 42. These show a shared cycleway/footpath along the site frontage on Anson Street and Crowea Road. These design standards that can be required as conditions of consent with information to be provided with any 'Stage 2' DA.</p>	<p>Yes, subject to conditions to require a footpath across the frontage of the site at developer expense.</p>
<p><i>Figure 42. Supporting Map 1</i></p>			

	<p>A2.1 Access, where possible, should be to the minor access roads and the private road rather than Island Point Road, unless shown on Supporting Map 1.</p> <p>A2.4 Service access is to be negotiated and provided between Lots 1 DP 785956 (124 Island Point Road), Lot 1 DP 850464 (128 Island Point Road) and Lot 10-11 DP 1143842 (132 Island Point Road and Lot 11 Island Point Road) on development of the lots. This shall be a shared pedestrian /service access with limited vehicle access. Service bays will be provided at either end of this access way.</p> <p>A2.5 - A2.8 N/A</p>	<p>Access to the site will be via Anson Street and Crowea Road (for Buildings J and K).</p> <p>A future road is nominated to the east of Building O as shown in the location shown on Supporting Map 1.</p> <p>The proposal is not inconsistent with these controls.</p>	<p>Yes</p>
<p>P3 Onsite car parking is provided to meet the needs of future development.</p>	<p>A3.1 Generally, car parking is to be provided on-site in accordance with Chapter G21: Car Parking and Traffic.</p> <p>A3.2-A3.4 N/A</p>	<p>Refer to discussion at P21 in Table 5 in the report regarding car parking provision.</p>	<p>No</p>
<p>5.2 Civic Domain</p>			
<p>P4.1 The Neighbourhood Centre provides for shops to be arranged around a central open space focal point, part of which acts as a floodway.</p> <p>P4.2 Public amenity block should be provided to serve the needs of shoppers.</p> <p>P4.3 Safer by design principles are utilised when designing the open space precinct.</p>	<p>A4.1 N/A</p> <p>A4.2 Safer by Design Principles shall be implemented with regards to:</p> <ul style="list-style-type: none"> • Lighting. • Landscaping. • Footpaths. • Walkways. • Fencing. • Surveillance. • Maintenance. <p>A4.3 N/A</p>	<p>Conditions would be applied to any consent for a CPTED report to be submitted with each 'Stage 2 DA' to address how compliance is met. The proposed building envelopes however are not considered to provide safe pedestrian pathways from the street to the entry points particularly of Buildings K&L and M&N.</p>	<p>No</p>
<p>P5 Overshadowing of publicly accessible open spaces is minimised.</p>	<p>A5.1 Buildings shall be designed to minimise shadowing of public open spaces.</p>	<p>Overshadowing plans are insufficient to provide an accurate assessment of overshadowing. Notwithstanding this, no areas of public open space are directly adjoining the subject site..</p>	<p>Yes</p>

<p>P6 The public enjoyment of the Neighbourhood Centre is safe and accessible</p>	<p>A6.1 N/A</p>	<p>Relates to the design of the public domain.</p>	<p>N/A</p>
<p>P7 Future development is integrated with adjoining development.</p>	<p>A7.1 Cut and fill between adjoining development is not to exceed 600mm.</p>	<p>The submitted plans do not provide adequate information of the cut and fill between adjoining development in order to draw a conclusion on this matter. Any 'Stage 2' DA would be required to demonstrate compliance with this condition. The issue this raises however is that where the building heights are touching the overall building height plane, where levels are unable to be ascertained, subsequent DAs may not be able to be generally consistent with the approved Concept DA and will be noncompliant with the maximum height control. Without further detail of site levels, this DCP control cannot be satisfied.</p>	<p>No. Inadequate information</p>
<p>5.3 Other requirements</p>			
<p>5.3.1 Design and Siting</p>			
<p>P8 Height, bulk and scale of development in the Neighbourhood Centre relates to the existing surrounding development and the natural attributes of the area</p>	<p>A8.1 The maximum height of any building must comply with clause 4.3 of SLEP 2014. A8.2 Development within the Neighbourhood Centre is limited to 2 storeys as measured from ground level (existing).</p> <p>Note: The Neighbourhood Centre is defined by the area contained within Island Point Road and the three proposed roads shown on Supporting Map 1</p>	<p>Refer clause 4.3 of SLEP 2014 assessment in report.</p> <p>Building J falls within the Neighbourhood Centre area and is a maximum of 2 storeys.</p> <p>The proposed development, including buildings on both Lots 1 and 6 are out of character with the desired character of the St Georges Basin Village Centre. 15 residential flat buildings of significant bulk and scale has no relationship with the existing surrounding development and natural attributes of the area. The height of the proposed buildings are unlikely to be capable of complying with the maximum height control under SLEP 2014.</p>	<p>No.</p>
<p>P9 Building lines ensure that:</p> <ul style="list-style-type: none"> Existing car parking areas can be made more effective. Future traffic requirements can be provided, i.e., roundabouts, private road, perimeter roads. Adequate open space can be provided to maintain 	<p>A9.1 Future development shall comply with building lines shown on Supporting Map 1.</p>	<p>No Building lines shown for building other than Building J, the building lines for Building J are not inconsistent with the layout shown at Supporting Map 1.</p>	<p>Yes.</p>

<p>the objectives of the Chapter.</p> <ul style="list-style-type: none"> Adequate landscaped buffers can be provided to maintain residential amenity, and/or the environment. 			
<p>P10 Utility installations have a minimal impact on the natural environment.</p>	<p>A10.1 New public and private utility installations (i.e., electricity and telephone) are to be underground.</p>	<p>The plans do not show the location of utilities. It is recommended a condition be imposed to ensure compliance with this requirement at future 'Stage 2' DAs.</p>	<p>Yes, subject to condition re location of utilities for future 'Stage 2' DAs.</p>
<p>P11 Development is sustainable and reinforces the general neighbourhood character while promoting good innovative design that delights and interests the local community and adds architectural quality to the area. Note: Physical qualities of texture, colour and space are important character-building elements in St Georges Basin. The vegetation types, the water bodies and the sand all influence the design of new elements.</p>	<p>A11.1 Development is to demonstrate how the proposed design has a relationship to the natural features of the area in terms of materials, colours, roof form and texture. Note: A schedule of colour finishes, and materials is to be submitted with any development application. Very shiny surfaces and large expanses of reflective area. A11.2 Any future development is to be designed in accordance with ecologically sustainable design principles.</p>	<p>No details of materials, colours and roof shown at this concept DA stage. To be conditions on any consent.</p>	<p>Yes, subject to condition re location of utilities for future 'Stage 2' DAs.</p>
<p>P12 As the majority of buildings in St Georges Basin have small frontages, new development is designed to reflect this built scale.</p>	<p>A12.1 Infill development, particularly on Island Point Road, should be compatible with the existing bulk and scale of development in the street frontage and building mass to the rear. A12.2 Building mass and scale should be designed to complement rather than dominate its natural surroundings.</p>	<p>20m+ wide residential flat buildings on 40m+ frontages does not reflect the built scale of St Georges Basin. The building mass and scale will significantly dominate within the neighbourhood and the natural surroundings the site is situated. Setbacks are insufficient to minimise the dominance of 15 large residential flat buildings which are out of character with the village. The proposed development if approved, will have significant impact on the character of the St Georges Basin area and the broader Bay and Basin locality.</p>	<p>No</p>

5.3.2 Landscaping			
<p>P13.1 Landscape measures soften paved areas, provide shade to car parks and introduce colour to the Village Centre.</p> <p>P13.2 Site planning incorporates as many of the existing trees into the development, particularly within off-street car parking areas.</p> <p>P13.3 Development allows the landscape to dominate rather than the structures.</p>	<p>A13.1 Existing trees are to be identified on the site plan, and where significant tree clearing is required, a landscape plan shall ensure that additional tree planting is provided that maintains the principle of allowing the landscape to dominate over the built structures.</p> <p>A13.2 Exotic species should be used for feature planting or access to winter sun, thereby allowing native species to predominate.</p> <p>A13.3 The colour and material finish of built elements shall blend with the natural treed landscape.</p> <p>A13.4 N/A.</p>	<p>The Concept Landscape Plan [M10D] and 3D Illustrative Views ['V1' M11D and 'V6' M12D] shows 'slip lanes for service vehicles' [M01D] within the front setback, and driveways within side and rear setbacks. This will prevent trees being planted and will not enhance the appearance of the streetscape through provision of substantial landscaping to the street frontage or integrate the development into the streetscape ((SDCP2014 G3 5 A2.2/P2.1) or maintain the principle of allowing landscape to dominate over built structures (SDCP2014 N23 5.3.2 A13.1).</p>	<p>No</p>
5.3.3 Water quality, wastewater and stormwater drainage			
<p>P14.1 The water quality of discharges to surface and underground receiving waters, including St Georges Basin, is maintained both during and after construction.</p> <p>P14.2 Appropriate water quality management strategies are prepared based on the principles of ecologically sustainable development and water sensitive urban design.</p>	<p>A14.1 - A14.6 N/A</p>	<p>A water quality management strategy was not submitted with the application. This can be conditions to be submitted with any ' Stage 2' DA.</p> <p>Council's Development Engineer raised no issues with the proposal subject to conditions.</p>	<p>Yes, subject to condition.</p>

Appendix C – Shoalhaven DCP 2014 - Chapter G13 Medium Density and Other Residential

6. Residential flat buildings and shop top housing			
Performance Criteria	Acceptable Solutions	Comment	Achieved
<p>P32.1 Development responds appropriately to the character of the area, landscape setting and surrounding built form.</p> <p>P32.2 Development is liveable, protects surrounding amenity and promotes resident amenity.</p> <p>P33 Telecommunications /TV antennas do not detract from the streetscape.</p>	<p>A32.1 The development is designed in accordance with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide.</p>	<p>SEPP 65 does not apply and the ADG does not apply to Building J, being less than 3 storeys in height. The remaining buildings A-I and K-O have been assessed under Appendix A above.</p> <p>There are some areas of noncompliance as outlined in Appendix A which form reasons for the refusal of the DA.</p> <p>Building J would be required to be designed in accordance with the ADG per A32.2 regardless of SEPP 65 not strictly applying.</p>	Yes
	<p>A32.2 Where SEPP 65 does not apply (see clause 4 of SEPP 65), the development must be designed in accordance with the Apartment Design Guide.</p>	<p>A33.1 Only one telecommunications/ TV antenna will be permitted per building. Where possible, common antennas shall be utilised.</p>	<p>The plans do not show antenna. It is recommended a condition be imposed to ensure compliance with this requirement with any 'Stage 2' DA.</p>