

# REGIONAL PLANNING PANEL (Hunter Central Coast)

## Planning Report

<b>JRPP No</b>	<b>2018HCC004</b>
<b>DA Number</b>	DA/44/2018
<b>Local Government Area</b>	Central Coast Council
<b>Proposed Development</b>	Residential Flat Building consisting of 34 dwellings under SEPP (Affordable Rental Housing) 2009 and associated demolition works.
<b>Street Address</b>	6-10 Dunleigh Street Toukley, Lots 4, 5 and 6 DP.22986
<b>Date lodged</b>	19 January 2018
<b>Applicant</b>	Compass Housing c/- Barr Property and Planning
<b>Architect:</b>	CKDS Architecture
<b>Number of Submissions:</b>	53 submissions
<b>Estimated value:</b>	CIV \$9.1 million
<b>Regional Development Criteria</b>	Capital investment value exceeding \$5 million for affordable housing
<b>List of All Relevant s4.15(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Affordable Rental Housing) 2009.</i></li> <li>• <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</i></li> <li>• <i>State Environmental Planning Policy No. 71 – Coastal Protection</i></li> <li>• <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i></li> <li>• <i>State Environmental Planning Policy 55 – Remediation of Land</i></li> <li>• <i>State Environmental Planning Policy (State and Regional Development) 2011</i></li> <li>• <i>State Environmental Planning Policy (Infrastructure) 2007</i></li> <li>• <i>Wyong Local Environmental Plan 2013</i></li> <li>• <i>Wyong Shire Development Control Plan 2013</i> <ul style="list-style-type: none"> <li>- <i>Chapter 1.2 Notification of Development Proposals</i></li> <li>- <i>Chapter 2.4 - Multiple Dwelling Residential Development</i></li> <li>- <i>Chapter 2.11 - Parking and Access</i></li> <li>- <i>Chapter 3.1 Site Waste Management</i></li> <li>- <i>Chapter 5.4 - Greater Toukley</i></li> </ul> </li> </ul>
<b>List all documents</b>	<b>Attachment 1 – Numerical Compliance Table</b>

submitted with this report for the panel's consideration	<b>Attachment 2– Apartment Design Guide – Compliance Table</b> <b>Attachment 3- State Environmental Planning Policy No 71 – Coastal Protection</b> <b>Attachment 4 Applicant's Clause 4.6 Exception to development standard – height of building</b> <b>Attachment 5 – Draft recommended conditions</b>
Recommendation	<b>Conditional Approval</b>
Report by	<b>Salli Pendergast – Principal Development Planner</b>

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## CENTRAL COAST COUNCIL

### Development Assessment

#### **Proposed demolition works and the construction of a residential flat building (34 dwellings) under the provisions of SEPP (Affordable Rental Housing) 2009**

DA/44/2018

Author: S Pendergast

#### **SUMMARY**

A development application has been received for demolition works and the construction of a residential flat building (34 dwellings) under the provisions of State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 at 6-10 Dunleigh Street, Toukley. The application has been assessed having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements.

<b>Applicant</b>	Compass Housing C/-Barr Property and Planning
<b>Owner</b>	J J I Kim & Y Choi
<b>Application No</b>	DA/44/2018
<b>Description of Land</b>	6-10 Dunleigh Street, Toukley, Lots 4, 5 and 6, DP 22986
<b>Proposed Development</b>	Construction of a residential flat building (34 dwellings) under the provisions of SEPP (Affordable Rental Housing) 2009 and associated demolition works
<b>Site Area</b>	2161.2m <sup>2</sup>
<b>Zoning</b>	R3 – Medium Density Residential
<b>Existing Use</b>	Three dwelling houses
<b>Value of Works</b>	\$9.1 million

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#### **RECOMMENDATION**

- 1 That the Regional Planning Panel grant consent to DA/44/2018 at 6-10 Dunleigh Street, Toukley for construction of a residential flat building (34 dwellings) under the provisions of SEPP (Affordable Rental Housing) 2009 and associated demolition works subject to the conditions provided in Attachment 5.***
- 2. That Council advise those who made written submissions of Council's decision.***
- 3. That the Regional Planning Panel assume the concurrence of the Secretary of the Department of Planning and Environment in accordance with the written notification of assumed concurrence issued under clause 64 of the Environmental Planning and Assessment Regulation 2000.***

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## **PRECIS**

- The proposal seeks approval under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 for the construction of a residential flat building comprising 34 dwellings.
- The proposal seeks a variation to Council's maximum height of buildings control under clause 4.3 of Wyong LEP 2013 and a clause 4.6 exception to the development standard has been prepared by the applicant.
- The proposal also seeks a variation to other planning controls under Council's DCP Chapter 2.4, the Apartment Design Guide and SEPP (Affordable Rental Housing) 2009 including the provisions of communal open space, landscaped area, dwelling mix, the maximum dwellings from a common core and the maximum dwellings permitted with a southerly aspect.
- The value of the development is approximately \$9.1 million. Due to the value of the development the application will be determined by the Hunter and Central Coast Regional Planning Panel.
- The proposed development was amended to reduce the height and comply with setbacks and FSR. The notification of the amended plans resulted in the receipt of 53 submissions.

## **INTRODUCTION**

### **The Site**

The subject site comprises three lots (each with a lot frontage of 15.24m and a depth of 47.27m and each 720.4m<sup>2</sup> in area) totalling a site area of 2161.2m<sup>2</sup>. The topography of the site is generally flat. The site fronts Dunleigh Street to the east and Tamar Avenue to the south. There is an existing dwelling house situated on each lot fronting Dunleigh Street.

Surrounding the site are low density dwelling houses to the west, south and east. To the north are existing town houses and a Council owned vacant lot on the corner of Main Road and Dunleigh Street. Beyond this to the north is Main Road and approximately 500m walk to the east is the Toukley Shopping Centre. There are traffic lights on the corner of Main Road and Dunleigh Street and a bus stop on Main Road approximately 70m from the site. The site is not flood affected but there is localised flooding within the road reserve frontage.

There is a zone transition to the south of the site on the opposite side of Tamar Avenue to R2 Low Density Residential. There is another zone transition to R1 General Residential west of the site along the southern side of Beachcomber Parade.



Above: Aerial view of subject site (left) and more distance aerial view (right)

## The Proposed Development

The development application has been lodged seeking approval for the demolition of the existing three dwelling houses, garages and other structures on the site and the construction of a residential flat building under the provisions of SEPP (Affordable Rental Housing) 2009 (SEPP ARH). The initial proposal included 40 dwellings over 6 levels, however this was subsequently amended to include a proposed 34 dwellings over 4 levels. Additionally the applicant for the development was changed from the land owner to a community housing provider (ie. Compass Housing). There are different planning controls under SEPP ARH that apply to development *in the case of where a development application is made by a social housing provider*.

The details of the amended proposal which includes construction of a residential flat building for 34 dwellings include:

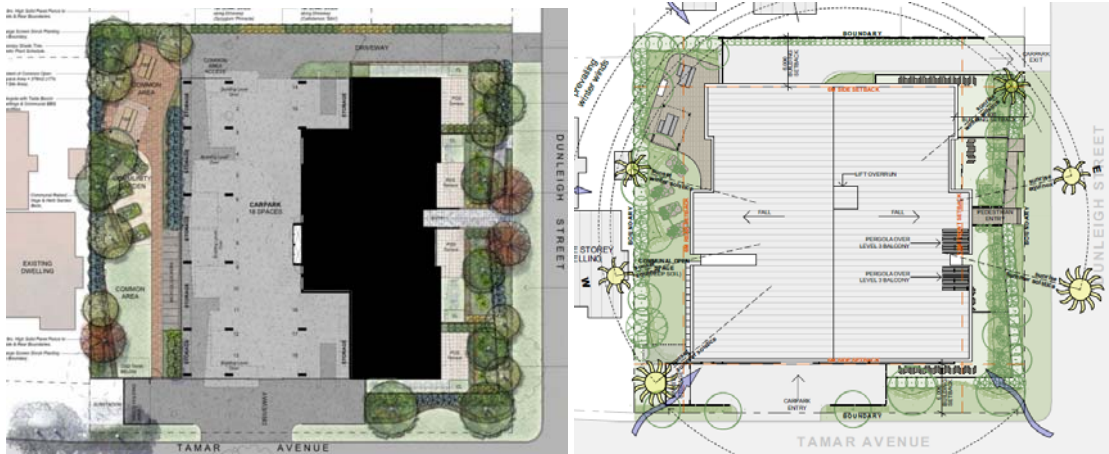
Demolition of the existing buildings and structures on the site and construction of a 4 storey residential flat building (3 above ground levels) containing:

- 1 x 1 bedroom unit
- 33 x 2 bedroom units
- 18 parking spaces at ground level (2 accessible spaces) with entry from Tamar Avenue and exit to Dunleigh Street
- 14 bike lockers and 1 motorcycle parking space
- An external waste holding and loading area and an internal waste storage room
- Tree removal and landscaping works
- Lot consolidation

All dwellings have been nominated for affordable housing pursuant to the SEPP and will be managed by Compass Housing who is a registered community housing provider. Compass Housing have advised that the development will be operated by them for a minimum period of 25 years. Communal open space is provided along the western boundary of the site. The proposal includes the removal of the existing trees on the site to accommodate the development. There are four adaptable dwellings on the ground floor level (Units G01-G04). The external materials include masonry blockwork, fibre cement sheeting, timber cladding, metal roof, aluminium framed windows and fixed glass balustrades.

The proposal seeks variation to a number of the relevant planning controls including height (for which a Clause 4.6 variation accompanies the application).





Above: Site landscape plan (left) and roof top view (right)



Above: Street view from Dunleigh Street (eastern elevation)



Above: Street view from Tamar Avenue (southern elevation)



Above: View of the site from Dunleigh Street looking west



Above: View of Tamar Lane looking west

## VARIATIONS TO PLANNING INSTRUMENTS, PLANS, POLICIES AND GUIDES

<b>Clause</b>	4.3 – Height of Buildings
<b>Standard</b>	12m maximum building height
<b>LEP</b>	Wyang Local Environmental Plan (WLEP) 2013
<b>Departure basis</b>	13.8m building height proposed which is 1.8m in excess of requirement (15%) variation.

<b>Clause</b>	14(c) Standards that cannot be used to refuse consent - Landscaped Area
<b>Standard</b>	Landscaped area (for social housing provider) is at least 35m <sup>2</sup> per dwelling
<b>SEPP</b>	State Environmental Planning Policy (Affordable Rental Housing) 2009
<b>Departure basis</b>	23m <sup>2</sup> per dwelling is proposed which is a shortfall of 12m <sup>2</sup> /dwelling (or a total shortfall area 393m <sup>2</sup> ) and represents a variation of 34%. A landscaped area of 1190m <sup>2</sup> is required (55% of site) however, a landscaped area of 797m <sup>2</sup> is proposed (37% of site). The provision of landscaped area had complied when the landowner was nominated as the applicant, however when the nominated applicant changed to a community housing provider an increased landscaped area applies resulting in the shortfall. Note: The proposal achieves compliance with the landscaped area requirements under Chapter 2.4 of Wyong Development Control Plan 2013 (WDCP) and the Apartment Design Guide (ADG).

<b>Objective</b>	3D-1 Communal Open space - Design Criteria 1
<b>Design Guidance</b>	25% site area is to be used as Communal Open Space
<b>ADG</b>	Apartment Design Guide - NSW Planning & Environment
<b>Departure basis</b>	Proposed 340m <sup>2</sup> (16% site area) but 25% (540m <sup>2</sup> ) required. Variation of 36% and a shortfall of 200m <sup>2</sup> area. Note: The proposal complies with the communal open space requirements under Chapter 2.4 of WDCP 2013.

<b>Objective</b>	4F-1 – Common Circulation and Spaces (Amenity)
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<b>Design Guidance</b>	The maximum number of apartments off a circulation core on a single level is 8.
<b>ADG</b>	Apartment Design Guide - NSW Planning & Environment
<b>Departure basis</b>	Single core with a maximum of 10 dwellings off the core (25% variation)

<b>DCP Clause ADG Objective</b>	12.1a – A variety of dwelling types 1, 2, 3, & 4 bedrooms 4K-1 - A variety of apartment types and sizes to cater for different house hold types now and into the future
<b>Standard and Design Guidance</b>	Dwelling mix
<b>DCP &amp; ADG</b>	Wyong Development Control Plan (WDCP) Chapter 2.4 – Multiple Dwelling Residential Development Apartment Design Guide - NSW Planning & Environment
<b>Departure basis</b>	1x 1 bedroom and 33 x 2 bedroom. Non numerical variation based on satisfying existing demand for smaller dwellings.

<b>Clause</b>	6.3.3 – Solar access – Residential Flat Buildings
<b>Standard</b>	Maximum of 10% of dwellings with a southerly aspect (SE-SW)
<b>DCP</b>	Chapter 2.4 Multiple Dwelling Residential Development
<b>Departure basis</b>	23.5% of dwellings do not achieve compliance which equates to 8 dwellings. However, the proposal complies with the other applicable solar access requirements for the development.

The proposed variations are discussed later in the report.

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

### Any submission from the public.

The application was notified for two separate periods in accordance with Wyong DCP 2013 – Chapter 1.2 Notification of Development Proposals. Under the initial notification period, 25 submissions plus 2 petitions (21 names and 25 names) were received. Following receipt of amended plans which significantly lowered the height and reduced the FSR, the application was notified for a second period with 53 submissions being received. The general issues raised in relation to the proposal are included below.

- *Building height, bulk and scale excessive and out of character & disrespects surrounding neighbourhood and streetscape; over development – too many units on a small site with difficult access; precedent for other excessive development. The density/overcrowding of the development is unhealthy for its residents; exceeds floor space ratio; the proposal encroaches on the boundaries/building setbacks.*

### Comment

The proposal was amended to comply with Council's planning controls for the maximum floor space ratio and applicable setbacks for the site. Although a variation is sought to Council's maximum building height, the extent of variation is considered reasonable in the context of the site. This is because the height variation will not be readily discernable from areas surrounding the site and will not unreasonably impact on the streetscape or upon the amenity of surrounding properties.



The original building height has been substantially reduced under the amendments to the plan such that the proposal is below the maximum permitted floor space area. The development was reduced from 40 units to 34 units and from 6 levels (19.1m) to 4 levels (13.8m) under the amended plans. The variation to the height includes a lift over run structure at roof top midway of the building footprint that will not be readily viewed from areas surrounding the site. It is noted that the site is identified as part of a larger key site that permits a maximum building height of 25 metres in specific circumstances, however, the proposal does not utilize these provisions and the 12 metre maximum height is therefore applicable to the proposed building.

The proposal provides sufficient articulation and visual interest in the façade design to minimise visual bulk and scale and landscaping along the frontages has been included to soften the appearance of the building to the street. The building height variation is supported and strict compliance with the development standard is considered unreasonable or unnecessary and there are sufficient environmental planning grounds to justify contravening the development standard. This is discussed in further detail later in the report.



Above: Front Elevation showing the 12 metre maximum height

- *Insufficient parking provided which will result in parking on surrounding streets. At least 1 space should be required for each dwelling. Not enough and unsuitable street parking.*

#### Comment

The applicant for the proposal has been amended to be a social housing provider under the provisions of SEPP (ARH). Therefore, the parking provision to apply to the proposal under Clause 14(2)(a)(i) is a lesser rate being 0.4 spaces for each 1 bedroom dwelling and 0.5 parking spaces for each 2 bedroom dwelling totalling a required parking provision of 17 spaces.

A total of 17 spaces has been provided which is therefore compliant with the car parking requirements of the SEPP, although this is significantly less than Council's DCP rate (requiring 48 spaces for the development), in the event of any inconsistency, the SEPP takes precedence over Council's car parking requirements.

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- *Overshadowing impacts*

Comment

Shadow diagrams have been prepared for the development. The diagrams indicate the scenario mid-winter on the shortest day of the year as well as mid-summer on the longest day of the year in order to ascertain shadowing impacts from the development throughout the year. The diagrams demonstrate that there are no unreasonable amenity impacts resulting from solar access loss to any existing surrounding residential development or public areas as a consequence of the development. The overall extent of shadowing impact resulting from the proposal is not excessive or unreasonable given the nature of the development being medium density and the configuration and location of the site within an established residential area.

- *Amenity impacts on surrounding properties including privacy and visual impacts. Balconies all overlook surrounding yards and look directly into bedrooms of adjoining dwellings.*

Comment

In relation to other potential impacts to neighbouring amenity, physical distance and separation will minimize the potential visual privacy issues. In this regard, the proposal includes compliant setbacks to all boundaries which provide sufficient separation to minimize the extent of any potential impacts. Balustrading to balconies will comprise non-transparent materials (ie.timber cladding) which restrict the external views available from within each dwelling. This design of balustrade directs viewing outwards rather than downwards. Adequate landscape screening has also been included to all boundaries minimize the potential for overlooking.

- *Potential noise impacts*

Comment

There is not expected to be any unreasonable or significant noise impacts associated with the ongoing use of the site for medium density residential purposes. The potential for noise from the use of the parking area, plant and equipment and waste collection activities was considered in the assessment of the DA and is further discussed later in the report. There will be potential noise impacts during construction; however, these will be limited by the imposition of recommended conditions during works. The conditions include standard construction hours; adoption of sound attenuating devices in respect of all power operated plant and use of the quietest available plant; and notice to surrounding occupants prior to noise generating construction works commencing.

- *Visual impacts – eyesore. Tallest building around Toukley.*

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### Comment

The site context is undergoing a transition and the proposal is consistent with the planned future character of the area as an R3 zone. It is acknowledged that the proposed building will be visible from areas surrounding the site. This is due to the existing low density site context comprising one and two storey buildings within which the site is located. Although there is a variation proposed to the height, the extent of variation is not significant or unreasonable within the site context. The proposal has been designed to achieve compliance with the design quality principles under SEPP 65 and the planning and design standards for residential apartments within the Apartment Design Guide. Each facade of the building includes visually recessive external finishes and a variety of materials to enhance the appearance of each elevation. The overall appearance of the building is considered to be of a satisfactory visual quality. Council's Architect has reviewed the amended plans and considers them satisfactory in relation to compliance with SEPP 65 and the ADG.

- *Inadequate space for garbage bins on Tamar Avenue*

### Comment

Council's Waste Management Assessment Officer required provision of off street garbage servicing in accordance with Council's Waste Guidelines due to the number of proposed dwellings. The proposal is considered satisfactory with regard to waste servicing and management subject to recommended conditions.

- *Social impacts and safety; Proximity to Beachcomber Hotel (top 6 most violent licensed venues); limited employment opportunities; increased crime/violence (theft drugs etc.); 'Affordable Rental Scheme' use would negatively impact the area and attract an undesirable demographic; poorer socio economic status of area and proposal will worsen; Socio economic groups should be spread out throughout the area not concentrated in one block (ghetto as low income units concentrated). Pressure on infrastructure including poor public transport, education and healthcare.*

### Comment

All of the dwellings on the site are proposed for affordable housing which is to be managed by Compass Housing for a period of no less than 25 years. A condition will be recommended requiring preparation of a positive covenant on the site requiring that for 25 years all units within the development are to be used as affordable housing managed by a registered community housing provider with the rent of each unit not to exceed the formula under Clause 6 of the SEPP. A social impact assessment and crime risk assessment were both prepared for the proposal to identify and address potential impacts associated with the proposal. Other conditions have also been recommended in relation to principles for Crime Prevention Through Environmental Design and the ongoing management of the affordable housing development.

- *Affordable rentals should be distributed evenly across the Central Coast not in several large developments; the necessity for affordable housing in the area.*

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## Comment

The proposal has been lodged under the provisions of SEPP (ARH) 2009 which permits infill affordable housing (in the form of dual occupancies, multi dwelling housing or residential flat buildings where permitted in the site zoning) within an accessible area. 'Accessible area' is a defined term under the SEPP. The R3 zoning of the site permits a residential flat building.

In relation to the Central Coast and NSW, Toukley has a lower median weekly household income, a lower proportion of residents in full time work and a higher proportion of people aged 65 and over. The Regional Plan (Department of Planning and Environment 2016:47) acknowledges that social and affordable housing will be needed for people on low incomes and increasing the overall supply of housing will help to reduce the upward pressure on the cost of housing. The proposal seeks to increase the supply of small affordable dwellings within an existing infill development site, in close proximity to the recognized local centre of Toukley.

- *Notification of proposal not extensive enough*

## Comment

The initial notification was in accordance with Chapter 1.2 of WDCP 2013 (Notification of Development Proposals) for 21 days. There were 25 submissions plus 2 petitions (21 names and 25 names) received. Following receipt of amended plans, a broader notification was carried out including notification to a wider area surrounding the site. During this second notification period there were 53 submissions received.

- *Contrary to local character, area is characterised by detached residential dwellings, development should be limited to town house or attached terrace development. Building does not fit with 'village atmosphere' outline in the Toukley Planning Strategy 2010. Poor visual amenity.*

## Comment

Under Council's Toukley Planning Strategy (TPS), the site is identified as a residential area planned for a transition to a height of 3-4 storeys. The proposal being 4 storeys is consistent with the strategy for increased residential density in the area. The proposal has been assessed against the relevant planning controls and policies and will not detract from the streetscape or the scenic qualities of the area.



Above: Extract from TPS

- *Economic impacts; Applicant making profit at community's expense; reduces property values of surrounding properties.*

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### Comment

There is no evidence to suggest that land values will be adversely impacted by the proposal. The site context is undergoing a transition and the proposal is consistent with the planned future character of the locality as identified under Council's planning controls for the area. The proposed development has been designed to allow for satisfactory separation of the proposed building to surrounding development to ensure the preservation of residential amenity to land surrounding the site. The proposal does not result in any unreasonable overshadowing or privacy loss but will provide additional affordable housing for Toukley to meet the increasing demand.

- *Traffic generation concerns; Increase traffic congestion along Main Road, Tamar Avenue and Dunleigh Street and the surrounding intersections; Traffic congestion will impact on local business; Additional traffic on surrounding roads.*

### Comment

The traffic assessment accompanying the application concluded that traffic generated by the development will not have a significant impact on the adjoining road network. The traffic report estimates the likely traffic generation for the ground floor tenancies within the development to be in the order of 9.8 peak hour vehicle trips (PHVTs). Council's Traffic and Transportation Engineer has assessed the traffic impacts of the proposal and concluded that this level of traffic generation will not have an adverse impact on the surrounding road network. The development is considered to have negligible effect on the safety and operating outcome of the surrounding transport network. The likely traffic generation for the proposed development will not have a significant impact on the efficiency of the surrounding road network and the site is suitable for the proposed development

- *Tamar Avenue unsuitable and unsafe for vehicle entry point for proposal as too narrow; Tamar Avenue is narrow and unsafe as such not suitable for two way traffic access; No parking in Tamar Avenue; Intersection of Tamar Avenue and Dunleigh Street is unsafe as too narrow Dunleigh Street is the defacto main route to avoid the speed humps on Main Road; Lack of footpaths in area; Parked cars will impede sightlines for drivers impacting on pedestrian, school children and elderly resident's safety in the backstreets.*

### Comment

The proposal seeks a one-way clockwise vehicle circulation arrangement through the site via a new entry only driveway fronting Tamar Avenue and exit only driveway fronting Dunleigh Street. The site is currently serviced via three driveway crossings fronting Dunleigh Street. Council's Roads and Drainage section has advised that no road widening of Tamar Avenue is required for this proposal. Recommended conditions require a civil works upgrade for the street frontages of the site including kerb and guttering, pavement construction (for Tamar Avenue) and provision of a concrete footpath along Dunleigh Street, plus street tree planting. Civil works will also include comprehensive road signage and pavement marking to be approved by the Local traffic Committee. No stopping signage is to be installed on both sides of Tamar Avenue. Suitable Construction Traffic Management plans will be required to ensure the safety of all road users.

- *Stormwater run-off to local waterways (no curb and guttering in Tamar Avenue); Flooding considerations/poor drainage;*



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### Comment

The proposal includes satisfactory stormwater management and disposal arrangements. The proposal includes a combined underground rainwater re-use / OSD system in the south-western corner of the property. An on-site stormwater detention and drainage system will be required to control the rate of runoff leaving the site. A non-return valve will be required at the site outlet to prevent stormwater / floodwater back flowing into the property drainage system.

Council's records indicate that the site is not affected by flooding, ponding and/or minimum floor level requirements. Localised flooding however is identified within the frontage road reserves. The 1% Annual Exceedance Probability (AEP) level is identified as 4.4m AHD therefore a minimum floor level of 4.9m AHD applies and has been provided for the building.

- *Developer should pay for footpaths in surrounding streets; No pedestrian crossings and footpaths*

### Comment

Recommended conditions require the applicant to provide a concrete footpath and street tree planting along Dunleigh Street. Given the proximity to the traffic signal pedestrian crossing, a mid-block pedestrian refuge was considered unnecessary along Dunleigh Street.

- *Concern that Compass Housing will act in a similar manner as the department of housing to use the development for welfare/emergency accommodation.*

### Comment

The proposal is for affordable housing and not short term or emergency accommodation.

- *Does not meet the objectives of WLEP 2013 R3 Medium Density Housing.*

### Comment

Clause 2.3(2) of Wyong LEP 2013 states that 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 proposal is considered consistent with the objectives of the R3 zone in that housing is provided that meets the needs of the community within a medium density residential environment in a manner which maintains the residential amenity of the surrounding area.

- *The units are small with difficult exits which would pose a fire hazard.*

### Comment

The units satisfy the minimum dwelling size requirements identified under Clause 14(2)(b) of SEPP (ARH) 2009. This includes a minimum gross floor area of 50m<sup>2</sup> for one bedroom dwellings and 70m<sup>2</sup> for two bedroom dwellings. The proposal has been designed and will need to comply with the relevant fire safety requirements applicable to residential flat buildings in NSW and in accordance with the Building Code of Australia.

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- *Compliance with planning controls needed. No architectural merit to warrant exceeding planning controls.*

#### Comment

The proposal includes variations to a number of planning controls under the Apartment Design Guide (ADG), SEPP (ARH) 2009, WLEP 2013 and Chapter 2.4 of WDCP 2013. The proposal includes variations to the required landscape area under SEPP (ARH); building height under WLEP 2013; communal open space, under the ADG and a number of internal layout and design aspects under both the DCP and ADG. The merits and impacts of these variations have been discussed in detail further in the report.

### **EXTERNAL CONSULTATION**

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

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

This application was referred to NSW Transport - Roads & Maritime Services Hunter Region and the following comments were made:

*Roads and Maritime has reviewed the information provided and raises no objection to or requirements for the proposed development as it is considered there will be no significant impact on the nearby classified (State) road network.*

However, further advice was provided to Council recommending specific matters that Council should address in determining the development and these have been included within the recommended conditions of consent.

##### *NSW Police Force*

The application was referred to the NSW Police Tuggerah Lakes Local Area Command Crime Prevention Officer for comment in relation to Crime Prevention Through Environmental Design (CPTED). In accordance with Council's Protocol, no comment was received within the specified 28 days nominated for comment, therefore Council can assume that the NSW Police raises no objection to the proposal.

### **INTERNAL CONSULTATION**

The application has been referred within Council to:

- *Senior Development Engineer*

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

- *Water and Sewer Planning*

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Council's Section Manager Water Services and Design has reviewed the proposal. Sufficient capacity exists in Council's sewerage network for the proposed development. Water service is available for the proposed development from Dunleigh Street and Tamar Avenue and upgrade of the existing water main will be required. There is no objection raised to the water and sewer servicing of the proposal subject to recommended conditions, including payment of contributions and issue of an approval under the *Water Management Act 2000*.

- *Senior Environmental Health Officer (Environmental Protection)*

Council's Senior Environmental Health Officer has assessed the proposal and initially raised concerns regarding acoustic impacts. Following submission of an acoustic report, no further objection was raised subject to recommended conditions relating to the demolition of potentially contaminated structures (including the requirement for an Unexpected Finds Management Plan) and waste management.

- *Traffic and Transportation Engineer*

Council's Transportation Engineer has assessed the traffic generated by the development and advised that the development will not have a significant impact on the adjoining road network. Concerns were initially raised regarding the unsatisfactory parking provision for the proposal which did not comply with SEPP ARH 2009. The applicant for the proposal has since been changed to a community housing provider and as a consequence the parking provision complies. No further objection was raised.

- *Contributions Officer*

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

- *Architect*

Council's Architect has assessed the proposal within the context of the SEPP 65 design principles and the Apartment Design Guide. A number of matters were raised in relation to the design of the proposal and under the latest amended plans it is noted that the development complies with the solar access, cross ventilation, building separation, deep soil provision and other requirements for good design under the ADG.

- *Waste Management Assessment Officer*

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

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- *Social Planner*

Council's Social Planner reviewed the amended social impact assessment provided for the proposal and raised concerns regarding the affordability of the development and how this will be managed. Additionally concerns were raised regarding the limited community consultation undertaken for the social impact assessment. A plan of management has been recommended as a condition of consent.

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

## ASSESSMENT

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

## THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES

### Relevant State Environmental Planning Policies (SEPPs)

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

The site is located in land in the Sydney Region and is within an accessible area as defined under the SEPP as:

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

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

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

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

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

In this regard, the site is within 400m walking distance of three bus stops on Main Road. The bus stops are serviced by routes 17, 21, 29, 91, 92 and 93 (westbound) and routes 21, 29,

90, 91 and 93 (eastbound). These services exceed the frequency requirements under the SEPP on all days of the week.

The other matters under the SEPP are included under the compliance table below.

<b>SEPP (Affordable Rental Housing) 2009 – Compliance table</b>		
<b>Part 2 – New affordable rental housing</b>	<b>Proposal</b>	<b>Achieved</b>
<b>Division 1 – Infill affordable housing</b>		
10(1) Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if: - Permissible under another EPI and - The land does not contain a heritage item	Proposal is for residential flat building which is permissible under Wyong LEP 2013 within the R3 zoning of the site. There is no heritage item on the site.	Yes
10(2) Division does not apply to development on land in the Sydney Region unless all or part of the development is within an accessible area.	Definition of Sydney region under Clause 4 of SEPP includes the former Wyong LGA within which site is located. The site is located within an accessible area (in accordance with Clause 4 definition). The site is within 400m of a bus stop that complies with the definition.	Yes
13 Floor Space Ratio (1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.	The proposal is 100% affordable housing under the SEPP.	Yes
13(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus: (a) if the existing maximum floor space ratio is 2.5:1 or less: (i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher.	The existing maximum floor space ratio permitted on the land under WLEP is 0.9:1. Under Clause 13(2)(a)(i) an additional bonus of 0.5:1 applies. This increases the maximum FSR permitted under the SEPP to 1.4:1.  The proposal includes an FSR of 1.36:1 which complies with the maximum under the SEPP.	Yes
<b>Clause 14 - Standards that cannot be used to refuse consent</b>		
(1)(b) Site area is at least 450m <sup>2</sup> .	Complies site area is 2161m <sup>2</sup>	Yes
(c) landscaped area (for social housing provider) is at least 35m <sup>2</sup> per dwelling	23m <sup>2</sup> per dwelling (34% variation) Proposed 797m <sup>2</sup> landscaped area but a landscaped area of 1190m <sup>2</sup> is required	No
(d) deep soil zones - at least 15% of site area - minimum dimension 3m - at least ⅓ is located at the rear of the site	22% site area (479m <sup>2</sup> ) Minimum dimension 3m ⅓ located at the rear of site	Yes
(e) Solar access – a minimum of 70% of dwellings living rooms & private open space receive 3 hours direct sunlight between 9am and 3pm midwinter.	70% (24) units achieve compliance	Yes
(2)(a) Parking – social housing provider for land in an accessible area at least: - 0.4 spaces each 1 bed dwelling - 0.5 space each 2 bed dwelling	18 parking spaces proposed 17 parking spaces required - 1 x 1 bed dwelling = 0.4 spaces - 33 x 2 bed dwelling = 16.5 spaces	Yes – as social housing provider
(b) Dwelling size at least: 35m <sup>2</sup> for a bedsitter or studio 50m <sup>2</sup> for a 1 bedroom dwelling 70m <sup>2</sup> for a 2 bedroom dwelling	All dwelling sizes comply. N/A Min 59m <sup>2</sup> for 1 bedroom unit Min 70m <sup>2</sup> for 2 bedroom unit	Yes
Clause 15(2) This clause does not apply to development to which clause 4 of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	SEPP 65 applies to the development	-



applies.		
16 Continued application of SEPP 65	The application has been assessed under the provisions of SEPP 65.	Applies
16A Character of local area	The design of the development is considered compatible with the character of the local area.	Yes

### Variation to SEPP ARH 2009

The proposal seeks variation to the requirements clause 14(c) which requires the landscaped area (for a social housing provider) to be at least 35m<sup>2</sup> per dwelling. The proposal includes a proposed landscaped area of 23m<sup>2</sup> per dwelling which represents a variation of 34% and equates to an area of 797m<sup>2</sup> (ie.37% of the site area). Whereas, the applicable standard under SEPP (ARH) 2009 requires a landscaped area of 1190m<sup>2</sup> (ie.55% of the site area).

The SEPP identifies that a larger landscaped area is required for those dwellings proposed by social (community) housing providers than those that are proposed by other developers. Under Clause 14(1)(c)(ii) where the DA is not made by a social housing provider 30% of the site area is to be landscaped which the proposal would achieve.

Although the objectives for this control are not specifically identified under the SEPP, it could be assumed that the reasons why increased landscaped area is required where the DA is made by a social housing provider is that a greater level of landscape amenity for both the future occupants and for the occupants in the surrounding area is sought under these proposals. This could be due to anticipated higher needs of the likely future occupants of that housing who may be home bound more of the time. It is considered that the landscaping provided satisfactorily addresses visual amenity both internally and externally to the site. The proposed landscaping will afford future on site residents a good level of internal amenity and will provide existing surrounding residents with a satisfactory boundary treatment and a high level of streetscape amenity which positively addresses the neighbourhood character and appearance of the site.

The proposal does not achieve compliance with the planning control having a shortfall of 34% (or 12m<sup>2</sup>/dwelling). Despite this non-compliance, satisfactory landscaping is proposed to all buildings setbacks to soften the appearance of the building from the street and to adjoining properties and within the communal open space area servicing the development. Additionally, it is noted that the proposal achieves compliance with the landscaped area requirements under Chapter 2.4 and the Apartment Design Guide (ADG).

The impact of the non-compliance has been considered in the context of the site. The dwellings will still afford the occupants a high level of amenity despite the variation. The majority of units will benefit from a scenic outlook of the lake (at least until any higher buildings around the site are constructed) and 70% (24 dwellings) achieve the required 3 hours solar access mid-winter. Additionally, the site is located in a well serviced and established location within walking distance of the Toukley Town Centre, and the proposal includes communal open space with a reasonable level of internal amenity for future occupants that receives a minimum of 3 hours solar access mid-winter and includes a community garden, tables, chairs and a BBQ. It is noted that this standard is identified under the SEPP as a standard that cannot be used to refuse consent but variation can be granted by the determining authority where considered reasonable.

### Clause 16A -Local character

In relation to Clause 16A (Character of local area) the development includes compliant front, side and rear setbacks and includes satisfactory landscaping to the street frontages and shared boundaries. Although there is a variation to Council's height control, and existing development surrounding the site is generally 1-2 storeys in height, the proposed height and building scale is considered reasonable and characteristic of development within an R3 zone. The R3 zone includes provision for a higher density of residential development than is typical of low density areas where detached dwelling houses dominate. The R3 zoning extends to the north and west of the site and envisages a change of character and the proposal is considered compatible with this future character. The appearance of the development is considered compatible with the future character of the street with facades being of a high visual quality. The architectural style and materials of the building are considered compatible with the streetscape and the facades are attractive and visually broken up to minimize a bulky appearance.

There is a zone transition to the south and east of the site to the R2 zone and the proposal has been respectful of this by taking care to ensure that the existing residential amenity has been preserved. Tamar Lane creates an additional setback distance between the site and these properties. The physical impacts of the development have been further minimized through the provision of satisfactory deep soil planting and landscaped setbacks to the street. The appearance and presentation of the building to the street is considered satisfactory and there is reasonable separation between the proposed buildings and the adjoining dwellings to the south within the R2 zone and to the east within the R1 zone.

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

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

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

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

<b>Principles</b>	<b>Proposal –Applicant's response</b>
Context and neighbourhood character	<i>The site comprises three lots with a single storey dwelling house on each fronting Dunleigh Street. The site has a secondary frontage to Tamar Avenue to the south. The site is in close proximity to Tuggerah Lake and the development will take advantage of above ground views afforded from the site. Surrounding the site are low density dwelling houses to the west, south and east. To the north are existing town houses and a Council owned vacant lot on the corner of Main Road and Dunleigh Street. Beyond this to the north is Main Road and around 500m walk to the east is the Toukley Shopping Centre.</i>

	<p><i>There is a zone transition to the south of the site on the opposite side of Tamar Avenue to R2 Low Density Residential. There is another zone transition to R1 General Residential west of the site along the southern side of Beachcomber Parade. The context of the existing built environment is smaller scale buildings (dwellings) with commercial development along Main Road. The proposed building will be larger than anything else in the immediate existing vicinity but is considered consistent with the desired future character of the area as envisaged in Council's planning controls under a R3 zoning. The proposed development responds positively to its context and the desired future character of the area though suitable deep soil landscaping to the street, suitable building setbacks, orientation of the building to take advantage of views but minimize privacy impacts and provision of quality external materials and facades that exhibit a good degree of architectural merit. The development is considered to suitably responds to its context.</i></p>
Built Form and Scale	<p><i>The building bulk has been suitably addressed by articulation of the building and a variety of building materials and finishes to the facades. The proposed development achieves an appropriate built form in terms of building alignment, setbacks, proportions and articulation of building elements. Both street frontages include satisfactory setbacks and deep soil landscaping to address the street. The building façade is highly articulated and visually interesting including a variety of materials.</i></p>
Density	<p><i>The proposal complies with maximum FSR permitted for the site under SEPP (ARH) and the density is considered appropriate for its location and context.</i></p>
Sustainability	<p><i>The proposed building offers a reasonable degree of positive environmental outcomes and makes efficient use of natural resources and water. The development achieves compliance with SEPP 65 in relation to solar access and cross ventilation. Additionally most units are oriented so as to enjoy water views which will contribute to the internal amenity of these units. A Basix Certificate has been provided which outlines the energy and water efficiency measures to be adopted as part of the proposal. Deep soil landscaped areas have been provided to the street front courtyards and the communal open space area.</i></p>
Landscape	<p><i>Although the landscaped area does not numerically comply with the SEPP ARH, it does comply with Council DCP Chapter 2.4 and the landscaped areas provided contribute positively to the street and to future residents enjoyment of the communal open space area.</i></p>
Amenity	<p><i>A good level of internal amenity will be afforded to future occupants. The building includes appropriate room dimensions and shapes, that allow for, a good outlook, visual and acoustic privacy and an efficient layouts. The service areas for waste and access are centrally located to provide a good level of access. Storage is provided within each unit which complies with the minimum required areas. Storage is also included within the basement area (although it is unclear how the storage will be accessed when the parking is occupied due to the shared parking blocking access to the storage). Access to natural ventilation complies with the ADG numerical requirements.</i></p> <p><i>The outdoor communal open space is well landscaped and readily usable - although not complying with the minimum required area under the ADG and accessed separately and external to the building.</i></p>
Safety	<p><i>The development optimizes safety and security within the development and the public domain through the design of front courtyards to the street that allow for passive and active surveillance and create a sense of ownership. The transition between public and private domain is achieved without</i></p>

	<i>compromising safety and security. Although the communal open space area is not directly accessed from the internal areas of the building, there is passive surveillance and access control measures available. Upper level balconies and windows overlook the communal open space areas and street areas surrounding the site. There are clearly defined access points to the building that will be well lit and visible.</i>
Housing diversity and social interaction	<i>Although all the apartments (but one) are two bedroom, and the proposal does not include a diverse variety of units types, the applicant has argued that the proposal does provide a much needed typology to the Toukley local centre, adjusting the supply in the area to meet current unmet demand for smaller dwellings. The applicant cites the demographic trend towards smaller households and an aging population and the need to provide housing in locations with good access to transport, health and community services and more affordable housing. The current population of Toukley has a high concentration of residents over the age of 65 years. The proposal includes 4 adaptable units on the ground floor and lift access which can cater through future adaption for those residents with disabilities. The communal open space area includes a community garden, landscaping and a common paved area with a BBQ. This area will provide an opportunity for social interactions between residents.</i>
Aesthetics	<i>The building has been designed to achieve a balanced composition by:</i> <i>- Proportions appropriate at street level;</i> <i>- Upper level set back from the lower portions of the building;</i> <i>- The ground floor areas are treated to provide a 'base' for the building.</i> <i>- Residential balcony enclosures designed to achieve a balanced elevation, reflecting a residential living proportion.</i> <i>A variety of materials, colours and textures are included in the building facades to complement the visual appearance of the development.</i>

The proposal seeks variation to a number of design considerations under the ADG. These include the following:

- 4F-1 – Common Circulation and Spaces (Amenity).

#### Comment

Under the ADG, the maximum number of apartments off a circulation core on a single level is eight. The proposal includes a single core with a maximum of 10 dwellings off the core (25 % variation).

The ADG limits the number of units which access off a common circulation space to eight under Objective 4F-1 and acknowledges that *common circulation spaces provide opportunities for casual social interaction among residents and can assist with social recognition*. In this regard, the ADG also provides the following design guidance:

- *Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including:*
  - *sunlight and natural cross ventilation in apartments*
  - *access to ample daylight and natural ventilation in common circulation spaces*
  - *common areas for seating and gathering*
  - *generous corridors with greater than minimum ceiling heights*

- 
- *other innovative design solutions that provide high levels of amenity*
  - *Where design criteria is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.*
  - *Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled*

Despite the variation, the proposal is considered consistent with the above design guidance. A good level of amenity is achieved for the common lobbies, corridors and apartments in terms of solar access and natural cross ventilation to dwellings including the common circulation areas, and good amenity is also provided to the common areas.

There are no more than 12 dwellings off a common circulation core on a single level. The sole east and west facing units above ground level located mid-way in the building will need some screening measures to the bedroom windows adjoining the building recess to ensure privacy from the corridors and this will be addressed under a recommended condition of consent. Additionally the proposed circulation areas have been designed to avoid any tight corners and long corridors. The lobbies are direct and legible with good sight lines. On this basis the variation is considered acceptable and is supported.

- 3D-1 - Communal Open space - Design Criteria 1

#### Comment

Under the ADG, 25% of the site area is required to be used for communal open space. The proposal does not comply and includes a communal open space area of 340m<sup>2</sup> which equates to 16% of the site area rather than the 540m<sup>2</sup> area required. This represents a variation of 36% and a shortfall of 200m<sup>2</sup> communal open space area.

Despite the shortfall, the proposal includes satisfactory landscaping and facilities within the proposed communal open space for future occupants. The proposed communal open space complies with Chapter 2.4 of WDCP 2013 in relation to the requirements for communal open space provision for a residential flat building (required at a rate of 10m<sup>2</sup>/dwelling with a minimum dimension of 5 metres). The ADG identifies other good design considerations for communal open space as follows:

- *Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am & 3 pm on 21 June (mid-winter).*

#### Comment

At least 75% of the proposed communal open space achieves 2 hours solar access midwinter between 9am-3pm.

- *Communal open space should be consolidated into a well-designed, easily identified and usable area.*

#### Comment



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The proposed communal open space is a well-designed, easily identified and usable area.

- *Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions.*

Comment

The communal open space has a minimum dimension well in excess of three metres.

- *Communal open space should be co-located with deep soil areas.*

Comment

The proposed communal open space is co-located with the deep soil areas.

- *Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.*

Comment

The location of the communal open space is not a direct connection from within the building lobby or circulation area. Occupants will have to traverse and exit the car park which is located between the internal building circulation areas and the open space. Access control will need to be provided to restrict access to the communal open space area from the street and a condition of consent is recommended accordingly.

- *Where communal open space cannot be provided at ground level, it should be provided on a podium or roof.*

Comment

Communal open space at rooftop is considered unsuitable within the site context given the proposed height exceedance (which would be worsened by proposing rooftop access) and the amenity concerns raised by surrounding properties.

- *Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:*
  - *provide communal spaces elsewhere such as a landscaped roof top terrace or a common room*
  - *provide larger balconies or increased private open space for apartments*
  - *demonstrate good proximity to public open space and facilities and/or provide contributions to public open space*

Comment

As noted above provision of communal open space on the rooftop is considered unsuitable within the site context given the proposed height exceedance (which would be worsened by proposing rooftop access) and the amenity concerns raised by surrounding properties. The private open space balconies for each unit comply with the minimum but are not generously sized however, the site is in good proximity to the lake and foreshore areas and public open space reserves.

- 
- *Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4FCommon circulation and spaces), incorporating some of the following elements:*
    - *seating for individuals or groups*
    - *barbecue areas*
    - *play equipment or play areas*
    - *swimming pools, gyms, tennis courts or common rooms*

Comment

The communal open space area includes seating, a BBQ, landscaping and a community garden that proposes vegetable growing beds.

- *The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts.*

Comment

The design of the area contains landscaping including trees which will provide some shading in summer. Adequate sunlight is available to the area in winter.

- *Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks*

Comment

There are no services visible from the public domain and the substation and waste storage area are screened from view from the communal open space area.

- *Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include:*
  - *bay windows*
  - *corner windows*
  - *balconies*

Comment

The balconies of the west facing units overlook the communal open space area.

- *Communal open space should be well lit where communal open space/facilities are provided for children and young people they are safe and contained*

Comment

No lighting or after dark use of the communal open space is proposed, however the provision of suitable lighting to access the storage area can be included under recommended conditions. The area is to be suitably enclosed for the safety of children.

Despite the variation proposed to the size and location of the communal open space area as recommended under the ADG, the area is usable, has a reasonable level of amenity and provides good facilities for the future occupants of the building.

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

#### Comment

The proposal includes 1x1 bedroom and 33 x 2 bedroom. This is a non-numerical variation proposing 97% two bedroom dwellings and is based on satisfying existing demand for smaller dwellings.

The proposal does not include a variety of apartment only two bedroom dwellings (excepting 1 x 1 bedroom unit). The ADG identifies that a *mix of apartment types provides housing choice and supports equitable housing access...This is particularly important because apartment buildings form a significant and often long term part of the urban fabric*. The ADG recommends that flexible apartment configurations should be provided to support diverse household types and stages of life (including single person households, families, multi-generational families and group households). However the applicant has identified that the existing housing stock in Toukley and the Central Coast is dominated by three or four bedroom dwelling houses and the proposal is providing an alternative to this to assist with the provision of smaller affordable dwellings within the locality which will cater for the current unmet demand for this dwelling size.

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

SEPP 71 was repealed by SEPP (Coastal Management) 2018 on 3 April 2018. However, savings and transitional provisions under Clause 21 of SEPP (Coastal Management) 2018 apply to the DA. In this regard, Clause 21 reads:

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

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

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

The proposed residential flat building constitutes 'BASIX affected development' as defined within the Regulations, and, in accordance with the SEPP, a BASIX Certificate has been submitted with the development application. The BASIX Certificate outlines the water conservation and energy efficiency measures to be adopted as part of the proposal in order to ensure the development will be energy and water efficient consistent with the NSW State Governments requirements.

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

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

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

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

The proposal constitutes regionally significant development under Schedule 7 clause 5(b) of the SEPP as it is development that has a capital investment value of more than \$5 million and is for the purpose of affordable housing. As such, the determining authority for the development application is the Regional Planning Panel (RPP).

### *State Environmental Planning Policy (Infrastructure) 2007*

Clause 104 and Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 identifies traffic generating development as sites with access on a road within 90m to a classified road and that includes parking for 50 or more motor vehicles. The proposed access is within 90m of the signalised intersection of Main Road and Dunleigh Street; however the proposal does not include parking for 50 or more vehicles. Notwithstanding, the application was referred to the NSW Roads and Maritime Services (RMS) for comment. No objection was raised by RMS subject to road impact related advice to Council which is addressed under the recommended conditions of consent.

Clause 102 includes considerations where the site has a frontage to a classified road and is for development sensitive to road noise or vibration. The site is in close proximity to Main Road but does not have a frontage to this classified road. The site does however front a busy road that intersects with Main Road and the proposal is a building for residential use that is likely to be adversely impacted by road noise or vibration. This concern was raised by NSW RMS in its advice to Council and has been addressed in the recommended conditions of consent.

## **Wyong Local Environmental Plan 2013**

### *Permissibility*

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

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

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

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

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

#### *Clause 4.3 - Height of Buildings*

Under Council's height maps (Clause 4.3) the site is permitted a maximum building height of 12m. The proposal includes a proposed maximum height of 13.8m which is 1.8m in excess of Council's building height maximum and represents a variation of 15% from Council's controls. The proposal seeks a variation to the maximum height control (i.e. Clause 4.3 of WLEP) and a Clause 4.6 Exception to Development Standards accompanies the application. The relevant objectives of Clause 4.3 (Height of buildings) are as follows:

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

This matter is further discussed under the Clause 4.6 section of the report.

#### *Clause 4.4 - Floor Space Ratio*

The maximum floor space ratio (FSR) for a building (under clause 4.4(2)) on any land is not to exceed the FSR shown for the land on the FSR map which for this site is 0.9:1. However, SEPP ARH 2009 overrides Council's LEP standard and includes bonus FSR provisions of 0.5:1 in addition to the 0.9:1 under WLEP allowing up to a maximum FSR of 1.4:1 for the development. The proposed floor space ratio is 1.36:1 which complies with the maximum under the SEPP (ARH) 2009.

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

A clause 4.6 exception to the maximum permitted height applying to the site is sought under the development application. The development standard under clause 4.3 limits the maximum height on the site to 12 metres. The proposal includes a maximum building height of 13.81m metres. The exceedance of the height occurs at the roof level over the lift over run (of RL.18.1 where the spot level of the site is RL 4.29) and ranges up to a maximum of 1.81m which is a 15% variation in excess of Council's requirement.

The clause 4.6 exception to the development standard applying to the maximum permitted height as sought by the applicant is included under attachment 4.



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

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

Clause 4.6(4) reads:

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

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

4.3 Height of buildings (1) The objectives of this clause are as follows:	Proposal
(a) to establish the maximum height limit for buildings to enable the achievement of appropriate development density,	The development achieves an appropriate density despite not complying with the maximum height permitted on the site.
(b) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,	The proposal will result in a building height and size as was envisaged on the site under Council's R3 zone. The area is undergoing transition and the proposed height of the building will be compatible with the future planned height and likely bulk and scale of future development in the area.
(c) to ensure that the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views.	The proposed building complies with setbacks and building separation design requirements. The proposal demonstrates an appropriate scale. The development includes satisfactory articulation and sufficient landscaped setbacks. The height of the building is appropriate and will preserve the residential amenity of neighbouring properties. Despite the variation the proposed building height will not adversely impact on surrounding residential amenity in respect of unreasonable or significant overshadowing, overlooking, view loss, bulk and scale and access.

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The proposed development is considered to be in the public interest despite the variation being sought because it is consistent with the R3 zone objectives and the objectives for the maximum height development standard identified under clause 4.3(1).

In this instance, and on these grounds, the exception is supported and strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. It is considered that there are sufficient environmental planning grounds to justify contravening the development standard. The extent of variation is 15% above the 12m maximum height permitted on the site. This maximum height equates to a maximum height variation of 1.8 metres which is confined to the mid-section of the building where the lift over run is located. Otherwise the variation across the roof level of the building is in the order of around 1 metre (total 13m at roof level). This variation will not be discernable and there are no unreasonable impacts associated with the exception. The exception to the maximum height under clause 4.6 is considered reasonable and acceptable in the specific circumstances for the development.

In accordance with clause 64 of the *Environmental Planning and Assessment Regulation 2000*, the RPP or Council may assume the concurrence of the Secretary of the Department of Planning, for an exception to a development standard under clause 4.6 of the *Standard Instrument (Local Environmental Plans) Order 2006*, having regard for the matters set out in subclause 4.6(5) and where the variation is greater than 10% or non-numerical. The RPP have considered those matters set out in subclause 4.6(5) and may assume the concurrence of the Secretary in this instance. Clause 4.6(5) states:

(5) In deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

The proposed variation to height is 15% which exceeds the 10% and requires concurrence. It is considered that the proposed development will be consistent with the objectives of the zone and the proposed development will be consistent with the objects of the standard which is not met. The written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standard.

#### Acid Sulfate Soils

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

#### Flood Planning

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

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

Council's records indicate that the site is not affected by flooding, ponding and/or minimum floor level requirements. Localised flooding however is identified within the frontage road reserves. The 1% AEP level is identified as 4.4m AHD. The minimum floor level of 4.9m AHD is thus applicable for this development and has been applied to the ground floor level.

### Essential Services

Clause 7.9 requires that services that are essential for the development are available or that adequate arrangements have been made to make them available when required prior to consent being granted. These services include water supply, electricity supply, sewage management and disposal, stormwater drainage or on site conservation and suitable road access.

The site is currently connected into Council's sewer network. There is an existing gravity sewer main at the rear of the subject site and service can be made to the line. Sufficient capacity exists in Council's sewerage network for the proposed development.

Water service is available for the proposed development from Dunleigh Street and Tamar Avenue and an upgrade of the existing water main will be required. Due to the construction activities involving the new entry road and kerb and gutter, the existing asbestos cement water main is likely to be damaged from the vibration and compaction. Therefore, the applicant is required to replace the existing water main with PVC pipe for the full extent of the property boundary and this may require an upsize of the pipe at time of replacement.

Water and sewer contributions will be applicable to the development in accordance with the Shire Wide charges. The development will require a Section 307 Certificate under the *Water Management Act* 2000. Other services are available to the site including electricity supply, stormwater drainage and suitable road access. In accordance with clause 7.9, the proposed development can be satisfactorily serviced.

### Clause 7.11 Development requiring the preparation of a development control plan (key sites)

The site forms part of a key site precinct as mapped under WLEP 2013. However, the proposed development does not utilize this clause or the key site bonus height provisions, nor is there a site specific DCP prepared for the site to address the requirements of the clause.

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## Relevant Development Control Plans

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

#### *Chapter 2.4 – Multiple Dwelling Residential Development of WDCP 2013*

Chapter 2.4 of WDCP 2013 applies to the development and a summary of compliance with the relevant controls under the Chapter are outlined under the attached table (Attachment 1). However, there are a number of requirements under the DCP that are relevant to the proposal but overridden by similar controls contained within SEPP ARH 2009 and the ADG. These DCP requirements include communal open space (10m<sup>2</sup> per dwelling with a minimum dimension of 5 metres), private open space (a minimum area of 10m<sup>2</sup> and a minimum dimension of 2m), deep soil provision (12.5% site area), site coverage (soft landscaping 25%), solar access (minimum of 3 hours midwinter between 9am-3pm for 70% dwellings), building separation, storage (3m<sup>2</sup> of floor area/1-2 bed dwelling), parking provision (1 space/1bedroom and 1.2 spaces/2bedroom and 1 visitor space/5 units totalling parking demand under the DCP for 48 spaces).

The DCP requirements relevant for the proposal that are not provided within the SEPP or ADG include the following.

- The development complies with the required front setback of 7.5m and the required side and rear setbacks of 6m for development up to four storeys.
- Clause 12.1b of the DCP requires the provision of 10% of units (4 units) be designed as suitable for adaption for occupation by aged persons or a person with a disability and the proposal complies, including 4 adaptable units on the ground floor.
- Bicycle facilities (1 space per 3 dwellings totalling 11 spaces required). The proposal includes 14 bike lockers. The proposal complies.

#### Variations proposed under Chapter 2.4 Multiple Dwelling Residential Development

The proposal includes the following variations to Council's DCP requirements for residential flat buildings.

- Dwelling mix

A dwelling mix is required under Clause 12.1 of the DCP. The objectives for the control include:

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

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A non-numerical variation is sought based on satisfying existing demand for smaller dwellings. The applicant has argued that the proposal provides *a much needed typology to the Toukley local centre, adjusting the supply in the area to meet current unmet demand for smaller dwellings*. The current population of Toukley has a high concentration of residents over the age of 65 years. The applicant cites the demographic trend towards smaller households and an aging population and the need to provide housing in locations with good access to transport, health and community services and more affordable housing. The proposal is aiming to provide housing to meet an identified demand in the local area and will provide a compliant number of adaptable dwellings for aged/disabled occupants. The proposed development will be operated by a social housing provider.

- Solar access and southerly aspect – Residential Flat Buildings

Under Clause 6.3.3 a maximum of 10% of dwellings within a residential flat building shall have a southerly aspect (SE-SW). The proposal includes 6 dwellings (18%) with a sole southerly aspect which does not achieve compliance.

However, despite this variation the proposal demonstrates compliance with Clause 6.3.3 of the DCP which requires that 70% of dwellings receive a minimum of 3 hours unobstructed sunlight between 9 am and 3 pm on June 21 (winter solstice) to living rooms and private open spaces. This requirement is consistent with the provisions of SEPP ARH 2009 and the ADG.

The DCP objectives under Clause 6.3 (Solar Access) for these two controls are as follows:

- *To provide adequate natural lighting and minimise the need for artificial lighting during daylight hours*
- *To ensure that a minimum standard of solar access is available to private open space areas and internal living areas during the winter solstice to provide for a reasonable standard of residential amenity*

The location of the site will afford future occupants a high level of amenity as the units will benefit from a central and well serviced location (near the Toukley Town Centre and a local park) and a good outlook. Although the 6 apartments with a southerly outlook achieve less than 2 hours solar access, they are able to benefit from a scenic outlook enjoying significant views of the lake. The site also includes a communal open space area which receives compliant, year round, solar access. The ADG indicates that solar access may be difficult to achieve where significant views are oriented away from the desired orientation for solar access. In this case, views are obtained from all directions of the building and as the level of solar access complies for 70% of dwellings, the variation is considered acceptable.

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

#### *Chapter 3.6 – Tree & Vegetation Management of WDCP 2013*

Council's DCP requires consent to be obtained for the removal of certain trees and vegetation and when more than ten trees over 3 metres in height are to be removed. An arborist report was obtained for the impacts of the proposal on the trees on the site. Ten trees within the footprint of the building and associated works on the site are recommended

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for removal. This is due to the size and extent of the construction footprint and the position of most of these existing trees mid-way of the site or within the access/servicing areas. Additionally, the majority of these trees are in poor to average condition, have low retention value due to their position or are an undesirable species.

The Broad Leaved Paperbark (*Melaleuca quinquenervia* known as Tree 9) located midway of the site has a high retention value however, its location does not allow for its retention. To compensate for its removal, suitable replacement planting has been provided within the proposed landscaping on the site.

There are two trees outside the site boundary along Tamar Lane (Tree 12 and Tree 3 – both Rough Barked Apple-gum – *Angophora floribunda*). Tree 12 is to be retained and protected although it is in close proximity to the proposed waste area and building. Tree 12 will require some minor pruning to address the building encroachment. Tree 3 is in very poor condition and is recommended for removal as it will be subject to encroachment of the Tree Protection Zone area caused by the pavement of the proposed waste collection area.

Conditions will be recommended to address the retention and protection of these trees and replacement planting. The landscaping plan includes replacement tree planting along the frontages of the site and along the side and corner boundaries. The recommended conditions will also require street tree planting along the site frontage.

#### *Chapter 3.1 Site Waste Management of WDCP 2013*

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

#### *Chapter 5.4 - Greater Toukley of WDCP 2013*

Wyong DCP Chapter 5.4 - Greater Toukley does not apply to the site but applies to the lots immediately opposite the site along Main Road and limits the development of these lots to a maximum of three stories and limits access to Main Road.

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

There are no planning agreements applicable to the application.

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

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

#### **f) Coastal Zone Management Plan**

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

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## THE LIKELY IMPACTS OF THE DEVELOPMENT

### a) Built Environment

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

#### *Traffic and transport*

A traffic report was prepared for the proposal. The traffic report estimates peak hour traffic generated by the site will increase by 9.8 peak hour vehicle trips (PHVTs) which on average represents 1 car every 9 minutes. This is based on the RMS guide to Traffic Generating Developments, with a rate of 0.29 trips per unit. This level of traffic generation will not have an adverse impact on the surrounding road network. The increase of 9.8 peak vehicle hour trips (PHVT) is not considered significant in comparison to the existing volumes within the area. The report concluded that the increase in traffic generated would have minimal impact on the safety and operating efficiency to these roads and their intersections. The Traffic and Parking Impact Assessment concludes that the subject site is suitable for the proposed development of the site in relation to the impact of traffic, vehicle access, parking and safety considerations. Council's Traffic and Transportation Engineer concurs with the findings of the traffic report.

The site fronts both Dunleigh Street and Tamar Avenue, both of which are local roads. The site is located within walking distance of the Toukley local centre. Warnervale railway station is located 8km to the west, and is accessible via the bus network. The site is located within 500m walking distance of the Toukley local centre and is in close proximity to the existing shared path bicycle network.

#### *Internal Access and Parking*

The proposal seeks a one-way clockwise vehicle circulation arrangement through the site from Tamar Avenue to Dunleigh Street. The proposed off-street car parking dimensions, vehicle manoeuvrability and internal driveway grades appear to comply with AS/NZS 2890.1 (2004) - "Off-street car parking". The proposed accessible parking space appears to comply with AS/NZS 2890.6 (2009) – "Off-street parking for people with disabilities". Conditions will be recommended to address these matters.

#### *External Works and road infrastructure*

The site is currently serviced via three driveway crossings fronting Dunleigh Street. Dunleigh Street is fronted by upright kerb and gutter (20.117m wide). No kerb and gutter formation is identified for Tamar Ave (9.144m wide) with an additional 5.486m widening fronting the adjoining 14 Tamar Ave. The proposal seeks consent for the proposed development to be accessed via a new entry only driveway crossing fronting Tamar Avenue and exit only driveway crossing fronting Dunleigh Street.

The development will necessitate the completion of road infrastructure in accordance with the relevant provisions of Council's Civil Works Design Guidelines. Conditions have been recommended requiring the provision of road construction (Tamar Ave), new driveway crossings and laybacks, reinforced concrete footpath, regulatory signage and removal of the redundant driveway crossings and laybacks in the frontage road reserves. Suitable Construction Traffic Management plans will be required to ensure the safety of all road users.

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Council's Roads and Drainage section has advised that no road widening of Tamar Avenue is required for this proposal (in contrast to the adjoining formation of 14 Tamar Avenue).

#### *Drainage*

The site falls to the street and the proposal includes revised concept stormwater drainage plans which seek to direct stormwater to the kerb inlet pit in Dunleigh Street. The proposal includes a combined underground rainwater re-use / OSD system in the south-western corner of the property. No rainwater re-use is required from the submitted revised BASIX certificate.

An on-site stormwater detention and drainage system will be required to control the rate of runoff leaving the site. The detention system must be designed to attenuate post developed flow rates to predevelopment flow rates for a full range of storm durations for the 5, 20 and 100 year average reoccurrence interval (ARI) design storms. A non-return valve will be required upon the site outlet to prevent stormwater / floodwater back flowing into the property's drainage system.

#### *Water and Sewer*

The proposed development is located within the Zone of Influence (ZOI) of the sewer main traversing the properties. Therefore, the development will need to comply with Council's "Policy for Building Over or Adjacent to Sewer Mains".

The proposed development is located outside the Zone of Influence (ZOI) of the water main servicing the area. The development will require a Section 307 Certificate under the *Water Management Act 2000*.

#### *Waste Disposal*

The waste collection area is located on the southern frontage of the site to Tamar Avenue. The area has been designed to allow for Council's waste collection vehicle to enter and exit the site in a forward direction. The waste collection area is screened from Tamar Avenue and the communal area by inclusion of timber batten screens and complementary landscaping. All waste is collected throughout the proposed development via a garbage chute system to a storage area on the ground floor. The waste is separated into two separate bins for the storage of non-recyclable waste and recyclable waste. Prior to collection, both bulk waste bins are relocated from the central storage area to the 'waste collection area' by a suitably qualified waste contractor. Subject to recommended conditions, the proposed waste collection bin arrangement is in accordance with Council's Waste Control Guidelines 2016.

#### *Locality and Streetscape*

The proposal will not adversely impact on the character and amenity of the locality and streetscape. The scale, form, character and density of the development is considered acceptable within the locality given the R3 zoning of the site. The proposal involves the redevelopment of three lots containing single storey dwelling houses to allow for the construction of a residential flat building for affordable housing. The design and appearance of the development is of a high design that has included deep soil planting, landscaped setbacks and an architectural appearance which is satisfactory within the future character of the streetscape. The form and scale of the development is consistent with that envisaged for redevelopment of the site under the R3 zoning for a higher density of residential development.



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### *Privacy, overlooking and boundary treatments*

The adjoining dwellings surrounding the site on all sides are potentially affected by overlooking and privacy impacts from the future occupants of the development. There are a number of residential dwellings surrounding the site immediately to the west (and opposite to the east) which share the same R3 zoning as the site and will likely be redeveloped in the future. There are also residential dwellings located to the south which have a low density residential zone which precludes redevelopment for residential flat development.

Overlooking potential has been minimised in the design of the development by providing screen planting along the western and northern side boundaries and the inclusion of privacy screens to balconies. Additionally, physical distance and separation will address potential visual privacy issues through compliance with Council's requirements for setbacks.

### *Overshadowing*

Shadow diagrams have been prepared for the development at hourly intervals between 9:00am and 3:00pm, for 21 June (midwinter), for both the proposed development and a compliant envelope scenario in order to demonstrate a worst case scenario for solar access on the shortest day of the year. Shadow diagrams have also been provided for March and September (equinox) to demonstrate a more typical scenario of shadowing impacts from the development (for both the proposed development and a compliant envelope scenario) throughout the year.

Due to the orientation of the site, the shadowing created by the building extends towards Tamar Lane and towards the residential property immediately to the west of the site (No.14 Tamar Ave), properties to the south of the site on the opposite side of Tamar Lane and across Dunleigh Street and to properties diagonally opposite the site. It is noted that properties to the west of the site and opposite the site on Dunleigh Street share the same R3 zoning as the subject site.

During a March scenario, significant morning shadows are cast across 14 Tamar Ave immediately to the west with some minor shadows extending across the boundary and into the rear yard of 12 Tamar Avenue. By midday these shadows have receded and are confined to the subject site and Tamar Lane and by the afternoon, shadows are confined to the southern and eastern frontages of the subject site. A minimum of three hours unobstructed solar access is available to these affected properties during the March scenario.

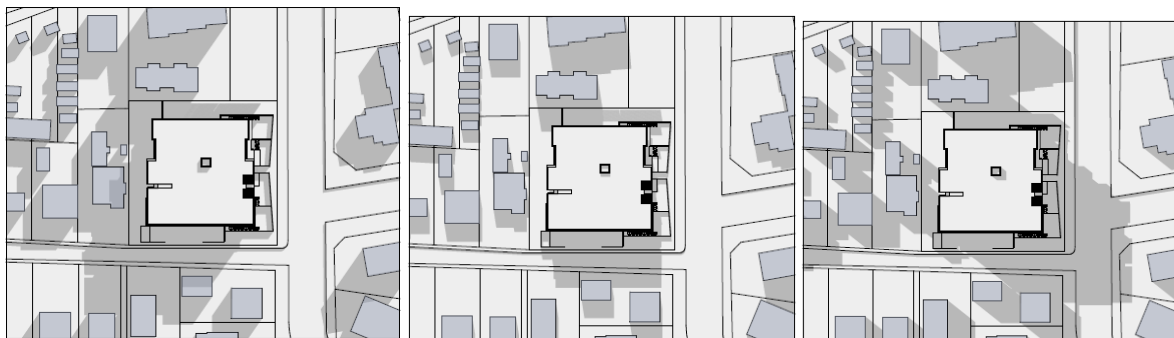
During a September scenario some very minor morning shadowing is created within 12 Tamar Avenue adjacent to the shared boundary. By midday this has receded and only extends across the southern frontage of the site and a small part of Tamar Avenue. By the afternoon the shadowing from the proposal is confined to the eastern frontage of the subject site and into Dunleigh Street.

During the midwinter (June) scenario, the morning shadowing from the proposal extends into 12 Tamar Avenue, across Tamar Lane and into the properties at 19, 21 Tamar Avenue and 4 Dunleigh Street. By 11:00am, the shadowing no longer impacts 19 Tamar Avenue and by midday has further receded and affects a corner section of 21 Tamar Avenue and part of 4 Dunleigh Street currently occupied by a garage, carport/awning and a driveway. By the afternoon period, shadowing from the proposal extends across the Tamar Lane and Dunleigh

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Street intersection including the driveway and part of the dwelling at 4 Dunleigh Street, and a small part of the properties on the opposite side of Dunleigh Street to the proposal.

Within the development, the proposed communal open space is located so as to receive unobstructed solar access between midday and 3pm midwinter in compliance with the DCP. It is acknowledged that shadowing mid-winter is the worst case scenario and at all other times of the year, solar access is greater and shadowing is reduced.



Above: Shadow diagrams for the proposal midwinter at intervals of 9am, midday and 3pm.

Overall, the extent of shadowing is not significant and complies with clause 6.3.1 of Chapter 2.4 which reads:

*New development shall have due regard for maintaining solar access to adjoining properties and not cause overshadowing. At least 75% of **required** private open space areas on adjoining lands shall receive at least three hours unobstructed sunlight between the hours of 9 am and 3 pm on June 21 (winter solstice).*

There are no unreasonable amenity impacts resulting from solar access loss to any existing surrounding residential development or public areas as a consequence of the development. The shadowing from the proposal does not reduce the solar access to any required private open space on adjoining sites to less than 3 hours for at least 75% of required private open space area.

Overall, considering the site constraints and the desired increased density of development on the site under Council's controls, the proposed development is considered to be satisfactory in terms of shadowing impacts.

#### *Air quality*

A condition is recommended in relation to dust control during demolition, earthworks and construction requiring adoption of appropriate measures to minimise emissions into the surrounding environment. There is minimal potential for any air pollution, odour, fumes or other air quality impacts associated with the development on the site.

#### *Noise and vibration*

There will be construction noise for a limited duration as a consequence of the development. A condition has been recommended imposing standard operating hours for the construction of the development. It is not anticipated that the development will cause ongoing excessive or unreasonable noise or vibration.

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An acoustic assessment was prepared for the proposal in relation to other potential noise impacts associated with the proposal. This assessment was reviewed by Council's Environmental Health Officer (EHO) who concurred with the assessment and results from the predictive modelling provided in the acoustic report. It is anticipated that the impacts on the surrounding environment will be minimal as the car parking area is situated wholly underneath the building. The waste collection bay is enclosed at a height which is anticipated to attenuate the majority of the noise. A condition will be recommended to restrict early morning collection times.

#### *Safety, security and crime prevention*

The principles of Crime Prevention Through Environmental Design (CPTED) have been considered under the design of the proposed new development. The applicant prepared and submitted a detailed CPTED assessment report which has identified a number of design considerations to discourage anti-social behaviour and minimise the opportunities for criminal activities. Satisfactory consideration has been given to the four CPTED principles.

A condition is recommended to ensure that the development is consistent with the submitted CPTED report.

#### *Isolation of sites*

The applicant responded to the potential isolation of the adjoining sites 14 Tamar and 158 Main Road immediately to the west of the site. These sites are zoned R3 Medium Density Residential. The two lots are in separate ownership with one lot (Lot 34A) fronting Main Road (569.1m<sup>2</sup>) and the other lot (lot 34B) fronting Tamar Avenue (613.4m<sup>2</sup>). Consent was granted under DA/1283/2016 for redevelopment of the lots to the immediate west of these two adjoining lots for an aged care facility.

A Land and Environment Court planning principle has been established for isolation of sites which considers whether amalgamation of the sites is feasible and whether orderly and economic use and development of the separate sites can be achieved if amalgamation is not feasible. In this instance, although the two lots will be isolated by development both to the immediate east and west, there is no LEP minimum lot size that applies to the R3 zone and the future development of these sites. However, planning controls do apply to any redevelopment for medium density residential, including setbacks and building separation. Compliance with these requirements for a residential flat building will be problematic due to the elongated shape and narrow width of the combined lots. However, multi dwelling housing would be a type of development that could be explored on these sites.

#### *Overall built environment impacts*

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

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

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

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

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

The site is situated within a short distance of Toukley town centre and this location is well serviced with a high level of amenity. The site is accessible to public transport and facilities and the proposed development provides a number of social benefits including additional affordable housing in the area which broadens the housing choice available.

The site is located within an established suburb that is undergoing a transition and is currently surrounded by existing development 1-2 storey in height. Although the development is approximately 13m in height and will be visible within the site context, the proposed medium density building form is considered consistent with the planned future character of the area. Recently, there has been a number of development consents granted to larger buildings within the area surrounding the site including a three storey nursing home to the north west of the site (13.3m in height) and a shop top housing development approved to the north-east of the site (11 storeys in height). The architectural design and treatment of the building will present well on all facades.

The design of the proposed development is in an appropriate form, layout and scale that suitably balance the opportunities and constraints of the site. The corner location of the site allows for a suitable dual street access layout and the design of the building satisfactorily addresses both street frontages. There are no significant site constraints or hazards that would render the location of the development as unsuitable. The building form will present well within streetscape and will not adversely impact on the character and amenity of the locality.

## **THE PUBLIC INTEREST (s4.15(1)(e)):**

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

There are no matters associated with the proposal that are contrary to the local or community interest. The provision of affordable housing is considered to be in the public interest as it provides an important form of community infrastructure that supports community well-being, social inclusion and economic sustainability. The site is readily accessible to public transport, shops and services. The proposal will increase the available stock of affordable housing in Toukley. The adequate supply of affordable housing in the locality to meet the existing demand of the local community is in the local and broader public interest.

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## **ECOLOGICALLY SUSTAINABLE PRINCIPLES**

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

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

### **Climate Change**

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

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

**Sustainable building design:** The proposal includes initiatives for energy and water efficiency under the submitted BASIX Certificate.

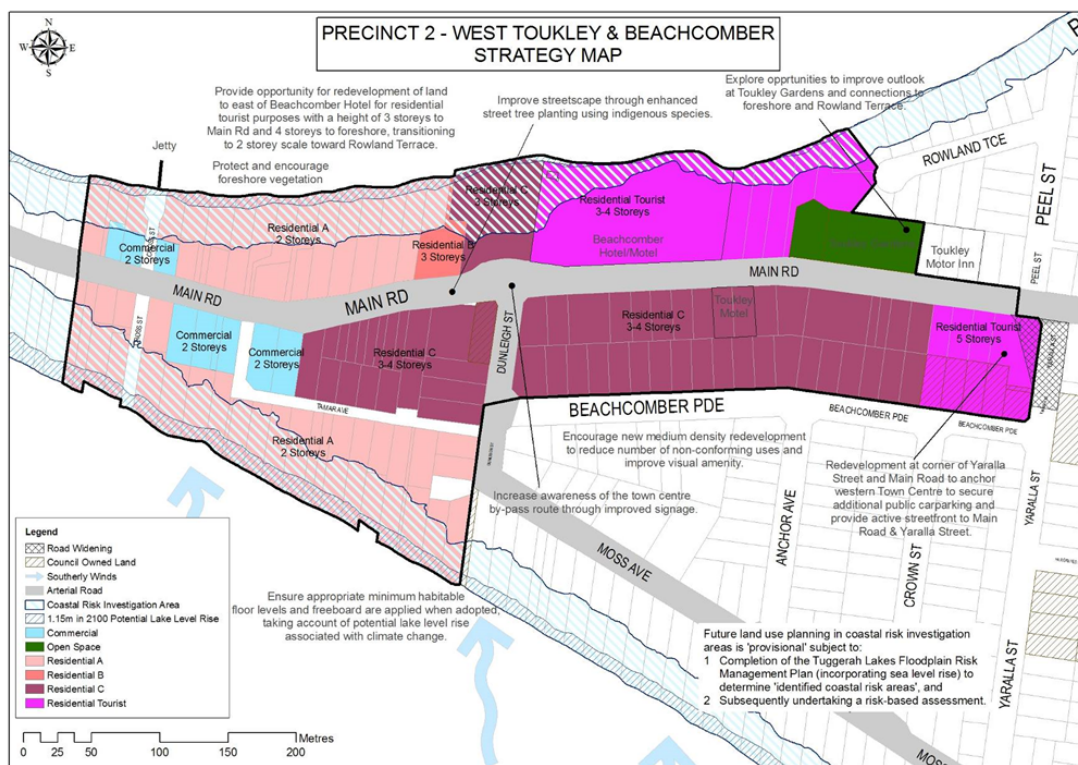
**Reduced Car Dependence:** There is a regular bus service (Busways Service) along Main Road which connects to Lake Haven Shopping Centre, Warnervale and Wyong Railway Stations. Bus stops located along Main Road within 300m of the site. The proposal includes parking for bicycles and motorcycles as alternative modes of transport to the car. Toukley Town Centre is within a 500m walk from the subject site and meets a broad range of shopping, social and business needs.

**Rising Sea Level:** The site is located near some localised flooding and this is addressed under the design of the proposal.

## **OTHER MATTERS FOR CONSIDERATION**

### *Toukley Planning Strategy*

Under Toukley Planning Strategy, the site is identified as within Precinct 2 (West Toukley and Beachcomber). The strategy supported the rezoning of the site (from 2(b) Multiple Dwelling Residential to 2(c) Medium Density Residential) to allow for increased density and height of residential development. The proposal is considered consistent with the objectives of the strategy.



Above: Extract from Toukley Planning Strategy showing Precinct 2

### Section 7.11 (formerly Section 94) Contributions

The application falls under the Toukley District Section 7.11 Contributions Plan (& Shire Wide Section 7.11 Plan). The following contributions are applicable: Shire wide contributions; Open Space Works; and Community Facilities Land & Works. The contributions have been calculated based on 1 x 1 bedroom units (1 x 0.52 DU) and 33 x 2 bedroom units (33 x 0.73 DU), with a credit for the 3 existing serviced lots (3 x -1 DU). Conditions will be recommended requiring payment of contributions.

### Water and Sewer Contributions

Water and sewer contributions are applicable to the development and a Section 306 will be issued concurrently with the consent for the development under the *Water Management Act 2000* (refer to WMA/51/2018).

## CONCLUSION

The application seeks approval for the construction of a residential flat building for 34 units under the provisions of SEPP (Affordable Rental Housing) 2009. The clause 4.6 exception to height is supported and strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case, and there are sufficient environmental planning grounds to justify contravening the development standard. This variation will not be discernable and there are no unreasonable impacts associated with the exception. Despite the variation to the building height, the proposal is considered to demonstrate an appropriate scale in terms of bulk, height and building separation which contributes positively to the desired future character of the area.

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The other variations to planning controls are considered reasonable and acceptable in the circumstances. The issues raised in submissions have been addressed under the details of the proposal and recommended conditions. The site is considered to be in a suitable context for the nature, scale and type of development proposed. Appropriate measures to address potential impacts have been recommended as conditions of consent in order to mitigate any short term negative impacts.

The proposal is recommended for approval subject to conditions.

## **ATTACHMENTS**

**Attachment 1 – Compliance table**

**Attachment 2 – SEPP 65 Compliance table**

**Attachment 3 – SEPP 71 Compliance table**

**Attachment 4 – Clause 4.6 Exception to development standard – Height of buildings**

**Attachment 5 – Draft recommended conditions**

**Table of numerical compliance –  
DA/44/2018 - 6-10 Dunleigh Street Toukley**

Control	Proposed	Required	Compliance
<b>Site Area</b>	2161m <sup>2</sup>	-	-
<b>Site frontage (Dunleigh St)</b>	45.72m width	-	-
<b>Site Depth (Tamar Ave)</b>	47.27m depth	-	-
<b>Height (WLEP 2013)</b>	13.8m	12m	No, 15% variation Clause 4.6 variation
<b>FSR (WLEP 2013)</b>	1.36:1	0.9:1 (WLEP) 1.4:1 (SEPP AHR)	Yes
<b>Gross Floor Area (SEPP ARH)</b>	2939m <sup>2</sup>	1945m <sup>2</sup> (WLEP) 3025m <sup>2</sup> (SEPP AHR)	Yes
<b>Setbacks</b>			
- <b>East (Dunleigh St)</b>	7.5m	7.5m	Yes
- <b>1<sup>st</sup>-4<sup>th</sup> storey</b>	7.1m	7.5m	Yes
- <b>South (Tamar Ave)</b>	6m	6m	Yes
- <b>1<sup>st</sup>-4<sup>th</sup> storey</b>	6m	6m	Yes
- <b>North (side)</b>	6m	6m	Yes
- <b>1<sup>st</sup>-4<sup>th</sup> storey</b>	6m	6m	Yes
- <b>West (rear/side)</b>	7.8m	6m	Yes
- <b>1<sup>st</sup>-4<sup>th</sup> storey</b>	6m	6m	Yes
<b>Parking (SEPP-ARH)</b>	18 spaces	17 spaces	Yes
- <b>Residential (total)</b>	17 spaces	-	
- <b>1 Bed (x1)</b>	0.4 space	At least 0.4 spaces each 1 bed dwelling	
- <b>2 Bed (x33)</b>	16.5 spaces	At least 0.5 space each 2 bed dwelling	
- <b>3 Bed (N/A)</b>	-	-	
- <b>Visitor/ wash bay</b>	1 space	-	
<b>DCP Ch 2.11</b>	18 spaces	48 spaces	No but SEPP ARH overrides
- 1 space per 1 bed	-	1 spaces	
- 1.2 space per 2 bed	-	40 space	
- 1 visitor per 5 units	-	7 spaces	
- <b>Accessible</b>	2 spaces but 4 units	1/accessible unit	No
- <b>Bicycle</b>	14 bike lockers	1 per 3 dwellings	Yes
- <b>Motorcycle spaces</b>	1 spaces	1/50 spaces	Yes
- <b>Washbay</b> (can be visitor space)	1	1 space	Yes
<b>Communal Open Space</b>			
<b>DCP Ch 2.4</b>	340m <sup>2</sup>	340m <sup>2</sup>	Yes
- Min per dwelling	10m <sup>2</sup> /dwelling	10m <sup>2</sup> /dwelling	Yes
- Min dimension	Min 10m	Min 5m	Yes
- Min 3hrs solar access btn 9am-3pm midwinter	75% of area	75% of area	Yes
<b>SEPP 65</b>			
- 25% site area	16% (340m <sup>2</sup> )	25% of site (540m <sup>2</sup> )	No
- Min dimension 3m	Min dimension 10m	3m	Yes
- minimum of 50% direct sunlight to the principal usable part for min 2 hours btn 9am-3pm (midwinter)	Min 50% solar access midwinter	50%	Yes
<b>Private open space</b>			
<b>Balconies/ Courtyards:</b>			Yes
- Min area	10m <sup>2</sup>	10m <sup>2</sup> /each dwelling	-
- Min dimension	2m	2m	Yes
- Directly accessible from living area	Adjoining living area	Adjoining living area	Yes
- Grade 1:14	-	-	-
-	1:14	1:14	Yes
-	-	-	-
- Solar access (DCP Ch 2.4)	70% (24 units) receive 3 hours between 9am-3pm midwinter	70% receive 3 hrs btn 9am-3pm mid-winter	Yes
	70%SEPP 65 – rec 3hrs		



<b>Cross Ventilation (SEPP 65)</b>	64.7%(22 units) comply	60% of units to be naturally cross ventilated	Yes
<b>Solar access (subject site) (SEPP ARH) SEPP 65 DCP</b>	70% (24 units)	- 70% (24 units) 70% (24 units) 70% (24 units)	Yes
<b>Solar access (surrounding site) DCP Ch2.4  ADG (3B-2)</b>	Complies	- 75% open space receive 3 hrs btn 9am-3pm mid-winter Where an adjoining property does not currently receive the required solar access, the new building to ensure solar access to neighbouring properties is not reduced by more than 20%	Yes
<b>Accessible dwellings</b>	4 (units G01-G04)	10% total units (4 units)	Yes
<b>Landscaping</b> DCP Landscaping (25%) SEPP-ARH- landscaped area of 35m <sup>2</sup> /dwelling	Proposed 37% of site (797m <sup>2</sup> ) 23m <sup>2</sup> /dwelling (34%) Proposed area of 797m <sup>2</sup>	25% of site (540m <sup>2</sup> ) 35m <sup>2</sup> /dwelling (55%) Required area of 1190m <sup>2</sup>	- Yes No
<b>Deep soil</b> DCP Deep soil zone - 50% of required 25% SEPP- ARH Deep soil zone - 15% site - Min 3m dimension - 2/3 in rear of site SEPP 65 Deep soil - 7% - Min dimension 6m	- 21% (451m <sup>2</sup> ) - 21% (451m <sup>2</sup> ) 3m 2/3 in rear - Complies Yes	- 12.5% (270m <sup>2</sup> ) - 15% (324.15m <sup>2</sup> ) 3m 2/3 in rear of site - 7% (151m <sup>2</sup> ) 6m	- - Yes - Yes Yes Yes - Yes Yes
<b>Apartment size (SEPP ARH and ADG)</b>	50m <sup>2</sup> 70m <sup>2</sup>	50m <sup>2</sup> for 1 bedroom 70m <sup>2</sup> for 2 bedroom	Yes
<b>Building Separation SEPP 65 and DCP</b>	Complies (6m boundary setbacks)	<ul style="list-style-type: none"> <li>• 12m between habitable rooms/balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>	Yes
<b>Building depth</b>	29m	12-18m depth from glass to glass	No
<b>Units accessed from a single core (SEPP 65)</b>	10 units	Max 8 units	No
<b>Storage (Ch 2.4) 1-2 bedrooms 3 or more bedrooms ADG</b>	- 8m <sup>2</sup> n/a 8m <sup>3</sup> 8m <sup>3</sup> -	- 3m <sup>2</sup> 6m <sup>2</sup> 6m <sup>3</sup> (1 bed) 8m <sup>3</sup> (2 bed) 10m <sup>3</sup> (3 bed)	Yes
<b>Basix Certificate</b>	Certificate provided	BASIX Certificate required	Yes
<b>Dwelling mix 1 Bed 2 Bed 3 Bed</b>	- 1 33 -	Mix required	No
<b>Waste storage</b>	Satisfactory. Chute and recycling room provided at each level and main waste storage in basement with area at street. Connection to an off street collection area.	Garbage chute (if over 3 storeys) & a recycling room at each level. Central storage room in basement. Over 12 dwellings requires off street collection for bulk bins	Yes

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

Guidelines	Considerations	Comment
Building Height	WLEP 2013 Clause 4.3	No, Clause 4.6 variation
Floor Space Ratio	WLEP 2013 Clause 4.4 & SEPP ARH	Complies
Building Envelope	Setbacks satisfactory	Complies
Building Depth	Recommended 12-18m glass to glass Vary building depth relative to orientation, eg. buildings facing east-west capture sun from both aspects & may have apartments of up to 18m wide (if dual aspect), while buildings facing north-south should be narrower to reduce the number of south facing apartments that have limited or no direct sunlight access	23m-30m depth but development complies with amenity design considerations (eg.solar access and natural cross ventilation).
Building Separation	<p>Minimum separation distances for buildings are:</p> <p><i>Up to four storeys (approximately 12m):</i></p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms/balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul> <p><i>Five to eight storeys (approximately 25m):</i></p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms/balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul> <p><i>Nine storeys and above (over 25m):</i></p> <ul style="list-style-type: none"> <li>• 24m between habitable rooms/balconies</li> <li>• 18m between habitable and non-habitable rooms</li> <li>• 12m between non-habitable rooms</li> </ul> <p>At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.</p> <p>No building separation is necessary where building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within centres</p>	Satisfactory
Guideline objective	Design guidance	Comment
<b>Orientation</b>		
<ul style="list-style-type: none"> <li>• Building types and layouts respond to the streetscape and site while optimising solar access within the development.</li> <li>• Overshadowing of neighbouring properties is minimised during mid winter</li> </ul>	<p>Buildings along the street frontage define the street &amp; include direct access from street.</p> <p>Street frontage east or west – rear buildings oriented to north.</p> <p>Street frontage north or south, minimise overshadowing &amp; buildings behind street frontage be oriented to the east and west.</p> <p>Solar access to living rooms, balconies and private open spaces of neighbours should be</p>	<p>Satisfactory</p> <p>The building has been oriented and designed to minimise overshadowing and overlooking and to maximise solar access and views.</p>

	<p>considered</p> <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%. If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums.</p> <p>A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings</p>	
<b>Public Domain Interface</b>		
<p>Transition between private and public domain is achieved without compromising safety and security</p> <p>Amenity of the public domain is retained and enhanced</p>	<p>Terraces, balconies and courtyard apartments should have direct street entry.</p> <p>Upper level balconies and windows should overlook the public domain.</p> <p>Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy</p> <p>Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m</p> <p>Length of solid walls should be limited along street frontages</p> <p>Where multiple pedestrian entries and spaces-buildings/entries should be differentiated to improve legibility for residents. Minimise opportunities for concealment.</p> <p>Planting softens the edges of any raised terraces</p> <p>Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided</p> <p>Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view</p> <p>Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels</p> <p>Durable, graffiti resistant and easily cleanable materials should be used</p>	<p>Generally satisfactory</p> <p>The development includes courtyards to the street, although these have not been designed for direct entry from the street. The dwellings are predominantly oriented to the views of the lake. Upper level windows overlook the public domain. The proposal will increase pedestrian activity in the vicinity of the site. Landscaping is included along the street frontage of the development to soften the appearance of the development. The servicing areas (plantrooms and loading areas) are visually screened with landscaping or located out of ready view of the primary street frontage and the vehicular access is one way through the site with entry from the secondary frontage and exit to the primary frontage.</p>

	<p>Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions:</p> <ul style="list-style-type: none"> <li>• street access, pedestrian paths and building entries which are clearly defined</li> <li>• paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space</li> <li>• minimal use of blank walls, fences and ground level parking</li> </ul>	
<b>Communal and public open space</b>		
<p>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p> <p>Communal open space is designed to maximise safety</p>	<ul style="list-style-type: none"> <li>• Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)</li> <li>• Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am &amp; 3 pm on 21 June (mid winter).</li> <li>• Communal open space should be consolidated into a well designed, easily identified and usable area.</li> <li>• Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions.</li> <li>• Communal open space should be co-located with deep soil areas.</li> <li>• Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.</li> <li>• Where communal open space cannot be provided at ground level, it should be provided on a podium or roof.</li> </ul> <p>Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> <li>• provide communal spaces elsewhere such as a landscaped roof top terrace or a common room</li> <li>• provide larger balconies or increased private open space for apartments</li> <li>• demonstrate good proximity to public open space and facilities and/or provide contributions to public open space</li> </ul> <p>Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements:</p> <ul style="list-style-type: none"> <li>• seating for individuals or groups</li> <li>• barbecue areas</li> <li>• play equipment or play areas</li> <li>• swimming pools, gyms, tennis courts or common rooms</li> </ul> <ul style="list-style-type: none"> <li>• The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts.</li> </ul>	<p>Numerical non compliance as Communal Open Space is 16% (340m<sup>2</sup>)</p> <p>At least 75% of the area receives 3 hours solar access mid winter between midday -3pm.</p> <p>COS in one area at ground level with deep soil area. Readily visible from habitable rooms and well sheltered from winds.</p>

Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood	<ul style="list-style-type: none"> <li>Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks</li> </ul> <p>Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include:</p> <ul style="list-style-type: none"> <li>bay windows</li> <li>corner windows</li> <li>balconies</li> </ul> <ul style="list-style-type: none"> <li>Communal open space should be well lit Where communal open space/facilities are provided for children and young people they are safe and contained</li> </ul> <ul style="list-style-type: none"> <li>The public open space should be well connected with public streets along at least one edge. The public open space should be connected with nearby parks and other landscape elements. Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid.</li> </ul> <p>Solar access should be provided year round along with protection from strong winds. Opportunities for a range of recreational activities should be provided for people of all ages.</p> <p>A positive address and active frontages should be provided adjacent to public open space</p> <p>Boundaries should be clearly defined between public open space and private areas</p>													
<b>Deep soil zones</b>														
Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	<table border="1"> <thead> <tr> <th>Site Area</th><th>Min dimensions</th><th>Deep Soil (%of site)</th></tr> </thead> <tbody> <tr> <td>&lt;650m<sup>2</sup></td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m<sup>2</sup> – 1500m<sup>2</sup></td><td>3m</td></tr> <tr> <td>&gt;1500m<sup>2</sup></td><td>6m</td></tr> <tr> <td>&gt;1500m<sup>2</sup> with significant tree cover</td><td>6m</td></tr> </tbody> </table>	Site Area	Min dimensions	Deep Soil (%of site)	<650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1500m <sup>2</sup>	3m	>1500m <sup>2</sup>	6m	>1500m <sup>2</sup> with significant tree cover	6m	Complies Deep soil = 475m <sup>2</sup> (22%) Min dimension 3m
Site Area	Min dimensions	Deep Soil (%of site)												
<650m <sup>2</sup>	-	7%												
650m <sup>2</sup> – 1500m <sup>2</sup>	3m													
>1500m <sup>2</sup>	6m													
>1500m <sup>2</sup> with significant tree cover	6m													
Visual Privacy	<p>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> <p>1. Minimum required separation distances are to be provided as set out in Design Criteria 3F-1</p>	Satisfactory												

	<p>Min. requirement</p> <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	
Building height	Habitable rooms and balconies	Non-habitable rooms												
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Over 25m (9+ storeys)	12m	6m												
Pedestrian access and entries	<ul style="list-style-type: none"> <li>- Connects to and addresses the public domain</li> <li>- Accessible and easy to identify.</li> <li>- Large sites provide pedestrian links for access to streets and connection to destinations.</li> </ul>	Satisfactory												
Vehicle access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Complies												
Bicycle and car parking	Parking and facilities are provided for other modes of transport. Car park design and access is safe and secure. Visual and environmental impacts of underground car parking are minimised. Visual and environmental impacts of on-grade car parking are minimised. Visual and environmental impacts of above ground enclosed car parking are minimised	Complies Bicycle and motorcycle parking is accommodated in the parking area												
Solar & Daylight Access	<ul style="list-style-type: none"> <li>• Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</li> <li>• In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of <b>3 hours direct sunlight</b> between 9 am and 3 pm at mid-winter.</li> <li>• A maximum of 15% of apartments in a building receive no direct sunlight between 9am-3pm midwinter.</li> <li>• Daylight access is maximised where sunlight is limited.</li> <li>• Design incorporates shading and glare control, particularly for warmer months.</li> </ul>	<p>Non compliance</p> <p>70% of apartments (24 dwellings) achieve 3 hours of solar access.</p> <p>There are three single aspect southerly apartments</p>												
Natural Ventilation	<ul style="list-style-type: none"> <li>• At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</li> </ul> <p>Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <ul style="list-style-type: none"> <li>• Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</li> </ul>	<p>Yes 64.7% (22) units are naturally cross ventilated.</p> <p>All units have large windows, shallow apartment depth and deep/wide returns to encourage air flow.</p>												
Ceiling Heights	Ceiling height achieves sufficient natural ventilation and daylight access. Ceilings are to comply with minimum ceiling heights set out under 4C-1.	Satisfactory												

	<table><tr><td>Habitable rooms</td><td>2.7 m</td></tr><tr><td>Non-habitable rooms</td><td>2.4 m</td></tr><tr><td>For 2 storey apartments</td><td>2.7 m for main living area floor 2.4 m for second floor where area does not exceed 50% of the apartments area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed-use areas</td><td>3.3 m ground and first floor to promote future flexibility of use</td></tr></table>	Habitable rooms	2.7 m	Non-habitable rooms	2.4 m	For 2 storey apartments	2.7 m for main living area floor 2.4 m for second floor where area does not exceed 50% of the apartments area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed-use areas	3.3 m ground and first floor to promote future flexibility of use																				
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If located in mixed-use areas	3.3 m ground and first floor to promote future flexibility of use																														
Apartment size & layout	<p>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</p> <ul style="list-style-type: none"><li>• Apartments are required to have the minimum internal areas as set out under 4D-1.</li></ul> <table><tr><td>Apartment Type</td><td>Minimum internal area</td></tr><tr><td>Studio</td><td>35 sqm</td></tr><tr><td>1 Bedroom</td><td>50 sqm</td></tr><tr><td>2 Bedroom</td><td>70 sqm (+5sq add bathroom)</td></tr><tr><td>3 Bedroom</td><td>90 sqm (+5sq add bathroom)</td></tr></table> <p>additional bathroom 5m<sup>2</sup> 4<sup>th</sup> bedroom and further bathroom – extra 12m<sup>2</sup></p> <ul style="list-style-type: none"><li>• Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</li></ul> <p>Environmental performance of the apartment is maximised.</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <p>Apartment layouts are designed to accommodate a variety of household activities and needs.</p> <p>Bedrooms have minimum area of</p> <table><tr><td>Bedroom type</td><td>Min area</td><td>Min dimension</td></tr><tr><td>Master bedroom</td><td>10m<sup>2</sup></td><td>3m</td></tr><tr><td>Other bedroom</td><td>9m<sup>2</sup></td><td>3m</td></tr></table> <p>(both measurement excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <table><tr><td>Dwelling type</td><td>Min width</td></tr><tr><td>Studio</td><td>3.6m</td></tr><tr><td>1br</td><td>3.6m</td></tr><tr><td>2br</td><td>4m</td></tr><tr><td>3br</td><td>4m</td></tr></table>	Apartment Type	Minimum internal area	Studio	35 sqm	1 Bedroom	50 sqm	2 Bedroom	70 sqm (+5sq add bathroom)	3 Bedroom	90 sqm (+5sq add bathroom)	Bedroom type	Min area	Min dimension	Master bedroom	10m <sup>2</sup>	3m	Other bedroom	9m <sup>2</sup>	3m	Dwelling type	Min width	Studio	3.6m	1br	3.6m	2br	4m	3br	4m	Complies 1 Bed – 71m <sup>2</sup> 2 Bed – 70m <sup>2</sup>
Apartment Type	Minimum internal area																														
Studio	35 sqm																														
1 Bedroom	50 sqm																														
2 Bedroom	70 sqm (+5sq add bathroom)																														
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Master bedroom	10m <sup>2</sup>	3m																													
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Studio	3.6m																														
1br	3.6m																														
2br	4m																														
3br	4m																														

	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.																
Private Open Space & Balconies	<p>All apartments are required to have primary balconies with minimum area and depth as setout under 4E-1.</p> <table><tr><th>Dwelling type</th><th>Min pos area</th><th>Min pos depth</th></tr><tr><td>Studio</td><td>4</td><td>-</td></tr><tr><td>1br</td><td>8</td><td>2m</td></tr><tr><td>2br</td><td>10</td><td>2m</td></tr><tr><td>3br</td><td>12</td><td>2.4m</td></tr></table> <p>The min balcony depth to be counted as contributing to balcony is 1m</p> <ul style="list-style-type: none"><li>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m.</li></ul>	Dwelling type	Min pos area	Min pos depth	Studio	4	-	1br	8	2m	2br	10	2m	3br	12	2.4m	Complies 50m²/1 bedroom 10m²/2 bedroom
Dwelling type	Min pos area	Min pos depth															
Studio	4	-															
1br	8	2m															
2br	10	2m															
3br	12	2.4m															
Common circulation & spaces	<ul style="list-style-type: none"><li>The maximum number of apartments off a circulation core on a single level is 8.</li><li>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</li></ul>	Non compliance Single cores with a maximum of 10 dwellings off the core proposed.															
Storage	<p>Adequate, well designed storage is provided in each apartment. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided as setout under 4G-1.</p> <p>Minimum volume requirement for storage</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1br</td><td>6m³</td></tr><tr><td>2br</td><td>8m³</td></tr><tr><td>3br</td><td>10m³</td></tr></table> <ul style="list-style-type: none"><li>At least 50% of the required storage is to be located within the apartment.</li><li>Additional storage is conveniently located, accessible and nominated for individual apartments.</li></ul>	Dwelling type	Storage size volume	Studio	4m³	1br	6m³	2br	8m³	3br	10m³	Complies Wholly provided within units. Storage proposed within car park is not usable as parking is not allocated to units and storage within parking space cannot be accessed if parking space occupied.					
Dwelling type	Storage size volume																
Studio	4m³																
1br	6m³																
2br	8m³																
3br	10m³																
Acoustic Privacy	Noise transfer is minimised through the siting of buildings and building layout. Noise impacts are mitigated within apartments through layout and acoustic treatments.	Satisfactory															
Noise Pollution	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings. Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	Satisfactory															
Apartment mix	A range of apartment types and sizes is provided to cater for different household types now and into the future. The apartment mix is distributed to suitable locations within the building.	Non compliance 1x 1 bedroom and 33 x 2 bedroom															
Ground floor apartments	Street frontage activity is maximised where ground floor apartments are located. Design of ground floor apartments delivers amenity and safety for residents.	4 ground floor apartments with courtyards															
Facades	Building facades provide visual interest along the street while respecting the character of the local area. Building functions are expressed by the façade.	Satisfactory															
Roof Design	Roof treatments are integrated into the building design and positively respond to the street.	Satisfactory															



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

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

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

	(l) to encourage a strategic approach to coastal management.	The proposal does not undermine this aspect.	√
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	Existing public access to the foreshore remains unchanged and is not diminished, under the proposal.	√
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	Access to the foreshore is not diminished under the proposal.	√
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	Due to the height of the building in the context of existing surrounding development, the proposal will be readily visible in the areas immediately surrounding the site. However, the redevelopment of the site generally complies with Council's controls excepting building height. The building FSR is below Council's maximum controls for the site. The variation to the height, is not readily discernable and the height is well below the potential height of the site under the key site provisions.	√
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	There is some overshadowing of the areas surrounding the site to the south, however, the extent of shadowing is not significant or unreasonable within the context of the site and there is no shadowing of public foreshore areas. There will not be any view loss to the foreshore or lake from a public place associated with the proposal.	√
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will not have any potential adverse impacts on the scenic qualities of the coastline.	√
g	Measures to conserve animals (within the meaning of the <a href="#">Threatened Species Conservation Act 1995</a> ) and plants (within the meaning of that Act), and their habitats.	The proposal does not adversely impact on any threatened species or habitat.	√
h	Measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a> ) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no adverse impacts on the conservation of fish and marine vegetation.	√
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.	√
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The subject site is not identified within the Draft Wyong Shire Coastal Hazard Management Plan as being subject to coastal hazards.	√
k	Measures to reduce the potential for	The proposal has no adverse	√

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

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**Attachment 4 – Clause 4.6 Exception to development standard – Height of buildings**

## Attachment 5 – Draft recommended conditions

### 1. PARAMETERS OF THIS CONSENT

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

#### Architectural Plans:

Description/Title	Drawing No	Rev	Date	Author
Coversheet	SK-001	D	5/9/18	CKDS Architecture
Regulatory Environment	SK-002	D	5/9/18	CKDS Architecture
Site Plan/Analysis	SK-005	D	5/9/18	CKDS Architecture
Demolition Plan	SK-006	D	5/9/18	CKDS Architecture
Waste Management Plan	SK-007	D	5/9/18	CKDS Architecture
Lift Overrun	SK-009	D	5/9/18	CKDS Architecture
Ground floor plan	SK-101	D	5/9/18	CKDS Architecture
Typical Floor Plan	SK-102	D	5/9/18	CKDS Architecture
Roof Plan	SK-103	D	5/9/18	CKDS Architecture
Elevations	SK-201	D	5/9/18	CKDS Architecture
Elevations	SK-202	D	5/9/18	CKDS Architecture
Sections	SK-301	D	5/9/18	CKDS Architecture
Sections	SK-302	D	5/9/18	CKDS Architecture
External Finishes Schedule	SK-401	D	5/9/18	CKDS Architecture
Landscape Plan – Cover Sheet	L000	D	10.07.18	Xeriscapes
Landscape Plan –Ground Floor	L101	C	10.07.18	Xeriscapes
Precedent Images	L102	C	10.07.18	Xeriscapes
Indicative Plant Schedule	L103	B	10.07.18	Xeriscapes

#### Supporting Documentation

Document	Title and Author	Date
D13214294	Traffic and Parking Impact Assessment Report – Barker Ryan Stewart	April 2018
D13331538	Arboricultural Impact Assessment – Accurate Tree Assessment	Sept 2018
D13214324	Noise Assessment – Rapt Consulting	April 2018
D12970813	Disability Access Report – Lindsay Perry Access	17 Nov 2017
D12970845	Crime Risk Assessment Report	18 Nov 2017

D13313865	Social Impact Assessment	23 August 2018
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- 1.2. Carry out all building works in accordance with the Building Code of Australia.
- 1.3. The development is to be carried out in accordance with the advice provided in correspondence from the NSW Roads and Maritime Services dated 02.03 2018.
- 1.4. Comply with all commitments listed in the BASIX Certificate for the development as required under clause 97A of the *Environmental Planning and Assessment Regulation 2000*.
- 1.5. Where conditions of this consent require approval from Council under the Roads Act 1993, Local Government Act 1993 or Water Management Act 2000, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

## 2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1 All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2 No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
  - a) Site investigation for the preparation of the construction, and / or
  - b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
  - c) Demolition.
- 2.3 Submit amendments to the approved plans to the Accredited Certifier pursuant to clause 139 of the *Environmental Planning and Assessment Regulation 2000* that must detail:
  - a) Revised drawings to ensure sufficient room for other vehicles to enter the site while waste servicing is being undertaken to ensure no risk to the waste contractor, waste contractors vehicle or other vehicles.
  - b) Updated landscape plan to reflect the latest architectural layout plans.

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- c) The east and west facing units above ground level (mid-way of the building) will need some screening measures to the bedroom windows adjoining the building recess to ensure their privacy from the corridors.

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

Developer contribution = \$230,612.80 (as at 11/5/18). X Current CPI ÷ Base CPI

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

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

2.5 Measures are to be included in the design and construction of the building to reduce the impacts of road traffic noise on the internal areas within the building. The adopted design measures are to ensure that the following LAeq levels are not exceeded:

- In any bedroom in the building – 35dB(A) at any time between 10 pm and 7 am
- Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 dB(a) at any time.

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

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

- Tamar Ave - Kerb and guttering with an alignment of at least 1.0m from the property boundary for the full street frontage of the development.
- Tamar Ave - Full road pavement construction adjoining the proposed kerb and guttering.
- Dunleigh St - Concrete footpath 1.5 metres wide for the full street frontage of the development.



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- Pavement marking & signage.
  - Street trees at a maximum of 15.0 metre spacing.
  - Pavement design catering for  $1.9 \times 10^6$  equivalent standard axles.
  - Vehicle access crossing(s).
  - The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation.
  - Any associated works to ensure satisfactory transitions to existing infrastructure.
  - Adjustment of services as required.
  - Tamar Ave - No stopping signage on both side of the road to cover the entire site frontage.
  - Undergrounding of overhead electricity wires around the full frontage of the site.

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

- 2.8 The submission of a comprehensive road signage and pavement marking design drawings identifying parking restrictions, accesses and traffic management facilities to Council for approval by the Local Traffic Committee prior to issue of the Construction Certificate.
- 2.9 Prior to the commencement of detailed design works within any public road, contact should be made with the National Community Service "*Dial before you Dig*" on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries should provide the property details and the nearest cross street/road.
- 2.10 The submission to the Accredited Certifier of a detailed stormwater management plan featuring:
- Stormwater disposal to Dunleigh Street.
  - Drainage pit at the boundary line. A non-return valve will be required upon the site outlet to prevent stormwater / floodwater back flowing into the property drainage system.

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- The provision of an onsite stormwater detention system. The detention system must be designed to attenuate post developed flow rates to predevelopment flow rates for a full range of storm durations for the 5, 20 and 100 year average reoccurrence interval (ARI) design storms.
  - The provision of stormwater quality control facilities to treat stormwater in accordance with the Engineers Australia publication *Australian Runoff Quality – A Guide to Water Sensitive Urban Design* prior to entering Council's stormwater drainage system.
  - Waste water from the wash down area must be connected to sewer and appropriate Trade Waste license obtained.
  - Removal of the rainwater re-use storage component of the combined underground OSD / OSR system. An alternative arrangement for an above-ground rainwater tank system for irrigation purposes only shall be provided. A possible location adjacent to the proposed car wash bay and landscaped areas shall be considered.

The plans must be prepared in accordance with *AS/NZS3500.3:2004* and Council's *Civil Works Design Guidelines*, and be approved by the Accredited Certifier prior to issue of the Construction Certificate. The plans shall generally be in accordance (with required amendments) with the submitted concept stormwater drainage plans by Northrop (refer Job No. NL 172245, Revision B, dated 24/4/2018), which are to be advanced as necessary for Construction Certificate issue purposes.

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

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

- Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway and circulation roads.
- Pavement design able to withstand anticipated vehicle loading.
- Wheel stops for parking spaces.

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

- 2.13 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. **Note:** The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.
- 2.14 The submission to Council as the Water Supply Authority of detailed structural design drawings and supporting information for structures within the zone of influence of the sewer main. The design shall indicate the proposed method of protecting the sewer main in accordance with Council's *Requirements for Building Over or Adjacent to Sewer Mains* policy. Design details must be approved by Council as the Water Supply Authority prior to the issue of a Construction Certificate.
- 2.15 All works and services, including water and electricity, must be located, designed and installed to minimise or prevent damage (roots or canopy) to retained trees on immediately adjoining properties.

### 3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1 All conditions under this section must be met prior to the commencement of any works.
- 3.2 No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
- a) Site investigation for the preparation of the construction, and / or
  - b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
  - c) Demolition approved by this consent.
- 3.3 Appoint a Principal Certifying Authority for the building work:
- a) The Principal Certifying Authority (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development

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consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.

- b) Submit to Council a Notice of Commencement of Building Works or Notice of Commencement of Subdivision Works form giving at least two (2) days' notice of the intention to commence building or subdivision work. The forms can be found on Council's website: [www.centralcoast.nsw.gov.au](http://www.centralcoast.nsw.gov.au)

3.4 Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:

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

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

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

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

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

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

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

- 3.7 Disconnect, seal and make safe all existing site services prior to the commencement of any demolition on the site. Sewer and water services must be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector as the Water and Sewer Authority.
- 3.8 Prior to the commencement of construction an initial Erosion and Sediment Control Plan (ESCP) prepared in accordance with the latest edition of the Landcom Publication *'Soils and Constructions- Volume 1'* (The Blue Book) shall be provided to the Principal Certifying Authority. This plan shall be modified and updated during construction to reflect any changes due to the on-ground/site conditions. A copy of any modifications or updates to the ESCP shall be provided to the PCA and provided to Council upon request.

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

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

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- 3.11 Prior to commencing any works upon public roads the developer and their contractor will be required to:
- Obtain a copy of the Council approved Civil Works plans and pavement design (if applicable).
  - Obtain a copy of Council's *Civil Works Design Guidelines*. This is Council's Specification for Civil Works and is available on Council's web site.
  - Arrange a meeting on-site with Council's Principal Development Construction Engineer on (02) 4350 5555.
- 3.12 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works.
- 3.13 Prior to the commencement of any works, the Applicant shall prepare a Construction Traffic Management Plan for the development. The plan shall include Traffic Control Plans prepared by a suitably qualified and experienced consultant. All works must ensure the safety of all vehicles and pedestrians within the frontage service road.
- 3.14 Ensure that all parties / trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.
- 3.15 Establish Tree Protection Zones (TPZ) around trees identified to be retained (in accordance with the Arborist Report from Accurate Tree Assessment dated Sept 2018). Trees to be retained are to be protected by fencing and / or other accepted protection measures in accordance with Australian Standard AS 4970-2009: *Protection of Trees on Development Sites*. All required tree protection measures are to be maintained for the duration of construction works. Sign-post fences around Tree Protection Zones to warn of its purpose.
- 3.16 Protect street trees by installing protective fencing. This includes the trees on Tamar Lane. Any street tree damaged during works must be immediately reported to Council, which may incur a compensation fee, rectifying and / or replaced with a tree of similar height and species at no cost to Council.

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- 3.17 Ensure a qualified arborist (AQF 5) is on-site to oversee the works in relation to tree protection measures during critical stages of construction.

## 4. DURING WORKS

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

- 7.00am and 5.00pm Monday to Saturday

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

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

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

- 4.4 Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 4.5 Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifying Authority or an officer of Council.
- 4.6 Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the *Plumbing and Drainage Act 2011*. This condition only applies if no installation / alteration of plumbing and / or drainage works are proposed (excludes stormwater drainage).
- 4.7 Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and

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vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.

- 4.8 Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.
- 4.9 Arrange with the relevant service provider / Authority (eg. Ausgrid, Jemena, communications provider) for the supply of services concurrently with the engineering work approved by this consent. Arrangements must include, where required, any relocation of existing mains and services, and dedication of easements for mains and services.
- 4.10 During construction works, all cut or fill is to be constructed in such a manner that surface water will not be permanently or temporarily diverted to adjoining land and so that natural drainage from adjoining land will not be obstructed or affected.
- 4.11 Demolish all buildings and / or building components in a safe and systematic manner in accordance with Australian Standard AS 2601-2001: *The demolition of structures*. Waste materials must be disposed of at a waste management facility.
- 4.12 Undertake any demolition involving asbestos in accordance with the *Work Health and Safety Act 2011*.

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

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

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

- 4.13 Suitable dust suppression measures shall be implemented and maintained by the developer during demolition, excavation and construction works associated with the development. Such measures are required to minimise the emission of dust and other impurities into the surrounding environment.
- 4.14 Sound attenuating devices shall be provided and maintained in respect of all power-operated plant used during demolition, earth works and the erection of the structure.



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The quietest available plant should be used and be regularly maintained and fitted with appropriate mufflers.

- 4.15 A minimum of five working days prior to any potentially noise generating construction works commencing, written notice shall be given to surrounding occupants advising of the time/date and duration for the works and the principal contractors contact details.
- 4.16 The developer is solely responsible for any costs relating to alterations and extensions of existing roads, drainage, water and sewer infrastructure and other utilities for the proposed development.
- 4.17 Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - AGL Sydney Limited for any change or alteration to gas line infrastructure;
  - Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.
- 4.18 Undertake the removal of trees as shown on the approved plan in a manner so as to prevent damage to those trees that are to be retained.
- 4.19 Design, locate and install underground services to minimise or prevent tree root damage in accordance with Australian Standard AS 4970-2009: *Protection of Trees on Development Sites*.

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

- 5.1 All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority. The Occupation Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.

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- 5.3 Prior to the issue of an Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.
- 5.4 The consolidation of all lots comprising the site by registered subdivision prior to the issue of any Occupation Certificate. Documentary evidence of the Consolidation Plan registration with the Land and Property Management Authority must be submitted to the Accredited Certifier prior to the issue of any Occupation Certificate.
- 5.5 Prior to any Occupation Certificate, a suitably qualified acoustic consultant is to confirm that the development will not exceed the following LAeq levels:
- (a) In any bedroom in the building – 35dB(A) at any time between 10 pm and 7 am
  - (b) Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 dB(a) at any time.
- 5.6 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.
- 5.7 Where the proposed use of the development discharges waste other than domestic sewage, then the submission of a liquid trade waste application and subsequent approval by Council as the Water and Sewer Authority, to discharge liquid trade waste into the sewerage system is required prior to issue of the Occupation Certificate.
- 5.8 After the trade waste facility has been constructed, an *"Application for final inspection of a new Liquid Trade Waste Facility"* must be submitted to Council as the Water and Sewer Authority. Council's final approval for the liquid trade waste facility is required prior to the issue of the Occupation Certificate.
- 5.9 Prior to the issue of an Occupation Certificate, the developer must comply with the requirements (including financial costs) of any relevant utility provider (for electricity, water, sewer, drainage, gas, telecommunications, roads, etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
- 5.10 Prior to the issue of an Occupation Certificate, the required rainwater tank is to be provided in the location as detailed within the approved development plans with

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suitable plumbing connections provided to collect rainwater from the roof area as detailed within the BASIX Certificate applicable to the development. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code AS/NZS 3500 and shall be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all fixtures as detailed within the BASIX Certificate applicable to the development. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%.

- 5.11 All works within the public road must be completed in accordance with the approved Civil Works design drawings and Council's *Civil Works Construction Specification* and be approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.
- 5.12 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.
- 5.13 The construction of stormwater drainage works external to the site and discharging into a public system or public land in accordance with the approved Stormwater Management Plan and Council's *Civil Works Construction Specification*. All works must be approved by Council under Section 68 of the Local Government Act 1993 prior to issue of the Occupation Certificate. All other stormwater management works must be approved by the Principal Certifying Authority.
- 5.14 Prior to the issue of the final Occupation Certificate, a 'Restriction on the Use of Land' shall be created on the title of the land restricting any alteration to the on-site stormwater detention system. The terms of the Restriction are to be prepared to Council's standard requirements. Central Coast Council shall be nominated as the party to release, vary or modify the restriction.
- 5.15 Prior to the issue of the final Occupation Certificate, a 'Positive Covenant' shall be created on the title of the land requiring the registered proprietor to ensure the continued maintenance and performance of the on-site stormwater detention structure. The terms of the positive covenant are to be prepared to Council's standard requirements. Central Coast Council shall be nominated as the party to release, vary or modify the restriction.

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- 5.16 The original completed request forms (Department of Lands' standard forms 13PC and 13RPA) must be submitted to Council for authorisation. A copy of the work-as-executed plan (details overdrawn on a copy of the approved stormwater management plan) and Civil Engineer's certification must accompany the completed request forms. Documentary evidence of the registration of the Positive Covenant and 'Restriction on the Use of Land' shall be provided to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.
- 5.17 Amend the deposited plan (DP) to include a s. 88B instrument under the Conveyancing Act 1919 to indemnify Council against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service, at the applicant's cost.
- 5.18 The construction of the carpark, accesses and internal waste management in accordance with AS/NZS 2890 - Parts 1, 2 & 6. Certification of the construction of the carpark and associated accesses by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.
- 5.19 Prior to the issue of an Occupation Certificate, all water and sewer works for the development must be approved by Council as the Water and Sewer Authority.
- 5.20 The obtaining of a satisfactory final plumbing & drainage inspection advice or Section 307 Certificate of Compliance under the *Water Management Act 2000* for water and sewer requirements for the development from Central Coast Council as the Water Supply Authority, prior to issue of the Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.
- 5.21 Prior to the issue of an Occupation Certificate, the provision of a corner splay on the Dunleigh Street / Tamar Ave intersection. This splay shall be dedicated as public road and at no cost to Council.
- 5.22 A management plan for waste collection is to be prepared and adopted for the site to ensure safe, orderly and efficient management of waste on the site and to mitigate adverse impacts to the street and residential amenity. The plan shall include, but not be limited to, ongoing maintenance of the waste area and the process for presenting the refuse receptacles for collection in accordance with the waste contractor's requirements. The plan shall include:

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- A recyclables storage cupboard (adjacent to the garbage chute) is to be provided and identified on each floor.
  - A mobile garbage bin lifter is to be indicated within the principal waste storage enclosure to facilitate emptying of the recyclables bins from the interim recyclables storage room on each floor into the bulk waste bins in the principal waste storage enclosure.
  - Garden/landscaping waste shall be removed off site by the garden/landscaping contractor
  - Identification of who will be responsible for monitoring and transferring recyclables bins within the interim recyclables storage rooms on each floor to the principal waste storage enclosure to ensure storage capability is available at all times and who will be responsible to transfer all bulk waste bins to the holding/servicing location the evening before collection.
  - All residential waste vehicle manoeuvring is to be designed and certified to AS 2890.1 by a Traffic Engineer for the 10.5m long, dual rear axle HRV. The plans are to ensure sufficient room for other vehicles to enter the site while waste servicing is being undertaken to ensure no risk to the waste contractor, waste contractors vehicle or other vehicles.
  - Sufficient space is to be demonstrated/indicated to ensure other vehicles are able to enter the site while bulk waste bins are being serviced. Measures are to be adopted for the management of the waste collection area to minimize the potential for conflict with other vehicles wishing to enter the site while waste servicing is being undertaken. The adopted measures shall address potential risk to the waste contractor, waste contractors vehicle or other vehicles.
  - Fully dimensioned details of the waste storage room and the holding/servicing location at a suitable scale are required to demonstrate the ability to store, access, transport and service all bulk bins at the remote bulk waste bin servicing location.
  - Details for the Internal management of the waste storage enclosure/interim recyclables room will be required for the storage of waste deposited into the chute and the recyclables interim storage rooms when bulk waste bins are in the holding/servicing location waiting to be serviced.
  - Bulk bins must be able to be accessed without the need to shuffle bins to access other bins. ie no stacking etc. Sufficient room within both areas is required to allow bulk bins to be readily accessed by the appointed person to transport bins from the waste storage enclosure to the holding/servicing location and for the residential waste contractor to service bulk waste bins at the rear of the residential waste vehicle within the waste truck servicing area.

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- A minimum 4.0m vertical height clearance is required in all waste vehicle manoeuvring area/s.

5.23 Construct the waste storage area to the following standards, for safety, amenity and maintenance reasons:

- a) floors must be constructed of concrete, graded and drained to an approved drainage outlet connected to the sewer and finished to a smooth even trowelled surface
- b) walls must be constructed with solid impervious material and must be cement rendered internally to a smooth even steel trowelled surface
- c) all intersections between the walls and floors must be coved with coving having a minimum radius of 25mm
- d) all entry points into the room must be bunded to prevent the escape of liquid waste. Bunding must be for 110% of the likely liquid storage waste and constructed in such a manner that does not obstruct the removal of waste receptacles from the room or create a safety risk to users
- e) adequate ventilation must be provided
- f) adequate lighting must be provided
- g) the ceiling must have a minimum height of 2.1 metres from floor level and be finished with a smooth faced non-absorbent material capable of being easily cleaned
- h) waste storage areas must prevent the access of vermin
- i) waste receptacles used must be compatible with Council's waste collection service
- j) the door to the storage area must be weatherproof and must be openable from the inside at all times; and
- k) hot and cold water hose cocks must be located inside or within close proximity to the waste storage areas to facilitate cleaning.

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

5.25 Prior to the issue the Occupation Certificate, the Principal Certifying Authority shall receive a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the Design Quality Principles

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set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.

- 5.26 The car wash bay must be bunded in accordance with AS 1940–1993 and AS/NZS 4452–1997, covered and discharges directed to sewer in accordance with Council’s Trade Waste requirements. A separate trade waste approval must be obtained prior to connection to the sewer.
- 5.27 A minimum of 10% of all dwellings within the development are to be designed as suitable for adaptation for occupation by disabled/aged persons as outlined in AS 4299:Adaptable Housing. The adaptable housing should include a mix of outlook and include adaptable units located at the street front with a courtyard. Satisfactory plans demonstrating compliance are required to be provided. The plans are to demonstrate compliance including satisfactory circulation space and good layout design requiring minimal changes in accordance with the Australian Standard.
- 5.28 Execute a section 88E instrument under the Conveyancing Act 1919 to establish the following positive covenants; with Council having the benefit of these covenants and having sole authority to release and modify.
- a) The positive covenant(s) must ensure that for a period of 25 years from the date of the issue of the Occupation Certificate.
    - (i) All units must be used for the purposes of affordable housing as defined by the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, and
    - (ii) all accommodation that is used for affordable housing must be managed by a registered community housing provider; and
    - (iii) the rent of each unit, is not to exceed the formula for Affordable Housing as defined in Clause 6 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*; and
    - (iv) use for in-fill development under Division 1 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
- 5.29 Plant a minimum of 6 replacement tree(s) (advanced specimens min 25lt pot size) in accordance with the recommendations in the arborist report (Report by Accurate Tree Assessment dated Sept 2018). Replacement trees must be native species capable of achieving a minimum mature height of 8 metres. New trees are not to be located within an authority’s service easement, or within 3m of an approved building. Where the

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replacement tree dies or is substantially damaged within five (5) years of planting, it must be replaced and maintained to maturity.

5.30 To minimise the opportunity for crime and in addition to the applicant's submitted Crime Risk Assessment (dated 18 Nov 2017), supporting information and Crime Prevention Through Environmental Design principles, the development shall incorporate the following:

- i. In order to maintain a safe level of visibility for pedestrians within and around the development, adequate lighting to AS1158 is to be provided to all common areas including parking, the external storage areas and any pedestrian routes to these areas. All lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties.
- ii. Access control measure/s are to be provided to restrict access to the communal open space area from the public/street. Consideration of the installation of CC/TV to the communal open space area to minimise the opportunities for crime related to the external storage areas.
- iii. The means to isolate the various areas of the site shall be incorporated into the development, including measures for after-hours access. Ensure that the development minimises the opportunities for concealment or entrapment spaces.
- iv. Ensure the development management adopts an ongoing policy of rapid repair of vandalism and graffiti and ensuring that all lighting is in working order.
- v. Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.

5.31 An Operational Management Plan and tenancy agreements are to be developed and submitted to Council for review prior to the issue of a Construction Certificate. The Operational Management Plan is to be structured as follows:

- o *Introduction* (description of building & location overview, details of Community Housing Provider, etc)
- o *Management Arrangements* (managing agent contact details & managing agent role)
- o *Becoming a resident* (application process, criteria and process for selecting residents, reference checks, occupancy agreements, ending agreements)
- o *Resident information* (resident information pack, resident's legal rights and duties and general rules, common area rules and hours of use, car parking, car wash bay, and bike storage)
- o *Emergency management* (emergency egress routes, evacuation plan, fire safety, important phone numbers, public display of name and number of managing



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- agent and internal display of relevant information – house rules, emergency contacts)
  - *Maintenance* (dwelling maintenance and inspections, incidents register, waste management & recycling)
  - *Complaints/ Dispute handling and complaints register* (public display of name and number of managing agent and internal display of relevant information – rules, emergency contacts etc. All complaints should be entered into a register, purpose and function of complaints register, handling a dispute with a resident, handling a dispute between residents, dealing with aggression, liaison/relationship with neighbours and the local community and how impacts on residents will be mitigated and crime. Details should be provided on how liaison with neighbours will occur and what mitigation measures will be put in place to mitigate impacts on neighbours).
  - *Forms* (resident application form, occupancy agreement, condition report, incident report)

## 6. ONGOING

- 6.1 The non-habitable rooms such as garages, storerooms or outbuildings must not be adapted or used for habitable purposes.
- 6.2 All stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective.
- 6.3 All on-site vehicle parking areas, markings, driveways and manoeuvring areas are to be maintained for the life of the development.
- 6.4 All waste generated on the premises shall be stored in a manner so that it does not pollute the environment. All waste generated on the premises shall be transported to a facility which is licensed to receive that material.
- 6.5 All waste collection services must not be undertaken before 7am any day of the week.
- 6.6 The owner/operator(s) of the site must maintain the external finishes of the building(s), structures, walls and fences for the life of the development and any graffiti must be removed in a timely manner.
- 6.7 The owner/operator(s) must effectively manage any incidences of anti-social behaviour or nuisance on the site by implementing appropriate responses to such incidences if they occur. The owner/operator(s) must also take appropriate measures after any such incident to reduce the likelihood of such incidences reoccurring on the site.

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- 6.8 All site landscaping is to be maintained for the life of the development in accordance with the approved landscape plan, as amended by the conditions of this consent, and with the approved maintenance schedule.
- 6.9 Any plant or equipment required for refrigeration, air-conditioning, heating, filtering and the like must be suitably insulated for the purpose of reducing noise emissions and should not visibly screened so as not to project beyond the roofline or from an external wall. Regular servicing and maintenance of 'plant' to ensure that it is run in a proper and efficient manner.
- 6.10 Replace all damaged, dead or missing areas of lawn and plantings at the completion of the landscaping maintenance period, including adjoining road reserve areas that are in a state of decline, to a healthy and vigorous condition in accordance with the approved detailed Landscape Plans and Development Consent Conditions.
- 6.11 The Community Housing Provider is to undertake regular assessments of the rental levels for the local area to ensure that the development is affordable for the intended residents.
- 6.12 Implement and comply with the Council approved Operational Management Plan at all times during operation of the Affordable Housing component of the development.
- 6.13 The Community Housing Provider is to consult with owners of adjoining properties on a regular basis and establish a complaints register to address any issues that arise, such as noise, parking and other amenity impacts, to ensure the safety and security for both residents of the proposed development and local residents. Any breach could result in a breach of the tenancy agreement and may result in termination of the contract.
- 6.14 Community information and resources relating to services and facilities, local and shire-wide events is to be provided to all residents to enable increased connections and wider participation within the surrounding community.

## PENALTIES

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

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

- Issue Penalty Infringement Notices (On-the-spot fines);

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- Issue notices and orders;
  - Prosecute any person breaching this consent, and/or
  - Seek injunctions/orders before the courts to retain and remedy any breach.

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

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

### **ADVISORY NOTES**

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
  - a) Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
  - b) Jemena Asset Management for any change or alteration to the gas line infrastructure
  - c) Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
  - d) Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
  - e) Central Coast Council in respect to the location of water, sewerage and drainage services.
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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