

# **Development Committee**

Meeting Date: Tuesday, 10 October, 2017

Location: Council Chambers, City Administrative Building, Bridge Road, Nowra

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# A message from the Minister

NSW's social housing system was created after the Second World War for working families with low incomes. In the 1950s, 73% of people using social housing were couples with children.

Today the social housing system supports a very different demographic. It is a safety net for the most vulnerable in the community – including the elderly, people with a disability or severe and chronic mental health illness, carers with long term

caring responsibilities and those experiencing drug and alcohol misuse and domestic and family violence.

However there are people in the social housing system who could, over time and with the right opportunities, become independent and no longer require government support. This includes families with children, young people and job seekers.

The NSW Government wants social housing to be a vehicle for breaking disadvantage. We want to encourage residents in social housing to be aspirational, not generational.

Our reforms will see us working in partnership with all levels of government, not-forprofit housing providers, the private sector and social housing tenants to deliver more housing with better support services.

It is a future in which all the agencies with a vital interest in the life outcomes for social housing residents - including Health, Education, Justice, Planning and Environment, Industry and Family and Community Services – collaborate and are held accountable.

It is a future where there are expectations and accountability for new and existing residents of social housing.

This strategy will support innovative ideas and projects including the Premier's Innovation Initiative for social housing and the Social and Affordable Housing Fund to facilitate up to \$1 billion of new social and affordable housing.

Social housing is a vital service underpinning the social good of NSW. This ten year strategy encompassing the NSW Government's reforms is about more than properties. It is about people.

#### **Brad Hazzard**

Minister for Family and Community Services
Minister for Social Housing



# **Executive summary**

Future Directions for Social Housing in NSW sets out the NSW Government's vision for social housing over the next 10 years.

This strategy will drive better outcomes for tenants including helping those who are able to transition out of social housing.

It looks at the whole continuum of housing - from homelessness to the private market.

It provides focused support to help people avoid long term social housing tenancies, while also recognising the role stable housing plays in the lives of people who are not able to live elsewhere.

Future Directions is underpinned by three strategic priorities:

- · More social housing
- · More opportunities, support and incentives to avoid and/or leave social housing
- A better social housing experience.

This will achieve the following outcomes:

- Increase successful transitions out of social housing by 5%
- Increase the proportion of young people who successfully move from specialist homelessness services to long term stable accommodation by 10%.

For this to be successful the NSW Government will collaborate with the private sector, the not-for-profit sector and all levels of government to create a social housing system which is sustainable and responsive.



By 2025, Future Directions will seek to transform the social housing system in NSW from one which is dominated by public sector ownership, control and financing of assets and provision of services, and in which tenants have little incentive for greater independence and live in circumstances that concentrate disadvantage, to a dynamic and diverse system characterised by:

- a greater involvement of private and non-government partners in financing, owning and managing a significantly expanded stock of social and affordable housing assets;
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- b expanded support in the private rental market, reducing demand on social housing and the social housing wait list
- c more competition and diversity in the provision of tenancy management services through the expanded capacity and capability of community housing providers
- d housing assistance being seen as a pathway to independence and an enabler of improved social and economic participation for tenants living in vibrant and socio-economically diverse communities.

To achieve these goals, Future Directions will implement the three interconnected strategies set out in this submission:

- 1 significant expansion and redevelopment of stock through partnerships with private sector developers and finance;
- 2 transferring significant tenancy management responsibility to non-government housing providers; and
- 3 "wrap-around" services to support tenants build their capabilities and take advantage of the economic opportunities in our strengthening economy.

In addition, Future Directions will be supported by the Social and Affordable Housing Fund, which will implement innovative approaches to private and non-government sector contributions (in the form of financial investment or land) to grow the stock of social and affordable housing.

Future Directions will move the social housing system to a situation where government supports private and non-government sector initiative and innovation as opposed to one in which government dominates the landscape.

The provision of social housing will be just one part of an individualised and holistic approach to breaking disadvantage for our clients – including health, education, and employment support:

- There will be more social housing better designed to meet tenants' needs, more
  effective alternatives to social housing, and more pathways out of social housing,
  especially for children, young people and their families
- There will be shorter average tenancies and more people 'graduating' from social housing as a result of skills and employment we have helped them acquire
- More clients will use private rental assistance to get them through difficult periods, rather than going on the waiting list
- Children of social housing tenants' school performance will improve
- Young people who have grown up in social housing will increasingly move into independent housing, using the education, skills and employment we have helped them acquire



- Those in our community who are most disadvantaged are assisted to live in a safe and stable home environment
- There will be more community, private sector, and Commonwealth involvement in the system and we will all work together to support disadvantaged people
- More people in social housing feeling safer and participating in their local community.

### A new direction

Social housing exists to help those in need. But providing subsidised housing also has the potential to entrench disadvantage. After getting a social housing tenancy, there is an incentive to avoid losing eligibility for that benefit, so sometimes people avoid improving their skills and gaining work. As a result, the system that aims to relieve poverty can end up trapping people in poverty.

This strategy refines the focus on need. It identifies two broad groups of social housing tenants:

- The 'safety net group': people who require support for an extended period of time
- The 'opportunity group': people who can be helped to become more independent so they no longer require social housing and government assistance.

The new approach to social housing clients in the opportunity group will not come at the expense of those in the safety net group. The frail aged and people living with a disability or a serious mental illness will continue to be supported.

Future Directions will be testing a number of new locally based approaches. This includes a more collaborative and joined up approach to service delivery, across government and non-government organisations, with a view to achieving positive outcomes for social housing tenants and those on the waiting list.

Social housing definition: Rental housing provided by not-for-profit, non-government or government organisations to assist people who are unable to access suitable accommodation in the private rental market. Social housing includes public, Aboriginal and community housing, as well as other services and products.



# More social housing

Demand for social and affordable rental housing is increasing. An increasingly unaffordable private rental market for people on low incomes, responses to homelessness and fewer social housing vacancies have driven the growth in the waiting list, which has now reached 60,000 households.

As a result at the same time, people are staying in social housing longer. The average length of a social housing lease is becoming longer, with more than 50% of people in social housing holding a lease for 10 years or more.<sup>1</sup>

The challenges for the 'opportunity group' to transition to the private rental market have become more prevalent at the same time as more 'safety net' clients are being accommodated with longer term housing needs.

Simply increasing the supply of social housing without doing anything to mitigate demand, will not deliver a sustainable and responsive system. Likewise just relying on rental subsidies will not support the safety net group. We need to make the best use of our social housing properties to get the best access and the best value for tenants and for our State.

The NSW Government is committed to a large scale building program to deliver new social, affordable and private housing. This will bring with it significant economic activity estimated at \$22 billion in housing construction to the State.

The NSW Government has recently launched Communities Plus - a new approach to delivering integrated communities and improved social outcomes. Communities Plus will be an ongoing program that seeks non-government and private sector partnerships to redevelop Land and Housing Corporation sites throughout metropolitan Sydney and regional NSW.

The NSW Government has recently announced the Social and Affordable Housing Fund (SAHF) which will provide ongoing financial support to deliver access to 3000 social and affordable houses in its first tranche. This is fulfilling the Government's commitment to introducing innovative financing mechanisms into the social housing system.

The NSW Government will:

- Transfer management of government owned dwellings so that the community housing sector either owns or manages up to 35% of all social housing in NSW
- Engage the non-government and private sector to deliver up to 23,000 new and replacement social housing dwellings
- Continue to introduce measures that ensure social housing meets the changing needs of tenants, such as better utilisation of social housing
- Implement innovative financing mechanisms.

1 Internal FACS data (2014)

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### **Actions:**



# 1.1 Increase redevelopment of Land and Housing Corporation properties to renew and grow supply

In partnership with the private sector Land and Housing Corporation will fast-track redevelopment of its social housing portfolio. The new social housing developments will be modern, look the same as neighbouring private dwellings and be close to transport, employment and other community services.

The redevelopment program includes both small-site redevelopments as well as larger redevelopments and will create opportunities for innovation through partnerships with the private and non-government sectors. These partnerships will incorporate tenancy management and engagement, both of which are essential to achieve community integration.

Over the next 10 years the NSW Government will:

- a Deliver redevelopment projects on Land and Housing Corporation sites throughout NSW through Communities Plus
- b Align redevelopment projects with UrbanGrowth priority renewal areas
- Work with planning agencies and authorities to ensure appropriate rezoning is possible
- d Ensure large redevelopments target a 70:30 ratio of private to social housing to enable more integrated communities (generally with an increased number of social housing where practicable).

The building program will have several different elements which include neighbourhood scale, medium scale and major urban transformation redevelopments. The sites selected will be offered to the market through Communities Plus and will have good amenity, access to transport, employment and educational opportunities.

For example the eight hectare Ivanhoe Estate at Macquarie Park (currently with 259 social housing dwellings), will be transformed into a high quality integrated community with more than 1800 private, 556 social and 128 affordable housing dwellings.

"Communities Plus will be at the forefront of encouraging people in social housing to be aspirational, not generational. Many of the new social housing units will be used to trial innovative programs that link housing assistance to participation in education, training and local employment opportunities to promote independence"

- Brad Hazzard, Minister for Family and Community Services and Social Housing.



### Implications for existing tenants

The building program involves the redevelopment of existing social housing dwellings, requiring temporary tenant relocations. FACS will work closely with communities to avoid unnecessary disruption to tenants' lives.



# 1.2 Increase the capacity of community housing providers and other non-government organisations to manage properties

The NSW Government will transfer management of government owned dwellings to community housing providers and other non-government organisations through a competitive process. Within 10 years the community housing sector will manage up to 35% of all social housing in NSW. The NSW Government will create contracts with:

- a Longer term leases to be determined on a location by location basis
- b Requirements that community housing providers work toward achieving, measuring and reporting on how tenant outcomes have improved through the Social Housing Outcomes Framework including meeting the Premier's/State targets
- c Requirements that community housing providers will assist with relocating tenants to free up properties required for redevelopment.

The Aboriginal Housing Office (AHO) will continue to work closely with Aboriginal Community Housing Providers (ACHPs) to maintain its ongoing commitment of ensuring that Aboriginal people in NSW have equal access to, and choice in, affordable housing.





# 1.3 Innovative financing and social impact investment models

The NSW Government will work with the private sector to identify innovative financing options that can be applied to the social housing system and provide a stable income stream. This includes:

- a Implementing the Social and Affordable Housing Fund and Premier's Innovation
- b Facilitating private sector investment in social housing such as:
  - Using social impact investments to provide incentives for housing providers to improve outcomes for social housing tenants
  - Investigating opportunities for ground leasing (an agreement where the lessee is permitted to develop a piece of property during the lease period, after which the land and all improvements are turned over to the property owner) and other structures as a way to promote investment from financial institutions such as superannuation funds.

## Social impact investment

Social impact investment is an emerging approach to tackling social challenges that brings together capital and expertise from across the public, private and not-for-profit sectors.

By harnessing the innovation of the non-government sector the NSW Government will deliver better outcomes for the most vulnerable people in our community, including those living in social housing.

The NSW Office of Social Impact Investment has been established to grow the social impact market and has delivered Australia's first two Social Benefit Bonds, seeking to deliver better services and results for families at risk.

Building on the successful launch of these bonds, the NSW Government is committed to finding other opportunities to use social impact investment to deliver better services and results.





# 1.4 Better utilisation of social housing properties

There are many houses across the social housing system that are not being optimised with the under-occupancy rate currently at 14%.

The NSW Government will reduce under-occupancy by:

- · Test a range of initiatives to address tenant under-occupancy
- Building more smaller, fit-for-purpose dwellings to match the needs of new and future tenants
- Re-designing the allocations process to ensure a better fit between tenants and
  properties. For example if only 3 bedroom properties are available we will place a
  single person in a private rental headleased property and retain the larger property
  for a family until such time as a suitable one bedroom unit is available for the single
  person.

"I am very happy and thankful to have such a nice place to live in. I feel living here has given me a lot of satisfaction as I am treated like any other resident who has bought their home - there is acceptance here. It is ideal living for an older person on their own. I have made many very good friends even though I have very little money. I feel I have picked up after losing everything"

Social housing tenant from south eastern Sydney



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# More opportunities, support and incentives to build housing independence

There are many barriers to building independence and to leaving social housing. These include access to education, finding work and having affordable housing options to transition to.

These challenges can be more effectively tackled through better integration of government services. This requires FACS to work jointly with all levels of government and the private and non-government sectors.

A Social Housing Outcomes Framework will be developed to define and measure client outcomes and provider performance against Future Directions. All social housing providers, whether non-government or government, will be accountable and measured under the Social Housing Outcomes Framework.

The NSW Government aims to:

- Increase the number of households successfully transitioning out of social housing by 5% over three years
- Improve the educational outcomes of students living in social housing
- Reduce the number of children growing up in social housing who take on their own social housing tenancy
- Increase the proportion of young people aged 15-24 who successfully move from specialist homelessness services to long-term accommodation by 10%.

To achieve these targets the NSW Government will:

- Increase the use of private rental assistance products by 60% by 2025 to help households avoid or leave social housing increasing support from 27,000 assistances in 2015 to 37,000 in 2025.
- Increase educational and employment opportunities for young people and families with children
- Hold all providers (government, non government and private) accountable for the social and economic outcomes for people in the social housing system
- Encourage development of more affordable rental housing to act as a stepping stone out of social housing, or a diversion from entering the system
- Remove disincentives for tenants to get employment
- Explore options to better utilise Government lands for social and affordable housing
- Develop an improved evidence base, focused on clients and social housing assistance outcomes.



### **Actions**



# 2.1 Remove work disincentives

Participants in the social housing consultation held in late 2014 and early 2015 identified a number of disincentives for people to enter the workforce. Among these was the risk of losing eligibility for social housing, as well as Commonwealth payments or concessions if they find work.

The NSW Government will:

- a Review FACS' housing policies to examine disincentives to work, and remove as many as possible
- b Commence an independent review of different social and affordable housing rent models in 2016. The review will identify options to minimise disincentives in the current income based model. It will also consider possible changes to eligibility criteria whilst ensuring social housing remains affordable
- c Continue to work closely with the Commonwealth Government to ensure that tax and welfare settings do not discourage people in social housing from seeking educational and employment opportunities.



# 2.2 Education and employment

Education and training are important pathways to employment, enabling people to leave social housing. The NSW Government will focus on improving educational outcomes for children, and employment opportunities for young adults and jobseekers, so they can successfully transition out of social housing.

The NSW Government will:

- a Change allocation processes so tenants can be placed in, or relocated to, areas where there are better educational and employment opportunities. This process will be trialled and evaluated
- b Introduce Personal Support Plans. These plans are a partnership agreement between a client and housing provider where a client commits to work towards agreed realistic goals in exchange for tailored supports and services. The plan builds their capacity to engage in paid employment. This work builds on the success of similar approaches utilised in the private market, such as the Youth Private Rental Subsidy established in Hunter region in 2012
- c Provide opportunities for employment for people in social housing through the new maintenance contract by collaborating with the private sector to develop tenant participation plans



- d Extend the Careers in Caring program to an additional four locations, to support social housing tenants to access training and employment in the disability and aged care industries
- e Invest \$2 million toward the establishment of new early childhood centres in social housing areas.



### 2.3 Private rental assistance

The NSW Government provides a range of social housing assistance products to help people in the private rental market so they don't fall into social housing or homelessness. The Commonwealth Government supports people in the private rental market through Commonwealth Rent Assistance. However, for low income households living in higher cost housing markets, additional support is required.

The NSW Government will support 60% more people into the private rental market by 2025. This will help them to either avoid entering into, or to transition out of, the social housing system.

FACS will also work with the Department of Fair Trading to examine ways to make the private rental market more suitable for people on low incomes.





### Boosting private rental products

New initiatives include:

- Introduction of a new medium term rental subsidy, Rent Choice, to support households to sustain a tenancy in the private rental market. Priority client groups include:
  - Young people transitioning to independent living, including those leaving Out of Home Care
  - Adults with low incomes who have suffered a destabilising event such as retrenchment or illness
  - Adults with persistent low income who are prepared to commit to improving employment outcomes.

The subsidy will be available for up to three years and will require clients to engage with education and/or employment and relevant supports. Personal Support Plans will be implemented to monitor client progress and encourage improved outcomes. Approximately 2,500 families will receive this each year by 2025.

The NSW Government will broaden eligibility for access to Start Safely. Start Safely is a rental subsidy for people escaping domestic or family violence. This subsidy is available for up to three years and incorporates quarterly reviews to help clients regain independence. The expansion is expected to increase the number of families getting assistance under Start Safely from approximately 2000 to 3500 each year.

The NSW Government will also promote the uptake of existing products:

- Private Rental Brokerage Services, with specialist support to:
  - build skills and capacity of clients with complex needs to access and maintain a private rental tenancy through ongoing case management linked to Personal Support Plans
  - monitor clients' progress for up to 12 months after the subsidy and support services have been transitioned
- Rent Start products one-off financial assistance to support households to compete in the private rental market. Products include:
  - Advance Rent: a grant payment for two weeks rent
  - Bond Loan: a loan of up to 75% of bond for private rental or 100% for those in crisis
  - Rental Arrears: up to four weeks rent to prevent eviction
- Bond Plus a product that supports tenants facing significant financial hardship.
   It is expected to grow from approximately 2000 to 6000 clients over the next 10 years. It supports tenants facing significant barriers to securing a tenancy in the private market by providing a financial guarantee to landlords/agents of up to \$1,500 for tenant damage and or unpaid rent over and above the rental bond. Currently of all guarantees provided only 1% are claimed.





## 2.4 Affordable rental housing as a stepping stone

Affordable rental housing improves the effectiveness of the social housing system.

In this context, affordable housing refers to housing that is provided at a discount to market rent, for example, 80% of market rent. These properties are likely to have been developed with assistance and planning incentives from the NSW and/or Commonwealth Governments, or cross subsidy from the sale of private dwellings.

Affordable housing may be owned by private developers, private organisations, local governments or community housing providers but is usually managed by not-for-profit community housing providers.

Affordable housing is an ideal stepping stone for people in social housing who, with the right support, may have the capacity to enter the private rental market. It is targeted at low income households but is managed more like a private rental property. Importantly, it is also open to a broader range of incomes than social housing, so households can earn higher levels of income and still be eligible. In this situation affordable housing can act as a diversion from social housing, by accommodating people in housing stress who would otherwise seek social housing assistance.

Affordable housing will be a feature of the Social and Affordable Housing Fund and Land and Housing Corporation redevelopments.



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# 2.5 Collaboration and accountability

Across different government agencies, we support many of the same clients.

For many of the actions outlined in this strategy cross-agency 'joined up' services that focus on the social wellbeing of social housing clients are critical.

### Areas for whole-of-government collaboration include:

NSW Department of Education	Commissioning a joint research project to determine the extent that living in social housing explains under performance, beyond that which is explained by socio economic status
NSW Department of Industry	<ul> <li>Increasing promotion of free TAFE scholarships to people under the age of 30 in social housing. There are 50 000 scholarships available each year for 4 years</li> <li>Working jointly to identify Crown Land which may be suitable for current or future social housing needs in the State Land Stocktake (under the Crown Lands Review)</li> </ul>
NSW Health	<ul> <li>Delivering a Home Visiting for Mothers and Babies program in social housing areas</li> <li>Improving alignment between social housing and mental health systems at a local level</li> <li>Collaborating with non-government providers of psychosocial supports to assist in the successful relocation of long-term mental health patients who have been living in institutionalised settings, and are eligible for social or affordable housing</li> <li>Working together on the Housing and Accommodation Support Initiative (HASI) to target support to vulnerable people and improve housing and mental health outcomes</li> <li>Partnering on identified safety projects that have a domestic or family violence focus</li> <li>Improving and expanding private rental assistance products to support people to access and maintain private rental housing</li> <li>Delivering trauma informed training to deal with clients fleeing domestic and family violence as well mental health first aid training for social housing staff</li> <li>Collaborating on the provision of drug and alcohol treatment for social housing tenants, particularly for young people</li> <li>Co-locating, where possible, mental health teams within FACS districts</li> </ul>



Department of Planning & Environment	<ul> <li>Working with the Land and Housing Corporation to determine appropriate planning mechanisms to assist the acceleration of redevelopment on identified sites</li> <li>Working with FACS to identify options to work with the Commonwealth and local governments to increase affordable housing supply, including using surplus Commonwealth and local government land</li> </ul>
Department of Justice	<ul> <li>Exchanging data and evidence, aligning programs and building on FACS' officer level linkages with the Crime Prevention area of Justice</li> <li>Justice officers to conduct safety audits in nominated social housing locations and support FACS' assessment of issues and planning</li> <li>Planning transitions for people coming out of correctional services into the social housing system</li> <li>Strengthening and forming partnerships with police at a local level to support the development and implementation of local safety projects</li> </ul>
Local Government	<ul> <li>Strengthening district level partnerships with local councils to support development and implementation of local safety projects</li> <li>Working with councils to enable redevelopment and promote affordable housing growth</li> </ul>
Commonwealth Government	<ul> <li>Introducing automatic rent deduction, to reduce the risk of families and children becoming homeless</li> <li>Continuing discussions on tax and welfare settings that demotivate people in social housing to seek educational and employment opportunities</li> <li>Delivering of this strategy based on the Commonwealth maintaining its level of funding for social housing and homelessness</li> </ul>







### **Actions**



### 3.1 FACS customer service

Currently, people applying for social housing must visit FACS offices in person and complete a cumbersome paper-based application.

Over the next year FACS will offer tenants more choice and flexibility in how they communicate with us. We will provide more opportunity to use technology whilst retaining the option for face-to-face discussions for those who need this. These changes will improve access to services for customers, especially in rural areas. In addition, they will improve staff productivity through better mobility and automation of high-volume administrative tasks.

### More ways to access housing assistance

# Easier access to housing assistance

- Phone-based applications
- Online access to housing assistance and for updating account details
- Electronic appointment system for interviews
- Customer apps for information and service access
- Email option for receiving information currently sent by mail

### More options for 'self service'

- ePay: online tool for rent and water account inquiries and payments
- eRepair: online tool for tenants to lodge nonurgent maintenance requests
- Self service kiosks for Rentstart Linkpoint, and other private rental assistance products

# Fostering our customer service culture

- Online customer service training course for housing staff, including cultural competency training
- SMS/email options for customer feedback
- Outstanding client service awards for staff, with client input
- New short, SMS-based customer satisfaction survey
- Mental health and domestic and family violence training

Enabled by technology improvements delivered through the Housing Connect Program





# 3.2 Better maintenance and community amenity

As part of improving the experience of social housing tenants we will improve how we contract maintenance.

#### We will:

- a Drive better value from the new maintenance contract through an open benchmark pricing approach which incentivises efficiencies
- b Require maintenance contractors to provide employment and engagement opportunities for tenants
- c Implement the \$20 million community improvement fund. Local councils, non-profit groups and private sector organisations have been invited to apply for funding of up to \$50,000 for projects which improve community infrastructure or facilities, enhance open spaces, improve safety, increase accessibility for older people or people with disability, or facilitate integration between the social housing and broader community.
- d Strengthen district level partnerships with local councils to support the development and implementation of local safety projects.



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### 3.3 Safe, stable communities

The majority of social housing tenants are good neighbours and law-abiding people. However, there are a small number of tenants whose antisocial and illegal behaviour puts the safety of their neighbours at risk and this impacts the broader community.

The new antisocial behaviour policy aims to balance the responsibilities of tenants and the rights of their neighbours and the broader community, with the need to support tenants to sustain their tenancies.

Key features of the policy include:

- A 'one strike' policy where serious breaches of a tenancy agreement will result in direct application to the NSW Civil and Administrative Tribunal (NCAT) for termination of a tenancy
- A 'three strike' policy that could result in termination, if three strikes are validly issued to a tenant within a 12-month period
- Acceptance of Neighbourhood Impact Statements by NCAT to give the community and neighbours a voice in the Tribunal process.

If antisocial behaviour arises because of mental illness, our first response is to engage health and social support services to assist the tenant. We are experienced in working with clients with complex needs and will continue to engage with health and support services to assist the tenant, wherever possible.

The NSW Government supports sustaining tenancies wherever possible and will:

- a Introduce public housing rental bonds for all new tenants through an approach that mirrors the private market rent bond scheme, reinforcing tenant responsibility in regard to rent arrears and tenant damage, as well as helping to prepare them for transition to the private rental market. To commence during the second half of 2016, the bonds will be applied to new leases and will be equivalent to four weeks market rent, capped at \$1,400. Tenants will be able to pay the bond in installments over two years, which will be administered by the Rental Bond Board
- b Work with the Commonwealth and other states and territories to investigate an automatic rent deduction scheme for new social housing tenants receiving welfare payments. The aim of the scheme is to increase stability of payments from social housing tenants, with a view to preventing homelessness as a result of rental arrears or other housing charges. Under the new system Centrelink will automatically pay rent and other charges to social housing providers, mirroring the streamlined and more contemporary rent collection practices in the private sector.





# 3.4 A "place-making" approach to building communities

Approximately 40% (41,000 dwellings) of social housing in NSW are located in concentrated housing estates. While a range of social housing estates function relatively well, many estates experience high levels of crime, unemployment, domestic violence, tenancy management problems, poor educational outcomes and associated child protection issues. These experiences can be passed on through multiple generations, reinforcing the cycle of disadvantage.

The NSW Government will introduce Place Plans that will focus on:

- Better access to opportunities such as improved educational outcomes and pathways to training and jobs. This includes building life skills, resilience and community engagement to break down stigmas and foster community leadership
- Timely access to effective and coordinated services such as integrated case management
- Building a stronger and safer community with a positive identity
- Supporting Aboriginal community healing and activities to foster community pride
- Improved physical environment in social housing areas, including infrastructure and community facilities such as working with council and residents to improve the appearance of homes, streets, parks and community facilities.

Four districts are currently scoping and investing in place-based projects to strengthen social housing communities in Kempsey, Griffith, Moree and Eden.

The Place Plans will be rolled out in early 2016.





### 3.5 Regional options

People living in regional areas have different needs to those living in urban areas. Eighteen out of twenty estates that have been classified as 'highly disadvantaged' by the NSW Government are located in regional and remote areas.

To assist with asset decisions, a framework will be developed to focus on:

- · Renewing and reconfiguring the regional portfolio
- Expanding the types of houses built, including secondary dwellings and market testing other cost effective housing delivery options, such as dual occupancy dwelling.

The NSW Government will:

- a Implement a program of acquisitions to replace existing dwellings and expand supply in major regional centres that have good access to services and employment
- b Work jointly with NSW Department of Industry to identify Crown Land which may be suitable for current or future social housing needs particularly in rural and regional areas in the State Land Stocktake (under the Crown Lands Review)
- c Investigate options for the use of shared equity loans\*, with a focus on regional areas.

#### \*Shared equity loans

Shared equity loans may be an effective tool to increase home ownership in regional areas where commercial lenders are unwilling to take on the full mortgage risk, particularly in areas with poor prospects for long term capital growth and relatively low wages.

Shared equity loans offered by the Western Australian Government to Aboriginal households in remote areas, linked with other supports such as education in financial literacy and mentoring, have been used.

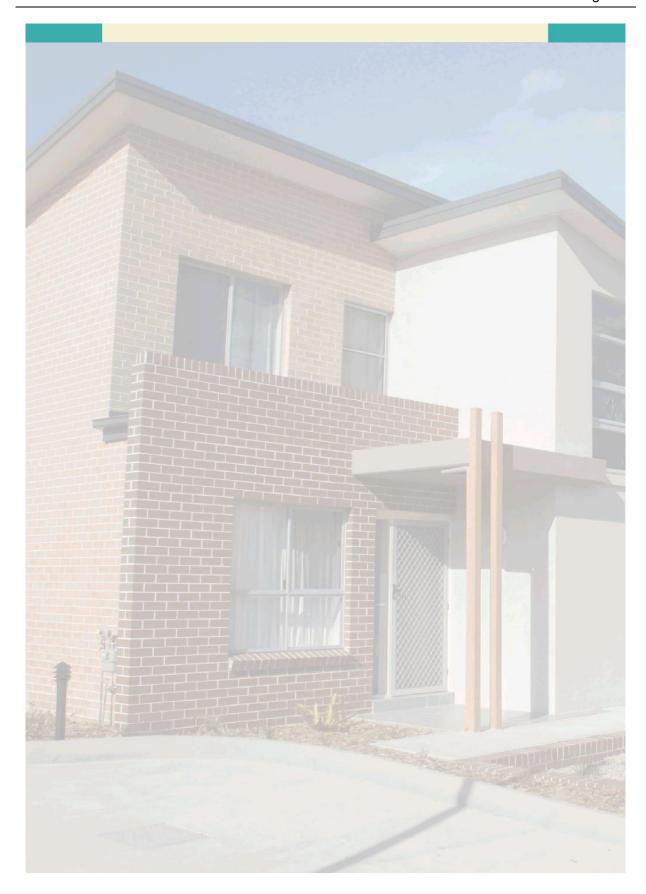
Programs using a combination of shared equity mortgage products alongside a strengths-based approach to support families into home ownership could work well in NSW regional areas where people face similar challenges. This sort of program could provide a realistic transition path to independence.

#### **Future Directions**

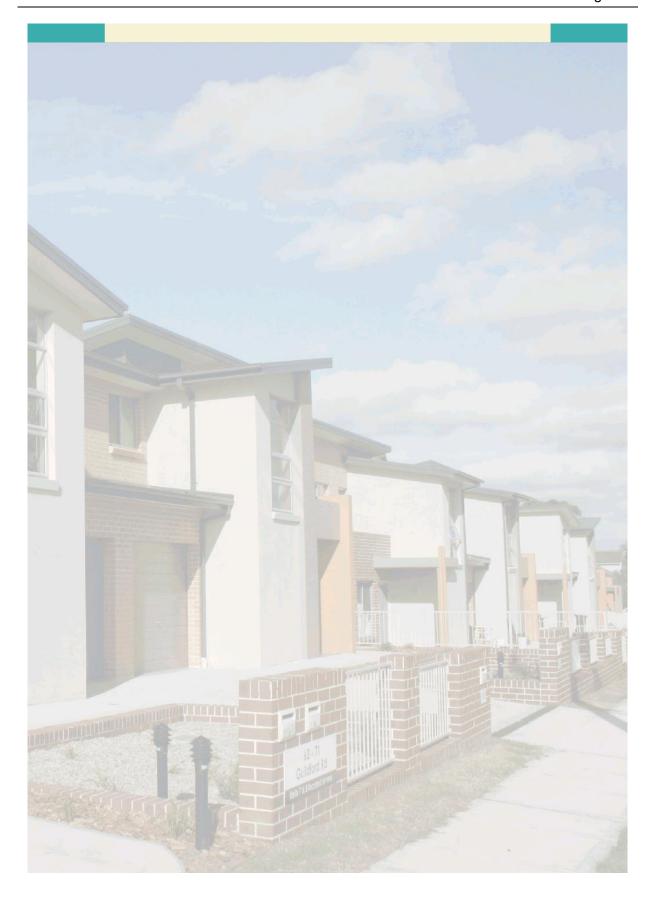
These whole of government reforms provide initiatives and stepping stones to transform the current social housing system. This is an exciting time for social housing in NSW, with opportunities for partnerships and innovation to create a system that will be nimble and responsive, where we test, evaluate and adapt to continuously improve. This is a ten year plan, but it is just the beginning. These reforms will help break the cycle of disadvantage by reducing homelessness; providing more housing and support for those needing social housing and providing more support and incentive to help people divert from or successfully transition out of the social housing system.

To learn more and keep up to date with the future of social housing in NSW, visit www.socialhousing.nsw.gov.au.





















### REPORT OF GENERAL MANAGER

#### DEVELOPMENT COMMITTEE

### **TUESDAY, 3 NOVEMBER 2015**

### PLANNING AND DEVELOPMENT

### ITEMS TO BE DEALT WITH UNDER DELEGATED AUTHORITY

 Inquiry into the adequacy of the Regulation of Short-Term Holiday Letting in NSW – Proposed Submission File 27521e

### SECTION MANAGER: Gordon Clark.

### **PURPOSE:**

Consider Council's proposed submission to the State Government Inquiry into the adequacy of the regulation of short-term holiday letting in NSW.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee send the submission attached to this report to the NSW Parliament Legislative Assembly Committee on Environment and Planning for consideration in their Inquiry into the adequacy of the regulation of short-term holiday letting in NSW.

### OPTIONS

- Adopt the recommendation. This is the preferred option to ensure Council will make a submission to the inquiry by 9 November 2015, so that Council is able to contribute matters for consideration by the inquiry regarding short term rental of holiday homes, which form a significant component of the holiday accommodation in Shoalhaven.
- Revise and amend the draft submission to the inquiry. If any items are removed or changed these issues will not be provided to the Inquiry to be addressed. It is important that the issues identified in Council's submission can be considered and addressed by State Government.

#### **DETAILS**

#### Overview

Shoalhaven is the most visited LGA outside of Sydney and encompasses an estimated 4000+ holiday homes. The tourism industry is a large and important driver in the Shoalhaven economy with an estimated spend of between \$623 million and \$750 million.

The NSW Parliament's Legislative Assembly Committee on Environment and Planning is currently conducting an inquiry into the adequacy of the regulation of short-term holiday



letting in NSW. Council has been invited to make a submission to the inquiry. The closing date for submissions is 9 November 2015.

# The proposed Council submission (summarised below and detailed in **Attachment "A"**) addresses the terms of reference for the inquiry, which are:

That the Committee inquire into and report on the adequacy of the regulation of shortterm holiday letting in NSW, with particular reference to:

- a) The current situation in NSW and comparison with other jurisdictions
- b) The differences between traditional accommodation providers and online platforms
- The growth of short-term and online letting, and the changing character of the market
- d) The economic impacts of short-term letting on local and the state economies
- e) Regulatory issues posed by short-term letting including customer safety, land use planning and neighbourhood amenity, and licensing and taxation
- f) Any other related matters.

Relevant Sections and Groups within Council have provided feedback in this regard for inclusion in Council's proposed submission.

### Proposed Submission to the Inquiry

# The proposed Council submission addresses the terms of reference for the inquiry (Attachment "A")

The following key issues will be raised in the submission:

- Support the continuation of the existing practice of short-term holiday letting of residential dwellings in Shoalhaven given that it is an important established element of our tourist accommodation market;
- Key outcomes of the Sea Change Taskforce Research Project (2013) relevant to Shoalhaven are presented as background.
- Small proportion of the homes used for short-term holiday letting create an issue.
  Therefore, do not see the need to require development consent for the use of
  homes for short-term holiday letting, unless the use interferes generally with the
  amenity of the neighbourhood. A self-regulatory approach to the continued use of
  short-term holiday letting of residential homes is favoured.
- Council has taken a proactive approach to retaining the existing practice to enable
  the use of homes for short-term holiday letting in Shoalhaven by the inclusion of
  Clause 7.13 Short-term rental accommodation in Shoalhaven Local Environmental
  Plan (LEP) 2014 which is supported by development standards contained in
  chapter G16: Short Term Rental Accommodation in Shoalhaven Development
  Control Plan (DCP) 2014;



- The current inconsistent approach to the regulation of the use of homes for shortterm holiday letting across NSW Councils is creating uncertainty for all stakeholders;
- Rulings by the Land and Environment Court have added to uncertainty as the
  Court has found that the use of a residential dwelling for short-term holiday letting
  was unlawful in a number of cases as it was considered to be a commercial
  activity within a residential zone where commercial uses are prohibited. Council
  initially resolved this issue in Shoalhaven during 2006 by inserting a provision
  allowing the use to continue without development consent in Shoalhaven LEP
  1985:
- The operation of short-term holiday letting through online platforms such as Stayz and Airbnb instead of a local management agent, such as a real estate agent, has the potential to create an 'absentee' issue when problems or complaints arise the require immediate or urgent resolution and also for practical issues.
- The availability of holiday homes, combined with the growing popularity of online sites, have provided an opportunity for this region to host many more people than would otherwise be possible;
- Whilst there are ongoing issues that need to be addressed, the impact of shortterm holiday letting on Shoalhaven's economy is significant and needs to be taken into consideration as any outcome that may potentially lead to a reduction in holiday homes would significantly impact our tourism economy;
- Regulatory and other issues caused by short-term holiday letting generally include:
  - Customer safety ensuring compliant use of the building, adequate maintenance of the building and swimming pool compliance;
  - Land use planning and neighbourhood amenity issues including ensuring compliance with relevant development standards given that Clause 7.13 Short-term rental accommodation in Shoalhaven LEP 2014 states that no consent is required for short term rental of holiday homes unless there is an impact on neighbourhood amenity. Also dealing with and resolving complaints related to noise, car parking, dumping of rubbish etc.
  - Taxation holiday homes generally do not contribute to tourism marketing budgets in the way traditional accommodation providers do, but they benefit from spending and this creates an equity issue;
- Other related matters including:
  - o Dumping of rubbish by holiday rentals in public litter bins; and
  - Use of holiday homes and/or adjacent parks and reserves for large functions such as weddings.

At the recent Local Government NSW Conference Lake Macquarie City Council drew delegate's attention to a bushfire compliance issue in regard to the short term tourist rental of a dwelling. As part of their Planning Proposal to regulate holiday rentals they received advice from the NSW Rural Fire Service (RFS) that holiday rentals are considered to be a 'special fire protection purpose' and as such would require appropriate approvals if located on 'bushfire prone land'. This interpretation has the potential to have significant impact if it is applied across the state. Given that the practice



does not require development consent in the Shoalhaven how this interpretation impacts would need to be considered.

As a result, at the Local Government Conference the following motion was carried:

 That LGNSW lobby's the NSW government, and in particularly the Minister for Planning, to prepare state wide definitions, policy and planning guidance to introduce consistency and manage risk issues raised by RFS, for managing short term rental accommodation in NSW.

The need for a consistent approach to short term holiday rentals in NSW is strongly supported, as is the need to clarify, and if needed, address issues such as those raised by the RFS.

It is important that Council make a submission to the inquiry as the short-term rental of holiday homes is a significant form of holiday accommodation in Shoalhaven and the issues identified need to be considered and potentially consistently addressed by the State Government.

### CONCLUSION

Should the recommendation be adopted, the submission will be made to the inquiry. Further reports will be provided when the outcomes of the inquiry are ultimately known.

#### COMMUNITY ENGAGEMENT:

Interested members of the public can make personal submissions to the Inquiry before Monday 9 November 2015.



Development Committee-3 November 2015 - Item 3 Attachment A







Address all correspondence to

The General Manager, PO Box 42, Nowra NSW 2541 Australia
DX5323 Nowra Fax 02 4422 1816

Council Reference: 27521E (D15/302579)

Committee on Environment & Planning

By email only: environmentplanning@parliament.nsw.gov.au

Attention: The Chair

**Shoalhaven** City Council

Dear Sir/Madam

### Submission - Inquiry into regulation of short-term holiday letting

Council welcomes the opportunity to provide a submission to this inquiry, given the importance of this type of holiday accommodation in Shoalhaven.

#### **General Comments**

Shoalhaven is located on the south coast of NSW and is a popular holiday destination located within a 3 hour drive of Sydney and Canberra. Shoalhaven is the most visited area outside Sydney and our area has an estimated 4000+ holiday homes. The tourism industry is a large and important driver in the Shoalhaven economy with an estimated spend of between \$623 million and \$750 million.

Council generally supports the continuation of the existing practice of short-term rental of residential dwellings in Shoalhaven. This type of accommodation has a long history in Shoalhaven and is an important element of the tourist accommodation market, particularly in the coastal settlements, Kangaroo Valley, Berry and other popular tourist destinations.

### Sea Change Taskforce Research Project

Council contributed to and took part in a Sea Change Taskforce (now Australian Coastal Councils Association) research project in 2012 by the University of Adelaide called 'Time and tide: moving towards an understanding of temporal population changes in coastal Australia' - Graeme J Hugo and Kevin R Harris (April 2013). This research project examined key data from:

- Australian Bureau of Statistics (ABS) Census 2011;
- · Survey of Tourist Accommodation (STA) by ABS regularly;
- A generic survey of holiday home property owners within the participating LGA's including Shoalhaven (April 2012).



Development Committee-3 November 2015 - Item 3 Attachment A

Of specific relevance to short-term holiday letting in Shoalhaven:

- It was found that every 1,000 holiday homes generate a temporary population of more than 2,000 persons in Shoalhaven.
- When asked the main reason/s for purchasing their sea change property, 'investment/future'
  was the second highest reason listed, for all LGA's;
- Specifically for Shoalhaven the most common reason/s given for purchasing their property were primarily 'Holidays' (22%) which was followed by 'Location' (13.2%) which was closely followed by 'Investment' (11.8%);
- Respondents were asked about the usage of their property by Renters and Tenants, specifically details of the number of days their property was rented in each of the preceding 12 months. Levels of rental were found to be lower during the winter months with pronounced peaks in the summer holiday period up to the end of March;
- The survey asked non-resident property owners whether their property was available for rental in 2011 and how many days each month. Of the responses received, 62 properties were rented out during 2011, for a total number 10,284 days. The key rental season was found to be over the period October through to April. In Shoalhaven the number of days rented peaks from November through to January.

Given that this research is specifically related to holiday homes it may be of interest to the inquiry and can be accessed on the Internet at <a href="http://coastalcouncils.org.au/portfolio/landmark-study-on-missing-coastal-populations-now-available/">http://coastalcouncils.org.au/portfolio/landmark-study-on-missing-coastal-populations-now-available/</a>

Council's more detailed comments are provided below under the terms of reference for the inquiry.

### (a) The current situation in NSW

Currently Councils across NSW appear to vary greatly in their approach to short-term holiday letting. This inconsistency creates uncertainty for all stakeholders.

Examples of the various types of regulation that have been adopted by various Councils in include:

- Prohibiting the use of homes for short-term holiday letting in residential zones;
- Permitting the use of homes for short-term holiday letting with or without development consent in residential zones;
- Requiring homes used for short-term holiday letting to be registered with the relevant council
  or authority;
- Self-regulation by the industry e.g. Council/organisations providing policies and codes such
  as the 'Holiday Rental Code of Conduct' for the guidance of owners, managers and
  occupants of holiday rental properties.

### **Outcomes of Court Cases**

Further adding to this uncertainty are decisions by the Land and Environment Court. The Court has ruled that the use of dwellings for holiday or short-term accommodation was unlawful in a number of cases. The outcome of these cases has affectively classified short term holiday lettings as a commercial activity and thus effectively banning the practice in residential or other



land use zones where commercial uses are prohibited. The cases that have created this legal precedent include, among others:

- The Council of the Municipality of North Sydney v Sydney Serviced Apartments Pty Ltd (1992) – NSW LEC 43:
- Sutherland Shire Council v Foster & Anor (2002) NSW LEC 2;
- Gosford in 2013 Dobrohotoff v Bennic NSW LEC 61.

In media responses to the earlier cases, it was indicated that the State Government may consider this issue as part of the Planning Reforms. Council was aware that this was likely to take some time to come to fruition, and given the importance of this issue to Shoalhaven, Council took the prudent step of amending its LEP to enable the practice of the short-term rental of existing residential dwellings to continue without any legal uncertainty. This was done via an LEP amendment in 2006 that made the short-term rental of dwellings permissible without consent. At the time, Shoalhaven was understood to be the only Council to take this step.

#### (b) The differences between traditional accommodation providers and online platforms

The continued popularity of online platforms, has made accessibility to a diverse range of holiday homes available to the everyday person, combined with the ability to rate and review properties so the average consumer is able to make more educated, informed and quicker choices than ever before.

However, holiday home owners often have issues with customers (failure to pay, misalignment of expectations etc.) and feel like there are few resources available for them when help or advice is needed which may be exacerbated for owners operating through online platforms.

While traditional accommodation providers typically operate through a local management agent such as a real estate agent, online platforms allow owners to operate individually and from a distance. This has created an 'absentee' issue when a problem arises, or creates practical issues such as ensuring rubbish bins can be put out and collected, which in turn leads to dumping of rubbish in bins in public parks when rental periods end, which is often a problem in Shoalhayen.

The 'absentee' management issue could be addressed in a number of ways, including:

- Online providers being required to provide a 24-hour local contact for management and complaints to the lessee but also to adjoining neighbours and/or authorities who may need to contact the owner should a problem arise;
- There could also still be a role for a traditional local management agent who could respond to complaints or management issues that may arise from a property listed for lease on an online platform.

#### (c) The growth of short-term and online letting, and the changing character of the market

One of the largest issues facing the tourism industry sector in Shoalhaven is the availability of accommodation, with a growing consumer trend appearing towards boutique accommodation. The availability of holiday homes, combined with the growing popularity of online sites, have provided an opportunity for the region to host many more people than would otherwise be possible. Given Shoalhaven's proximity to both Sydney and Canberra it is likely that holiday homes will continue to be a larger and significant component of the local tourism accommodation market.



#### (d) The economic impacts of short-term letting on local and the state economies

Whilst there are some ongoing concerns in regards to holiday homes that need to be addressed, overall the positive impact on Shoalhaven's economy is significant and needs to be acknowledged. Any outcome that could potentially lead to a reduction in the availability of holiday homes would have a significant impact on our tourism economy.

Emphasis also needs to be placed on the local shopping spend from holiday accommodation users. Traditionally these visitors are more likely to spend a higher amount, dine out often and shop at local centres in a different way to those who stay in hotels. Therefore, overall holiday homes are a major contributor to the Shoalhaven economy.

# (e) Regulatory issues posed by short-term letting including customer safety, land use planning and neighbourhood amenity, and licencing and taxation

#### **Customer Safety & Compliance**

The safety and maintenance of homes is an ongoing concern for all stakeholders, with some operators failing to meet the expectations of the customers.

There are potential issues with houses and swimming pools from a safety and insurance perspective. Any confusion as to the requirements for pools or non-compliance with pool safety creates a risk to customer safety. From 29 April 2013, all pool owners in New South Wales have been required to register their swimming pools on a state-wide register and penalties will apply for failing to register. How the requirements relate to short-term holiday rentals has the potential to be confusing as the requirements for pool owners are only stipulated for persons either selling or leasing their property and for owners of tourist and visitor accommodation. Short term holiday rentals, however, may not clearly fit within these categories. For example, pool owners are required to obtain a *Swimming Pool Compliance Certificate* from their local authority before they can sell or lease their property; does short-term holiday letting trigger this requirement?

Given that the use of homes for short-term holiday letting does not generally require development consent, this creates the potential for a dwelling to be used contrary to the existing consent for the dwelling. For example, the lower levels of a dwelling may have been approved as a non-habitable area, due to the risk of flooding and this has not been adhered to by the owner (eg. additional bedrooms have been created).

Any proposal to introduce planning controls or restrictions on the number of beds that can be produced creates compliance problems. It raises the question of how Council can inspect, monitor and ensure compliance with controls when the subsequent use of the dwelling does not require development consent.

#### Land Use planning and neighbourhood amenity

Given that short-term holiday rentals have been a feature of the accommodation market in Shoalhaven for a long time, Council amended its LEP in 2006 to enable the practice to continue. The clause in the current Shoalhaven Local Environmental Plan (LEP) 2014 (below) has evolved and states that no consent is required for short term rental of holiday homes unless there is an impact on neighbourhood amenity.



Clause 7.13 Short-term rental accommodation

- (1) The objective of this clause is to ensure that residential accommodation may be used as tourist and visitor accommodation for a short term without requiring development consent.
- (2) Despite any other provision of this Plan, development consent is not required for the use of residential accommodation for the purposes of tourist and visitor accommodation (except backpacker accommodation or bed and breakfast accommodation) if the use is only shortterm and does not interfere generally with the amenity of the neighbourhood in any way, including by noise or traffic generation.
- (3) In this clause, short-term means for a maximum period of 45 consecutive days in any 12 month period.

Development standards associated with this clause are provided in Chapter G16 'Short Term Rental Accommodation' of the Shoalhaven Development Control Plan (DCP) 2014 and addresses issues particularly relating to the impacts on neighbourhood amenity (<a href="http://dcp2014.shoalhaven.nsw.gov.au/sites/dcp2014.shoalhaven.nsw.gov.au/files/Chapter%20G16.pdf">http://dcp2014.shoalhaven.nsw.gov.au/sites/dcp2014.shoalhaven.nsw.gov.au/files/Chapter%20G16.pdf</a>). However, this chapter generally only applies once a development application is required to be lodged, such as in instances where there has been an unacceptable impact on the amenity of the neighbourhood.

At the time Council introduced the original clause permitting the use of short-term accommodation without consent into the LEP, it also provided 'Advisory Guidelines for Short Term Holiday Rental in Residential Areas' to be used by owners of rental properties and others; however, these guidelines are no longer produced. In 2012, Council considered the Holiday Rental Code of Conduct developed by the industry stakeholder group for use by owners, managers and occupants of holiday rentals and provided copies of this voluntary code to known holiday home rental owners and managers in Shoalhaven.

In 2011/2012 Council also distributed the attached flyer re "Managing Rental Holiday Accommodation" to all landowners/ratepayers with its Annual Rates Notice. The flyer draws on the voluntary code and encourages owners to consider using it.

Council may consider an amendment to Shoalhaven LEP 2014 and Shoalhaven DCP 2014 controls in relation to short-term holiday letting regard once the inquiry has been completed and if the State Government determine there is the need for a consistent policy position throughout NSW. The need for a consistent planning approach to short term holiday letting would be welcomed.

Council strongly supports the motion passed at the recent 2015 NSW Local Government Conference that:

"LG NSW lobbies the NSW government, and in particular the Minister for Planning, to prepare state wide definitions, policy and planning guidelines to introduce consistency and manage risk issues raised by the RFS, for managing short term rental accommodation in NSW."

In this regard it is essential that clarity is provided regarding whether or not the practice is deemed to be a 'special fire protection purpose' under the NSW Fires Act 1997 and if so, what is the impact of this, particularly where development consent is not required for the practice.

#### **Responding to Complaints**



When the use of a dwelling as a holiday rental is consistently impacting upon the amenity of the neighbourhood in any way, Council can take action including requiring a development application to be lodged. This application would be assessed against the development standards contained in *Chapter G16 'Short Term Rental Accommodation'* of Shoalhaven DCP 2014. This may result in an application being required to comply with particular conditions of consent or being refused.

Council receives consistent complaints regarding a small proportion of holiday homes in relation to impacts on amenity (noise, car parking, dumping of rubbish, overcrowding etc.). These complaints are often in relation to the use of a holiday home by larger groups or the hosting of functions or parties that disrupt the neighbourhood amenity for the permanent residents located nearby. Issues such as noise complaints can be managed under the provisions of the *Protection of the Environment & Operations Act 1997* and other issues of inappropriate behaviour or criminal activity may be addressed by police action.

The tenants of holiday homes do at times hold parties during their stay, and in so doing, often disregard the fact that their activities may impact on neighbours. These issues are more problematic to address given that the tenants are not permanent residents and may be less likely to share a sense of community responsibility and ownership. These issues can in some instances be addressed under Strata legislation or as part of the Development Application process. However, in most cases, Council has a small role in the resolution process, if any, as the use generally does not require development consent. Generally it is a small number of properties that consistently generate complaints and issues when compared to the overall number of holiday homes that are managed appropriately.

Council is currently considering amending Clause 7.13 in Shoalhaven LEP 2014 to specifically prohibit weddings/functions being carried out in short term rental accommodation. This acknowledges that while short term rental of dwellings is an important form of tourist accommodation in Shoalhaven, there is a need to balance the rights of residents to the quiet enjoyment of their properties. The amendment will consider making it clear that hosting a wedding or other functions as part of a short-term holiday rental has the potential to have an unacceptable impact on neighbourhood amenity and cannot be carried out in short term rental properties.

#### **Taxation**

Traditional tourist accommodation providers (hotels, motels, caravan parks etc.) have expressed concerns that holiday home owners benefit from promotional tourism marketing and other initiatives, without contributing financially. From a financial perspective, short term holiday letting providers continue to benefit from funds spent on tourism marketing and resultant growth without making a contribution. Consideration should be given to how this can be made fair or rationalised across all accommodation providers.

#### (f) Any other related matters

#### **Dumping of Rubbish**

An ongoing concern for Council is the apparent dumping of rubbish by the users of some holiday rentals. Last year around Shoalhaven, Council needed to respond to rubbish from holiday letting homes adjacent to parks, being dumped next to litter bins and needing to be removed. This has been an ongoing issue for many years. Contributing to this issue is that in some cases the owners of holiday homes appear to have no mechanism to arrange for the bins



to be placed and recovered from the kerbside during regular waste collection and so they are not emptied regularly.

The increase in holiday accommodation usage also impacts on local services. For example; rubbish placed in public facilities required the commitment of resources that are already stretched during busy holiday times.

#### Use of Parks and Reserves Adjoining Holiday Homes

The use of adjoining reserves by holiday homes for weddings and other functions has become a growing problem. Complaints have been received by Council in relation to impacts on amenity (parking, waste, noise) associated with the functions. To address this issue, Council's *Private Functions on Public Reserves Policy* 

(<a href="http://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=POL15/34">http://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=POL15/34</a>) was updated. This requires a separation distance for functions on reserves so there is at least 25 metres minimum separation from a private boundary and 25 metres from reserve infrastructure such as playgrounds, amenities, car parks, and private functions of more than 50 people can only be hosted in defined areas.

#### Conclusion

In Council's experience, only a relatively small proportion of the homes used for short-term holiday letting are an issue. Therefore, Council does not see the need to require development consent for the use of homes for short-term holiday letting, unless the use interferes generally with the amenity of the neighbourhood. Council favours a self-regulatory approach to the continued use of short-term holiday letting of residential homes.

Council has taken a proactive approach to enable the existing practice to continue in Shoalhaven by including *Clause 7.13 Short-term rental accommodation* in Shoalhaven LEP 2014 which is supported by development standards contained in chapter *G16: Short Term Rental Accommodation* in Shoalhaven DCP 2014.

Given the relevance of this issue to Shoalhaven, Council would be interested in attending a public hearing should one be held as part of this inquiry.

If you need further information about this matter, please contact Danielle Ratcliffe, Planning & Development Services Group on (02) 4429 3553. Please quote Council's reference 27521E (D15/302579).

Yours faithfully

Gordon Clark

Strategic Planning Manager

orden Clark

Date

cc - Advisory Guidelines for Short-Term Holiday Rental in Residential Areas

cc - Rates pamphlet from 2011/2012



Development Committee-3 November 2015 - Item 3

Attachment A



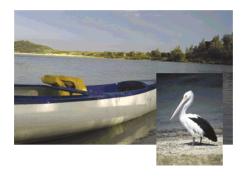
Our City is acknowledged as a major tourist destination in NSW. A large number of visitors to Shoalhaven stay in rented holiday accommodation (dwellings, units, etc) which is an important contributor to our tourism base.

The legal precedent set by two court cases questioned the legality of short term rental of houses as they appear to be classified as a commercial activity, thus effectively banning the practice in residential areas and other zones where commercial uses are prohibited. This could have adversely impacted on the future use of holiday homes and other forms of short term accommodation in Shoalhaven.

As a result of the issues mentioned above, Council has taken a pro-active approach by;

- allowing the short term rental of a dwelling without the need for development consent (except B&B accommodation) through an amendment to Shoalhaven Local Environmental Plan 1985 to resolve the issue.
- providing Advisory Guidelines for the Short
   Term Rental of Residential Dwellings to be
   used by owners of rental premises and others.

There is existing legislation relating to noise abatement, neighbourhood amenity, and offensive behaviour. The relevant authorities (Police, and Authorised Council staff) can take action if necessary. A complaints register may be established to monitor repeated problems.



#### How do you find out more

For more information on managing a rental property visit the NSW Office of Fair Trading Website at: www.fairtrading.nsw.gov.au



#### **Shoalhaven City Council**

PO Box 42, Nowra, NSW 2541 Ph: 02 4429 3111

www.shoalhaven.nsw.gov.au





#### **ADVISORY GUIDELINES**



402/06/06





## Advisory Guidelines -"Llow to be a Good Neighbour"

The following advisory guidelines are suggested to help you develop a "good neighbour" relationship with adjoining owners, and manage the rental of your holiday house.

#### Do's

- Rent your house through an agent unless you have experience in this field. An agent can give you advice on regulations, requirements, insurance and guidelines. If you choose to rent privately and manage the property yourself you should consider the following questions.
- Will you save money by managing it yourself?
- o Are you prepared to organise all the repairs and deal with tenants?
- Are you ready for the responsibility that this involves?
- o Do you know what your legal rights and legal responsibilities are?



#### Development Committee-3 November 2015 - Item 3

- o Do you know the tenant's legal rights and responsibilities?
- Open dialogue with neighbours, ask for feedback on behaviour of occupants, offer to address any issues which may arise. Having an interactive relationship with your neighbours can benefit all concerned. For example, neighbours tend to keep an eye on the place and provide feedback.
- Use your agent as a local point of contact should problems arise.
- Exchange numbers with adjoining neighbours if not using an agent.
- Make it clear that it is the tenant's responsibility to maintain reasonable peace, comfort and privacy to neighbours.

neighbours.

- · Provide advisory notices for the occupants of the premises eg, number of persons allowed, noise considerations, use of rubbish bins, car parking and general consideration of the
- Notice of penalties to tenants for not complying with regulations.
- · Ensure there is enough parking available on the property for the occupants.

#### Attachment A



#### Don't's

- Don't encourage occupants to have parties or functions on the premises.
- · Don't ignore or alienate your neighbours as they are a valuable ally to have.
- Don't allow overcrowding of premises as too many people could be a safety risk. As a rule, the correct number of beds per number of people staying on premises is advisable.









The Shoalhaven is regional NSW's major tourist destination, making tourism and holiday visits a vital part of our local economy.

Because a large number of our visitors stay in rented holiday accommodation such as houses, units and apartments, it is important for the owners of holiday rental properties to be aware of their obligations, especially with respect to noise, behaviour of guests and overcrowding of homes.

The NSW Government supports the Holiday Rental Code of Conduct, put together jointly by the Real Estate Institute of NSW, 'Stayz', 'Take a Break' and 'Rent a Home'. This Code can be downloaded from http:// www.reinsw.com.au/default.aspx?ArticleID=10373.

If you are an owner of holiday rental property/s you can minimise problems for yourself and your neighbours by:

- being aware of your legal responsibilities as property owner and abiding by the Holiday Rental Code of Conduct
- providing friendly advisory notices to your guests, including penalties that may apply if your guests do not comply
- using a specialist local agency or professional property manager to handle your holiday letting. Your agent can then monitor and respond to any issues which may arise such as complaints from neighbours, property presentation and maintenance, safety issues, use of rubbish bins, car parking and general consideration of the neighbourhood.



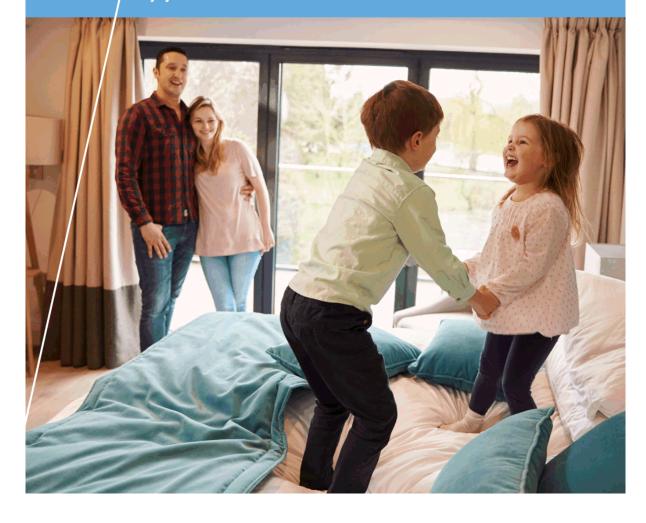




# Short-term Holiday Letting in NSW

**Options Paper** 

July 2017





### **Foreword**

We are very pleased to present this Options Paper on short-term holiday letting in New South Wales.

The emergence of innovative online booking services and the development of the sharing economy has seen short-term holiday letting expand significantly in NSW. This industry has been carried out in NSW for many years and can provide significant economic benefits to local economies and the wider state tourism economy. This has led to the need to reconsider the role of regulation in enabling the activity to continue to take place, without unduly impacting on local communities and the safety of visitors.

In October 2016, the NSW Parliament Legislative Assembly Committee on Environment and Planning made several recommendations to the government relating to planning matters and strata laws following its public inquiry on the Adequacy of Regulation of Short Term Holiday Letting. We thank the Parliamentary Committee for its effort and welcomed the recommendations through a whole government response on 20 April 2017.

The NSW Government, like the committee, is committed to providing the best regulatory framework for short-term holiday letting. It is important to get the settings right, which is why we are releasing this Options Paper to have an in-depth discussion. We want to work through the detail of various options before any formal process is commenced.

The short-term accommodation industry and the community will be part of a broad consultation to address short-term holiday letting. The community and industry feedback on options are needed to identify the most appropriate way for the NSW Government to respond to the development of the sharing economy.

The NSW Government's Options Paper will explore approaches to implement a whole of Government framework, addressing land use and planning concerns, strata managed buildings and the amenity of existing residents.

To provide this framework, we are starting a threemonth consultation process to find the best options for the people of NSW.

We look forward to your comments on this important issue.

The Hon. Anthony Roberts MP

Minister for Planning Minister for Housing Special Minister of State The Hon. Matt Kean MP

Minister for Innovation and Better Regulation

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#### **Executive Summary**

#### **Short-Term Holiday Letting in NSW**

There has been a rapid growth in short-term holiday letting (STHL) both nationally and in NSW over recent years particularly since the emergence of online booking services and the development of the sharing economy.

The NSW Government's response to the Parliamentary Inquiry into the regulation of short-term holiday letting supported putting in place a regulatory framework for STHL. This Options Paper seeks feedback on the approaches to enable economic benefits while managing the social and environmental impact of STHL.

STHL is estimated to be worth \$31.3 billion<sup>1</sup> nationally, providing income for property owners and creating jobs through the establishment of new businesses to manage transactions between property owners and customers. In NSW, STHL constitutes approximately 50% of the national total, accounts for 25% of total visitor nights and occurs in both regional and metropolitan areas. It is expected that STHL in NSW will continue to increase its share of visitor night demand over the next ten years.

STHL has the potential to generate impacts on the community if not adequately managed. These impacts could include noise, waste, traffic and parking, safety and security, and the potential impact on housing and broader industry in general. These impacts vary between regional and metropolitan areas, and between detached dwellings and apartments. Impacts can be managed in different ways and feedback is sought on the type and degree of impacts and the appropriate response by government to these impacts.

#### 2016 Parliamentary Inquiry

In 2016, the NSW Legislative Assembly Committee on Environment and Planning conducted an inquiry into the adequacy of regulation for short-term holiday letting in New South Wales.

This Options Paper should be read as a companion document to the Committee's paper – which can be found at https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/6080/.

#### **NSW Government's Response**

The Government response<sup>2</sup> to the Parliamentary Committee was released on 20 April 2017.

The NSW Government generally supports the findings and recommendations of the Parliamentary Inquiry.

The Government considers that STHL is acceptable in a residence however, there is a point where STHL becomes a more intensive commercial type of use.

This Options Paper is the next step in determining a policy framework – by engaging with stakeholders, industry and the general public to discuss what level of regulation is required to best meet the needs of the NSW community.

<sup>&</sup>lt;sup>1</sup> Parliamentary Inquiry Report, October 2016, p42.





#### **Options**

An approach to STHL in NSW could range from minimal intervention to substantial Government regulation.

Non-regulatory approaches could include improved self-regulation, or working with stakeholders through co-regulation arrangements. Direct regulatory intervention may be warranted if it is demonstrated as a viable option to address a specific problem, and is likely to result in a positive net benefit to the community as a whole.

There are a number of regulatory options that could be considered either individually or in combination as having the potential to manage STHL impacts. These include: greater industry self-regulation through a stronger Code of Conduct; registration or licensing of STHL operators with acceptable standards of operation; changes to strata laws to protect the amenity of residents within apartment buildings; and regulation through the planning system.

While Government intervention in the form of regulation may address some issues associated with STHL, it should not be seen as the default option where other solutions, such as industry self-regulation, exist.

In determining what the policy framework might look like there are a range of stakeholders that we would like to hear from including local councils, homeowners, tenants and holidaymakers, affected neighbours, strata corporations, STHL businesses, traditional accommodation operators and other downstream businesses.

#### **Purpose of this Options Paper**

This Options Paper, building on the work of the Parliamentary Inquiry and existing practice, considers different options to deliver an effective approach to short-term holiday letting. It is the next step in determining a whole of government framework. The options outlined in this paper are summarised in Figure 1.

You are invited to respond to the ideas raised in the Options Paper by writing to the NSW Department of Planning and Environment by 31 October 2017. You may wish to use the form provided in Appendix 1 when submitting your ideas. Details for how to make a submission or provide feedback on this Options Paper are available at:

#### www.planning.nsw.gov.au/STHL

You can provide your feedback by:

- · filling out the submission form
- · completing the online survey
- email to STHL@planning.nsw.gov.au
- · writing to:

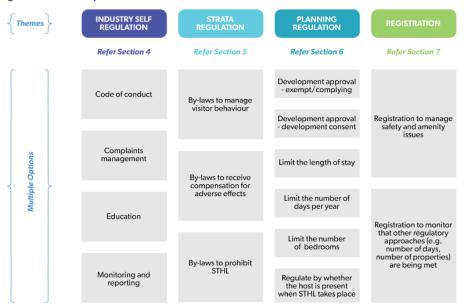
**Director, Housing Policy**Department of Planning and Environment
GPO Box 39, Sydney NSW 2001

Your submission will inform any changes the NSW Government makes to the regulation of STHL.

#### Have your say.



**Figure 1: Potential Options** 



Note: The policy options for STHL could include regulatory or non-regulatory approaches, or a combination of both. A combination of options from any rows or columns (or/and other options not covered in the paper) can be chosen to suggest a policy framework for the STHL in the submission form.



#### **Section 1 - Background**

## Short-term Holiday Letting and its Contribution to NSW

STHL has occurred for many years in coastal and other holiday locations in NSW to accommodate tourists<sup>3</sup>. STHL is no longer confined to holiday making, but is now commonly used throughout NSW for corporate and business trips, annual community events, family reunions, temporary accommodation while looking for long-term rental, and emergency accommodation.

In 2014, there were an estimated 216,000 STHL premises in NSW/ACT<sup>4</sup>.

These premises have traditionally been managed through local real estate agents or tourism agencies. In the last decade, however, online advertising platforms and booking services have taken a growing share of STHL listings. The number of listings via online platforms is more than doubling each year between 2011-2015<sup>5</sup>, and most online listings are managed directly by the owner of the dwelling rather than an estate agent.

In 2015, non-traditional accommodation accounted for 25% of visitor nights to NSW<sup>6</sup>.

STHL occurs in both regional and metropolitan areas of NSW. About one-third of accommodation supply in non-metropolitan coastal NSW is STHL and it is a significant contributor to regional economies<sup>7</sup>. While STHL demand in regional areas tends to be seasonal (around holiday periods) and mostly full (unhosted) houses, STHL demand in metropolitan NSW appears year-round and is mostly apartment-based.

STHL takes four forms in NSW:

- Rental of one or more rooms (including room sharing) with the host present
- Rental of a whole dwelling (principal residence) with the host away
- Rental of a holiday dwelling (non-principal residence) with the host away
- Rental of a dwelling solely reserved for STHL

#### 2016 Parliamentary Inquiry

In 2016, the NSW Legislative Assembly Committee on Environment and Planning conducted an inquiry into the adequacy of short-term holiday letting in New South Wales. 212 public submissions were received, and three public hearings were held between March and May 2016. The Committee's final report was published on 19 October 2016 and made 12 recommendations (Appendix 2).

The full report can be found on the Parliament of NSW website<sup>8</sup>, and it should be read as a companion document to this paper. The key recommendations were that the NSW Government:

- amend planning laws to regulate short-term rental accommodation,
- allow home sharing, and letting a principal place of residence, as exempt development,
- allow empty houses to be let as exempt and complying development,
- strengthen owners' corporations' powers to manage and respond to STHL issues in strata properties, and
- commit to further investigating impacts from STHL on traditional accommodation operators, and opportunities to reform their regulation.

The NSW Government responded to the report on 19 April 2017 indicating general support for the key recommendations.

<sup>&</sup>lt;sup>3</sup> Parliamentary Inquiry Report, October 2016, p14.

<sup>&</sup>lt;sup>4</sup> Parliamentary Inquiry Report, October 2016, p23.

<sup>&</sup>lt;sup>5</sup> Gurran and Phibbs, 2017: 80.

<sup>&</sup>lt;sup>6</sup> Parliamentary Inquiry Report, October 2016, p23

<sup>7</sup> Holiday Rental Industry Association, 2016: 20-21.

<sup>8</sup> https://www.parliament.nsw.gov.au/committees/inquiries/Pages/ inquiry-details.aspx?pk=1956



# Section 2 - Regulation of STHL

A final policy approach will need to consider both the benefits of STHL as well as the nature and extent of the negative impacts and red tape for business and citizens.

To determine which policy option is appropriate, it is important to establish a clear, evidence-based understanding of the nature and significance of the impacts of STHL on the community. Even in the absence of sufficient data, policy options should still be guided by the relative significance and likelihood of the problem, and the outcomes sought.

The policy options for STHL can either be regulatory or non-regulatory or a combination of both.

Government regulatory intervention may address some issues associated with STHL but should not be seen as the default option where other solutions may exist. The regulation of STHL in NSW could range from minimal intervention to substantial Government regulation. Direct regulatory intervention would be warranted in cases where it is demonstrated as the best available option to address a problem, and is likely to result in a positive net benefit to the community at large. Alternatively, non-regulatory approaches could include incentives for better self-regulation, or working with stakeholders through co-regulation arrangements.

There are a range of distinct regulatory options available to manage the impacts associated with STHL including greater self-regulation by industry, registration of STHL operators along with acceptable standards of operation, changes to strata laws, stronger regulation through the planning system, or a combination of these approaches.

#### **Key Considerations for Government**

There are a number of general considerations that inform whether there should be a regulatory regime for STHL in NSW. These include:

- Regulatory and non-regulatory options properly considered by evaluating their potential effectiveness, costs and benefits
- That selected options are effective and proportional
- Consultation with business and the community should inform regulatory development
- The simplification, repeal, reform or consolidation of existing regulation

In addition, there are a number of specific matters relating to STHL which should be considered in any regulatory response. These include:

- NSW (including ACT) represents approximately 35% of holiday rental premises nationally<sup>9</sup>
- STHL contributes an estimated \$31.3 billion to the national economy including upwards of 238,000 iobs<sup>10</sup>
- The amenity and safety impacts associated with this growing industry can be real and warrant consideration, and
- The potential and the level of concern in relation to impacts are greater in strata buildings.



#### **Current Regulation of STHL in NSW**

STHL is currently regulated in a piece meal manner through the planning system.

While local councils can generally determine the land use planning controls for STHL in their jurisdictions through their Local Environmental Plans (LEPs), few LEPs in NSW refer specifically to STHL (see Parliamentary Committee Report <sup>11</sup>).

Those LEPs that do refer to STHL use different definitions of STHL, and have different thresholds for when STHL requires development consent. Some define STHL as tourist and visitor accommodation within residential accommodation. Some set a maximum number of consecutive days that STHL can occur, or a maximum number of bedrooms allowed as STHL. Some set thresholds for days and bedrooms beyond which a more detailed level of approval from council is required.

There is value in standardising this approach. There is also value in giving councils some flexibility to reflect their area's specific circumstance.

#### Regulatory Approaches Both Here in Australia and Overseas

Jurisdictional responses to STHL vary, reflecting the issues and circumstances experienced in their specific locations (see Appendix 4).

In Australia, South Australia does not require approval for STHL. Victoria is considering changes to strata laws to address issues in apartment buildings, while Queensland has introduced legislation to allow councils to deal with party houses. Western Australia has established a registration process through local councils in conjunction with the requirement for development consent.

Cities internationally have also established different regulatory responses to STHL. In New York, advertising an entire unoccupied apartment for less than 30 days is illegal. In Berlin it is illegal to let more than 50% of an apartment on a short-term basis without a permit from the city. In Paris an authorisation is required for STHL longer than 120 days whilst in London STHL is allowed for up to a total of 90 nights in any calendar year.

In San Francisco the registration of STHL properties has been introduced to address housing affordability. STHL is defined as a rental of all or some of the primary residential unit for less than 30 consecutive nights. Similarly, Vancouver is tightening its laws on STHL in response to low rental vacancy rates and limited access to affordable, quality rental housing. The city will require a business license for anyone doing short-term rentals.



# Section 3 - Impacts Associated with STHL

As STHL takes place in existing dwellings it is hard to quantify the potential impacts of STHL above and beyond what would normally be expected in residential areas.

However, STHL occupants may differ from most longterm occupants in that they may:

- · prioritise leisure or festive activities
- · be unfamiliar with local rules to manage amenity
- be less concerned to maintain good neighborly relations.

This section focuses on the impacts associated with STHL in NSW including general environmental and amenity impacts, impacts within strata properties and broader industry and housing policy considerations. By taking into account the impacts, consideration can be given to whether a regulatory response is required over and above the existing responses.

# General Environmental and Amenity Impacts

#### Noise

Noise and associated anti-social behavior was one of the most frequent amenity issues raised in submissions to the Parliamentary Committee inquiry. Leisure and festive activities may be predominate in short-term holiday letting, and occur more frequently than long-term residential activities. In addition, people on holidays may occupy the dwelling for more hours each day than would be expected of long-term residents.

There are a number of existing avenues to raise concern and seek a response in relation to noise issues associated with the use of dwellings in NSW, such as complaints to the local council or reporting to the NSW Environment Protection Authority or NSW Police.

These authorities can issue a warning or a noise abatement direction under the Protection of the Environment Operations Act (POEO Act) directing a person to stop making the offensive noise, with the potential for non-compliance with the direction resulting in an on-the-spot fine. The POEO Act also sets out that local councils can serve various notices on occupants that require them to control offensive noise and advise them what noise levels are acceptable.

However, given the nature of STHL, these measures are likely to be more effective in responding to systemic noise problems associated with the use of a dwelling as opposed to short-term one off noise incidents.

#### **Party Houses**

Party houses were raised as an issue with the Parliamentary Committee, however there is limited data on the impact of party houses in NSW. Problems may stem from a combination of frequent short stays by inconsiderate occupants and by the size of the dwelling.

In QLD, the Sustainable Planning Act enables a local planning scheme to declare that a 'party house' may be 'assessable development' requiring approval and restricting party houses to particular precincts and/or ban them from others. To date, however, only the Gold Coast Council has utilised these provisions.

#### Waste

Waste generation may be higher for STHL guests than long-term residents because their perishable items or other items acquired during their stay may be disposed of at the end of their stay. They may also be unfamiliar with rules about when and how waste is collected.



#### **Traffic and Parking**

There may be a higher proportion of independent adults occupying STHL than would be expected under long-term occupancy, which may generate more demand for parking. STHL guests may also be unfamiliar with local parking arrangements or rules.

#### **Hazards and Evacuation**

All dwellings are at risk from hazards that may require the evacuation of the building, such as a house fire or gas leak. Apartment complexes rely on efficient evacuations. STHL occupants may not be familiar with the procedures for evacuating the building, especially if there is no host present.

Many properties in NSW, especially in regional areas, are also exposed to natural hazards such as bushfire and flood.

The NSW Government's current approach to actual impending hazards is to provide warnings in real time through a telephone warning system called Emergency Alert. This system sends warnings to landline and mobile phones in the area subject to threat, which provides real-time information and directs people to the radio, television or website for up-to-date information. Where possible, officers door knock to reinforce evacuation warnings.

#### **BCA Classification**

Some jurisdictions and courts in Australia have asserted that STHL can constitute a change in building classification under the Building Code of Australia (BCA). This can affect in NSW, among other things, the fire safety, health and amenity and disabled access (for people with a disability) requirements that apply, as well as whether development approval is required from the local council.

#### **Impacts within Strata Properties**

Strata complexes are generally more susceptible to the potential impacts of STHL due to:

- · the proximity of neighbours,
- · the reliance on shared facilities, and
- the high proportion of whole-premise STHL in these listings (i.e. with no host present).

One small survey in Victoria indicated that STHL guests caused complaints about three times as often as long-term occupants, but the total complaint rate averaged less than one complaint per apartment per year<sup>2</sup>.

Nevertheless, strata complexes have unique needs which require separate consideration as outlined in Section 5 of the Options Paper.

# Broader Industry and Housing Policy Considerations

#### Crossover with Other Short-term Accommodation Providers

Traditional short-term accommodation providers are of the view that there is inequality between the regulated accommodation sector and less regulated STHL. This inequality is said to stem from a lower level of regulation, giving STHL an advantage by having lower establishment and compliance costs.

For example, the Committee heard evidence that 'this advantage is most stark at the boundary between [STHL] and bed and breakfast operators, who are arguably competing for the same customers'.

Consideration could be given to better aligning the regulatory requirements for low impact tourist and visitor accommodation, such as bed and breakfasts, and those for STHL.





#### Concentration of STHL Ownership

In its submission to the Parliamentary Committee, Inside Airbnb reported that 25% of entire home listings are rented out by hosts with more than one listing<sup>13</sup>.

Concentration of ownership of dwellings, solely for the purpose of using them for STHL could create 'virtual hotels' where the 'rooms' are dispersed across NSW. There is currently little or no evidence of concentration of ownership, or of any adverse impacts from 'virtual hotels' in NSW.

Some jurisdictions are regulating the number of properties a host can advertise. In NSW, any attempt to regulate STHL ownership may be anti-competitive and would need to be carefully considered.

#### Rental and Affordable Housing Stock

The continued growth of STHL is occurring at the same time as the housing market is generally becoming less affordable, particularly in metropolitan Sydney and highly patronised holiday destinations such as Byron Bay. In these areas, some consider that STHL has the potential to compete against traditional forms of residential tenancy.

However, the limited evidence currently available suggests that the impact of STHL on rental availability is negligible.

Sector-wide, transparent data collection and reporting from industry may help to ensure the issues can be monitored to facilitate an informed response from Government.

 $<sup>^{\</sup>rm 13}$  Parliamentary Inquiry Report, Submission 199, Inside Airbnb, p2.



#### **Section 4 - Self-regulation**

One of the NSW Government's considerations in the regulation of STHL is that industry could take greater responsibility in self-regulating its operation and that the effectiveness of this self-regulation would, to some degree, influence the ongoing level of Government regulation that is required (if any).

Effective self-regulation generally requires a strong and unified industry body with broad membership and the ability to ensure compliance with self-regulatory measures. It may also involve incentives for owners, hosts and guests of STHL to further enhance better self-regulation.

The evidence relating to the impacts associated with STHL where most hosts operate without incident supports the view that the vast majority of STHL does not require Government regulatory intervention. However, for this approach to be supported there would need to be more effective, accountable and transparent self-regulation by industry.

#### **Code of Conduct**

The Holiday Rental Code of Conduct was originally adopted by NSW in 2012 and revised as a national code in 2015 with the key objective of encouraging acceptable standards of behaviour for holiday rental guests.

The NSW Legislative Assembly Committee<sup>14</sup> generally found that the Code's current management structure and participants are too narrow and that there is disagreement and confusion regarding its ownership and legal status. The Committee were of the view that the Code might be a valuable tool in the management of the STHL industry. Therefore, it was recommended that the Code should be strengthened and be part of a compliance system for STHL.

The Committee suggested that there may be value in reviewing the Code of Conduct or producing a NSW-specific Code of Conduct that is supported by all providers and the government in NSW (recommendation 6). The Committee also recommended that the NSW Government should participate formally in the management of the Code.

Conversely, the creation of a State-level code could add costs and complexity to STHL which may outweigh its value. In any event, the effective implementation of a Code may allow the NSW Government to tailor its regulatory response accordingly.



#### **Airbnb Friendly Buildings Program**

According to Airbnb's Australian website the Friendly Buildings program is "a pilot program offered to help landlords, building residents who are Airbnb hosts, and their neighbours<sup>15</sup>. The program is currently only available in certain buildings within the United States.

The program facilitates an agreement between hosts and the strata building's owners' corporation so that the corporation has the information on the number of dwellings let and the nature of the STHL stays in the building, can cap the number of nights a unit can be let for STHL and allows them to take a share of the STHL earnings. Once the program is signed up to, when rules are broken Airbnb can penalise the host by removing the relevant listing from their platform.

#### **Education**

A self-regulation approach would see the industry committing to better educating users and hosts of the benefits of managing impacts to address some community concerns around STHL.

#### **Complaint Management**

Most STHL operators provide complaint mechanisms for their listings, such as a website or a telephone number. Self-regulation could see a transparent and responsive complaint management system.

If this was implemented it could form part of the Code of Conduct, be mandated through Government regulation either as a requirement of, for example, a registration scheme (refer to Section 7) or a requirement to being exempt development or a planning approval (refer to Section 6).

#### **Monitoring and Reporting**

There is value in greater ongoing monitoring and reporting on STHL by industry. This is particularly the case given the paucity of information relating to the impacts associated with STHL.

If information about the growth of STHL in NSW and its impacts on the community was made publicly available it would provide data on the extent of any issues and inform the future regulatory management of the industry.



15 https://www.airbnb.com.au/help/article/1195/airbnb-friendly-buildings-program



# Section 5 - STHL in Strata Properties

The NSW Government is committed to providing a balanced regulatory approach to the issue of STHL in strata schemes. This approach is centred on maintaining a resident's entitlement to the use and enjoyment of their property, providing the appropriate compliance and enforcement tools to address bad behavior, while supporting the positive economic benefits that derive from STHL.

Section 5 addresses current strata laws in strata properties where STHL occurs. Strata properties have different requirements to detached housing, because of the proximity of their residents and shared responsibility for common property. For this reason, Recommendations 10 and 11 of the Committee's report relate specifically to the management of STHL in strata properties.

The Committee recommended that the NSW Government consider amendments to strata laws to give owners' corporations more powers to manage and respond to adverse behaviour (Recommendation 10). The Committee also recommended that the NSW Government review the impact of short-term letting in the strata environment after no later than three years (Recommendation 11).

There are differing views on the best regulatory approach to manage STHL. Options that could be introduced under strata scheme management laws include imposing vicarious liability on lot owners for the actions of short-term lessees, allowing for increased levies for lot owners who engage in STHL, introducing a civil penalty for creating a nuisance, and expanding the powers of the NSW Civil and Administrative Tribunal (the Tribunal) to deal with problems arising from STHL. There is also the option to enable owners' corporations to prohibit or restrict STHL in their strata schemes.

Representatives of the short-term letting industry argue that the impact of STHL on strata schemes:

- is overstated and unsupported by corresponding data;
- is similar to impacts arising from long term rental or ownership; and
- can be adequately addressed through selfregulatory measures such as adherence to the industry's Code of Conduct, or changes to strata laws to enable owners' corporations to better manage the impact of STHL.

On the other hand, some strata advocates argue that STHL can result in:

- · degradation of communal facilities;
- reduced amenity and enjoyment of an apartment complex; and
- owners' corporations should be able to restrict or ban STHL in the schemes.

#### **STHL and Current Strata Laws**

#### Managing the Impacts of STHL

Under current strata laws, owners' corporations can adopt model by-laws which enable them:

- to manage some of the impacts that may arise from short-term rental accommodation, including management of common property; and
- require that an owner/occupier must notify the owners corporation of a change of use of that lot including if it is to be used for short-term rental accommodation.

Owners' corporations can also formulate their own by-laws to:

- help manage the behavior of owners/ occupiers and invitees, noise, vehicle parking, the appearance of a lot and waste disposal;
- vary the insurance payable by owner/ occupiers who short-term let; and
- restrict the occupancy of bedrooms in a lot to no more than two adults<sup>16</sup>.

<sup>&</sup>lt;sup>16</sup>Strata Management Schemes Regulation 2016, Schedule 3.



While an owner/occupier is obliged to comply with by-laws, a short-term holiday occupant may not have the same interest in by-laws as long-term residents. They are also likely to have left the property by the time any enforcement action could commence.

Owners and occupiers of lots in a strata scheme are also required to avoid creating a nuisance or hazard or unreasonably interfering with the use or enjoyment of the common property or other lots by others.

If an owner/ occupier breaches this section, the owners corporation can initiate proceedings in the NSW Civil and Administrative Tribunal (Tribunal) to require an owner/occupier to comply<sup>17</sup>.

#### **Prohibition of STHL**

The Strata Schemes Management Act 2015 (SSMA) prohibits by-laws that restrict the rights of owners to deal with their lots<sup>18</sup>. Furthermore, by-laws that purport to restrict the use of a lot when that use is permitted under an applicable planning instrument have no effect<sup>19</sup>.

The Committee received submissions indicating that some owners' corporations have passed by-laws which purport to prohibit STHL in their buildings<sup>20</sup> in accordance with legal advice that such by-laws were valid and effective.

#### **Options**

## Strata Law Provisions to Address the Impact of STHL

The rapid growth in STHL in recent years has arguably outpaced regulation. It is therefore important to consider whether owners' corporations should be given greater ability to manage the impacts associated with STHL.

The Grattan Institute<sup>21</sup> advocated giving owners' corporations more power to limit the impacts of STHL. Similarly, the Committee<sup>22</sup> did not accept that STHL was incompatible with strata living, but recommended that the NSW Government consider amendments to strata laws to give owners' corporations additional powers.

The Committee highlighted the Victorian Government's proposed amendments to strata laws in the Owners' corporations Amendment (Short-Stay Accommodation) Bill 2016. These amendments, if enacted, will enable the Victorian Civil and Administrative Tribunal to make an order for compensation due to loss of amenity due to STHL, impose a civil penalty for breaches of conduct provisions, and make orders prohibiting the use of a lot for STHL for a specified period following repeated breaches of conduct provisions. The Bill also will enable providers and short stay occupants jointly and severally to be liable for compensation orders.

In New South Wales, possible amendments to strata laws could:

- make lot owner/ occupants jointly and severally liable for the conduct of occupants, unless owners had taken reasonable steps to prevent conduct breaching by-laws or causing a nuisance or hazard;
- streamline and simplify enforcement processes for breaching by-laws or causing a nuisance or hazard:
- allow owners' corporations to apply to the Tribunal for an order to require owners to pay increased contributions to the administrative or capital works funds; and/or
- enable the Tribunal to make orders, in appropriate circumstances:
  - to cease conduct breaching by-laws or causing a nuisance or hazard:
  - for payment of compensation;
  - imposing a civil penalty; and/or
  - to cease using the relevant lot for STHL, usually for a specified period.

<sup>&</sup>lt;sup>17</sup>Strata Schemes Management Act 2015, s 153.

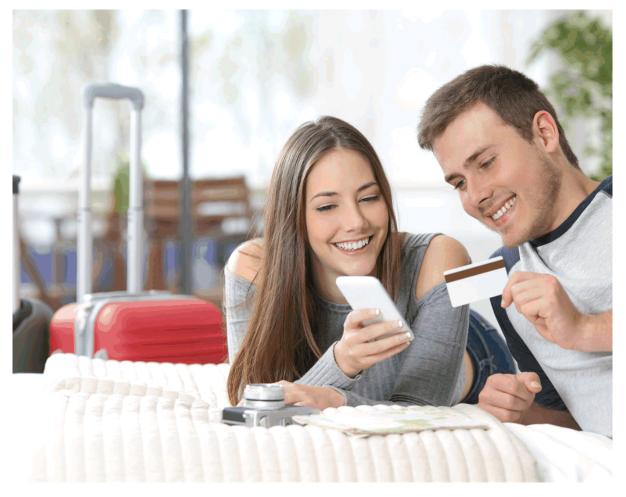
<sup>&</sup>lt;sup>18</sup>Strata Schemes Management Act 2015, s 136.

<sup>&</sup>lt;sup>19</sup>Strata Schemes Management Act 2015, s 136(2).
<sup>20</sup>Parliamentary Inquiry Report, October 2016, p10.

<sup>&</sup>lt;sup>23</sup>Minifie, 2016.

<sup>&</sup>lt;sup>22</sup>Parliamentary Inquiry Report, October 2016, p9,10.





## Allow Strata Schemes to Prohibit or Restrict STHL in their Schemes

The Committee held that STHL in strata schemes should be managed through amendments to strata laws to enable owners' corporations to address any adverse impacts of STHL, rather than prohibiting STHL. Similarly, the Grattan Institute's 2016 paper, 'Peer to peer pressure, Policy for the sharing economy' argued that STHL should only be prohibited 'as a last resort'.

The NSW Government has received a number of representations on this issue of STHL in strata schemes.

On the one hand, some stakeholders have argued that enabling owners' corporations to prohibit or restrict STHL in their strata schemes would involve an impingement on the property rights of owners who wish to short-term let, may be viewed as unfair to those owners who take steps to minimize the impact of STHL, and could impact on tourism and employment opportunities.

On the other hand, there remains a strong desire by some owners' corporations to have the ability to prohibit STHL in their schemes. Advocates for this position argue that short-term letting has a significant impact on apartment buildings and on apartment residents, on areas such as amenity, strata costs and individual safety.



# Section 6 - Regulation through the Planning System

The Parliamentary Committee recommended using planning instruments to regulate STHL, and to do this in a light touch way, primarily through exempt and complying development.

#### **How STHL is Defined**

There is no consistent definition of STHL across NSW. A consistent definition would make it easier to operate STHL in NSW, as well as providing clarity for local councils, operators and owners.

The Government considers that STHL is acceptable in a residence up to a point that it becomes a more intensive commercial type of use (i.e. tourist and visitor accommodation).

Based on the principle of allowing STHL to occur where residential use of dwellings is allowed, it is suggested that the most appropriate definition of STHL is as a dwelling, or part of a dwelling, that provides short-term accommodation, but does not include tourist and visitor accommodation.

#### The NSW Planning System and STHL

In NSW, there are three levels of development control:

- Exempt means the development does not need approval.
- Complying means the development needs a simplified approval from a private certifier or council, subject to meeting a set provisions.
- Requiring consent means a full development application must be lodged with the consent authority (local council, regional panel or Minister for Planning) and a full merit assessment undertaken against a range of state and local planning provisions.

Exempt and complying development can only occur in certain locations in NSW. For example, there are some restrictions on exempt development within heritage items. There are also restrictions on complying development in locations that are considered environmentally sensitive or at risk from natural hazards such as bushfire<sup>23</sup>.

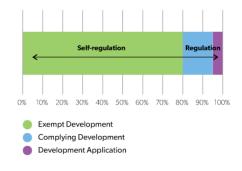
Planning controls, either through exempt or complying development, or development requiring consent, could be used to manage the operation of STHL properties, taking into account factors such as:

- · Length of stay
- · Number of bedrooms
- · Presence of a host
- · Compliance with a Code of Conduct
- · Waste management arrangements

One regulatory option could be to set minimum requirements, such as adoption of a mandated Code of Conduct, and then allow most STHL to be exempt development. This is illustrated indicatively in Figure 3.

However, the planning regulatory framework could become more interventionist when the potential impacts of STHL intensify and/or reflect commercial uses. In this case, STHL could become either complying development or require consent (Figure 2). If a planning approach is adopted, one challenge will be determining the criteria that would trigger complying development, or requiring consent. This could result in additional costs for government, hosts of STHL properties and users. It could also increase complexity to STHL industry, which may outweigh its value.

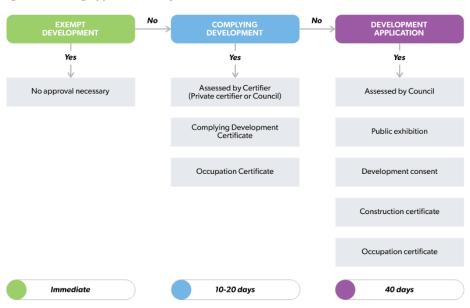
Figure 2: Indicative Planning Regulatory Scope



<sup>23</sup>See, for example, clauses 1.18 and 1.19 of State Environmental Planning Policy (Exempt and Complying Development) 2008.



Figure 3: Planning Approval Pathways



The use of the planning system to manage STHL would be supported by provisions in the *Environmental Planning & Assessment Act* (EP&A Act) which allow investigation into on-going issues of noncompliance.

The Act allows an investigation authority (i.e. council officers) to enter and search, obtain information and record evidence on, amongst other things, the use of a property.

These provisions are reliant on some level of development control being applied to the use of the property i.e. either complying or development consent. These regulatory approvals would allow authorities to investigate and monitor uses for on-going compliance with impact management performance standards and conditions.

#### Options for Triggering Types of Development Approval

#### Regulate the Length of Stay

Setting the length of stay could be a risk-based approach to determining the appropriate level of regulation on STHL. This approach could reduce potential amenity impacts and match regulatory requirements for other accommodation providers.

The 12 councils which have STHL provisions in their LEPs, generally allow owners to occasionally let their dwellings for a short-term without the need for consent. Three councils provide short-term letting as exempt development.

Councils variously define 'short-term' as 45, 60 or 90 consecutive days. Others do not include a length of stay in their definition of STHL.



Given that STHL is of particular value to the economies of regional communities, consideration also needs to be given to whether the final approach should take this into account, meaning that urban and regional areas would have different planning controls.

If length of stay became part of a regulatory approach the following parameters or a combination could be used:

- · Days per stay
- · Days per year

#### **Days Per Stay**

The maximum length of each stay could be limited. The rationale for this would be that if a property is leased for longer than 90 consecutive days, the agreement may be a tenancy and be dealt with under the *Residential Tenancies Act 2010*.

Limiting the minimum length of each stay may address the issues sometimes associated with very short stays, such as noise or social impacts. However, very short stays are also a very important part of the STHL sector. For example, Airbnb guests stay 2.1 times longer than typical visitors<sup>24</sup> in Sydney and the average length of stay in Stayz listings is 6.2 days<sup>25</sup>.

#### Days Per Year

Setting a limit on the total days per year that a dwelling can be used as STHL would control the degree to which a dwelling is used as STHL and retain its primary use as long-term residential.

However, if the limit is set too high, the income generated through STHL may obviate the need for long-term residential use the rest of the year. Conversely, too restrictive a limit could stifle the demand for STHL.

Some important statistics to consider are that there are approximately 90 days of school holidays each year in NSW (which is when most regional STHL tend to be rented). However, it is noted that these times are also peak usage times for traditional accommodation operators, and consideration needs to be given to the impact on that industry.

In Sydney, the majority of Airbnb hosts rent their primary residences occasionally 37 nights per year<sup>26</sup>.

#### Number of Bedrooms

Some NSW Councils place a limit on the number of bedrooms in a STHL. This may be intended to reduce the likelihood of large gatherings and the potential for noise, traffic, parking, 'party houses' and other impacts.

However, there is no change to the potential number of occupants in each dwelling just because the use changes from long-term occupancy to short-term occupancy.

Limiting the number of bedrooms in a STHL may be unfairly restrictive on larger homes, which are common STHLs in regional NSW. An important statistic to consider is that the average guest group for a Stayz listing is 3.7 adults and 1 child<sup>27</sup>, which equates to 3-4 bedrooms.

#### **Presence of Hosts**

The Parliamentary Committee recommended that short-term letting of rooms in any property where the landlord or host is present be permitted as exempt development (recommendation 2).

Further, anecdotal evidence suggests there are lower potential impacts associated with STHL where the principal resident (owner or tenant) is present during STHL, because it's in the best interests of the host to monitor and respond to guest behavior or neighbor complaints.

<sup>&</sup>lt;sup>24</sup>Parliamentary Inquiry Report, Submission 207, Airbnb, p3.
<sup>25</sup>Parliamentary Inquiry Report, Submission 141, Stayz Pty Ltd, p6.



# Section 7 - Registration or Licensing

Registration or licensing is another option for managing impacts associated with STHL.

The Parliamentary Inquiry heard that STHL operators in NSW should be required to acquire a license or be registered to let their properties along with a mandatory code of conduct or other guidelines which would regulate STHL. It was considered that any such register would need to be established and maintained by a Government agency rather than an industry body with the most likely agency being NSW Fair Trading which could work with other agencies to ensure compliance.

The Committee found that the concept of a registration system hosted by a Government agency rather than an industry body, was supported by most of stakeholders including residents in strata buildings (finding 3). However, the Committee did not make a recommendation about this.

# Examples of Registration and Licensing in Other Jurisdictions

A number of jurisdictions have adopted registration processes to manage STHL. Generally, however the registration of STHL in these jurisdictions are undertaken in conjunction with planning requirements.

In Western Australia, the Government has empowered local councils to require registration for STHL through the *Planning and Development Regulations 2015* to help minimise the amenity and safety impacts on local communities of short-stay serviced apartments. Where these provisions are adopted, the use of any such property for STHL must be registered with the local council.

To be registered an applicant must submit:

- a floor plan of the short-term accommodation stating the number and location of sleeping rooms,
- · details of proposed on-site parking bay,
- the name of the manager of the short stay dwelling and his or her contact details, at any time of the day or night, and
- an undertaking that he or she will respond, within 12 hours, to any contact relating to the short stay dwelling.

Under the Regulations, STHL is defined as temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totaling more than 3 months in any 12-month period. The registration process is subject to breach provisions. Noncompliance is an offence liable to a \$4.000 fine.

In San Francisco, the registration of properties being used for STHL has been introduced predominantly to address the issue of housing affordability. It aims to eliminate illegal short-term letting, prevent housing stock being illegally turned into de facto hotels, and to manage housing supply. STHL is defined as a rental of all or some of the primary residential unit for less than 30 consecutive nights with a valid Short-term Residential Rental Registration. Only one registration is permitted per person.



The San Francisco registration:

- enables renting a portion or the entire unit while the registered person is present for an unlimited number of nights per year,
- provides that renting a portion or the entire unit while the registered host is not present is limited to a maximum of 90 nights per year,
- enables the unit to be advertised providing the registration number is listed at the top of the description, and
- requires that hosts submit quarterly reports of all
  the stays within their units for the last three months
  (or back to the date of their initial registration,
  whichever is applicable).

A host must be a permanent resident (owner or tenant) of the residential unit rented for short-term periods i.e. the person must live in that specific residential unit for at least 275 nights of any given calendar year.

Similarly, the City of Vancouver is tightening its laws on STHL in response to low rental vacancy rates and limited access to affordable, quality rental housing. The city will require a business license for anyone doing short-term rentals. Once granted a license. owners and renters would be allowed to rent part or all their principal residence on a nightly basis. To get a short-term rental business license owners and renters would need to prove that it was their principal residence by submitting a relevant property title or a tenancy agreement along with photo ID and recent Government or utility mail. The City intends auditing license applications to prevent fraud. Licensed operators would need to post their licence number in all online advertising. People operating rentals without a business licence will face fines and legal action.

#### Nature of Problem and Focus of Potential Registration

As indicated above, the registration and licensing of STHL has been adopted in different jurisdictions to address different problems associated with the operation of STHL.

A registration process could provide greater information for potential users, and conversely, help monitor the management of the industry.

Licensing could be used to address issues that would not be addressed through the planning framework. Licensing for STHL could work within the existing planning system as other licensing schemes work (such as child care and liquor licensing).

Incentives for improved industry self-regulation could also explored via licensing exemptions. Under these circumstances, hosts may be required to register their STHL, but would be exempt from any registration or licensing fees if compliance with the measures within an industry wide code of conduct relating to the management and minimisation of impacts could be demonstrated.

However, consistent with the themes established earlier in this paper, the adoption of any registration or licensing scheme would need to carefully consider the need to mitigate negative impacts against the broader regulatory costs.



#### **Section 8 - Next Steps**

#### **Have Your Say**

The NSW Government wants your ideas on the issues raised in this Options Paper. You may wish to use the submission form in **Appendix 1** to answer the questions raised in this paper and provide any other comments. Submissions can be made until **31 October 2017.** 

Following this, the NSW Government will consider submissions and decide the regulatory approach (if any) it will pursue for STHL. At this stage, it is difficult to say what that approach will include, but there may be legislative changes made, such as new provisions in State Environmental Planning Policies or other changes to certain laws. If these changes to occur there is likely to be further opportunity for input on the detail of these changes.

#### **Abbreviations**

Australian Capital Territory
Building Code of Australia
Holiday and Short-term Rental Code of Conduct
New South Wales
Local Environmental Plan
Legislative Assembly Committee on Environment and Planning Report 1/56 – October 2016: Adequacy of the Regulation of Short-term Holiday Letting in New South Wales
State Environmental Planning Policy
Short-term Holiday Letting
NSW Legislative Assembly Committee on Environment and Planning



#### References

Government: Sydney.

Australian Regional Tourism Network (2016)

ARTN Response Inquiry into the adequacy of the regulation of short-term holiday letting in NSW, NSW

Business Insider Australia (2017) Here's how huge Airbnb has become in Sydney, available at https://www.businessinsider.com.au/heres-how-huge-airbnb-has-become-in-sydney-2017-4.

Gurran, N. and Phibbs, P. (2017) "When Tourists Move IN: How should urban planners respond to Airbnb?", Journal of the American Planning Association, 83:1, 80-92.

Inside Airbnb (2016), Submission 199, Response to the Adequacy of the regulation of short-term holiday letting in NSW (Parliamentary Inquiry Report)

Minifie, J. and Wiltshire, T. (2016) Peer-to-peer Pressure: Policy for the sharing economy, Grattan Institute: Melbourne.

NSW Department of Planning & Environment (2016) Impact of Airbnb on the Sydney Rental Market, NSW Government: Sydney.

NSW Government Response to the final report of the Parliamentary Inquiry into the Adequacy of the regulation of short-term holiday letting in NSW https://www.parliament.nsw.gov.au/

NSW Government (2016) Submission 190, Response to the Adequacy of the regulation of shortterm holiday letting in NSW (Parliamentary Inquiry Report)

Airbnb (2016), Submission 207, Response to the Adequacy of the regulation of short-term holiday letting in NSW (Parliamentary Inquiry Report)

Parliament of NSW (2016) Legislative Assembly Committee on Environment and Planning Report 1/56 – October 2016: Adequacy of the Regulation of Short-term Holiday Letting in New South Wales, NSW Government: Sydney. State Environmental Planning Policy (Exempt and Complying Development) 2008, http://www.legislation.nsw.gov.au/#/view/EPI/2008/572/full

Stayz Pty Ltd (2016), Submission 141, Response to the Adequacy of the regulation of short-term holiday letting in NSW (Parliamentary Inquiry Report)

Strata Management Schemes Regulation 2016, http://legislation.nsw.gov.au/~/view/regulation/2016/501/id37

Strata Schemes Management Act 2015, http://www.legislation.nsw.gov.au/#/view/act/2015/50

The Holiday Rental Industry Association (2016) Submission 202, Response to the Adequacy of the regulation of short-term holiday letting in NSW (Parliamentary Inquiry Report)



#### **Appendices**

#### **Appendix 1 – STHL Options Paper Submission Form**

#### SHORT-TERM HOLIDAY LETTING OPTIONS PAPER SUBMISSION FORM

The NSW Government has released an Options Paper, building on the work of the Parliamentary Inquiry and existing practice, to start a public discussion on potential options to develop a suitable approach for short-term holiday letting (STHL) in NSW.

The Options Paper for STHL outlines potential options around the development of an appropriate approach to managing STHL. These options could be considered either individually or in combination.

Prior to making a whole of government policy framework, we are seeking feedback from the community and our stakeholders on the options discussed in the paper.

You are invited to respond to the Options Paper by submitting this form to the NSW Department of Planning and Environment.

You can also provide your feedback by:

- · filling out the online survey
- email to STHL@planning.nsw.gov.au
- · writing to:

#### Director, Housing Policy

Department of Planning and Environment GPO Box 39, Sydney NSW 2001

If you have further inquiries, please email us at STHL@planning.nsw.gov.au

The consultation process is open until 31 October 2017.

By hitting submit you agree to the <u>Department's Privacy Policy.</u>

How will your personal information be used when you make a submission?

Your personal information is protected under the Privacy and Personal Information Protection Act 1998 (PPIP Act). The Department collects personal information in submissions for the purposes set out in the Department's *Privacy Statement*.

We respect your right to privacy. Before lodging your submission, you will be asked to confirm that you have read the terms of the <u>Privacy Statement</u>, which sets out:

- how personal information is defined under the PPIP Act - it includes but is not limited to your name, address, and email address:
- the purposes for which the department collects personal information; and
- how personal information collected by the department will be used.

When you make a submission, we will publish:

- the content of your submission including any personal information about you which you have chosen to include in those documents
- a list of submitters, which will include:
  - your name
  - your suburb or town

We will not publish offensive, threatening, defamatory or other inappropriate material.

If you do not want your personal information published, do not include any personal information in your submission.

All other information gathered in this submission form will be collated and used towards making a recommendation on the future approach of STHL in NSW.

Name, Surname	
Organisation	
Suburb	Postcode
E-mail Address	
Date of Submission	



intro	duction	
1	Do you use or have you ev	6

- 1 Do you use or have you ever used short-term holiday accommodation?
- 2 Are you or have you ever been a short-term holiday accommodation host?
- 3 Do you provide another form of short-term holiday accommodation?
- 4 Do you live near a property that provides short-term holiday accommodation?
- 5 Are you from an STHL industry group, owners' corporations or community group?

#### Impacts Associated with STHL

- 6 Please indicate below which impact(s) are you most concerned about and how do you believe these could be managed.
  - Noise
  - Waste
  - · Party Houses
  - Parking
  - Hazards and Evacuation

#### Self-Regulation

- 7 Considering the mechanisms below, how could self-regulation in NSW address any negative impacts of STHL?
  - · The Code of Conduct
  - Complaint Management Mechanism
  - · Monitoring & Reporting
- 8 Are there barriers that may reduce the effectiveness of self-regulation?

#### STHL in Strata Properties

- 9 Should owners' corporations be given the legal ability to prohibit or restrict STHL? If so, how and under what circumstances?
- 10 Should the Strata Schemes Management Act be amended to increase the ability of owners' corporations to manage the impact of STHL and obtain compensation for adverse impacts? If so, under what circumstances?
- Is there scope for industry self-regulation in the short-term holiday letting industry? Would this effectively address issues that occur in short-term letting in strata schemes?

#### Regulation through the Planning System

- 12 How should STHL be subject to a planning regulatory framework? What would be the impacts of applying a planning framework to STHL?
  - Exempt
  - Complying
  - Development Consent
  - · No planning regulation

Please indicate your reasons below:



- 13 If STHL is to be regulated via the planning framework, how should it apply?
  - Number of total days per year
  - Number of consecutive days
  - · Number of bedrooms
  - · Length of stay
  - · Presence of a host
  - · Location (metro vs. regional)
  - · Compliance with a Code of Conduct
- 14 Should there be different planning frameworks in regional and metropolitan areas? If so, how and why?

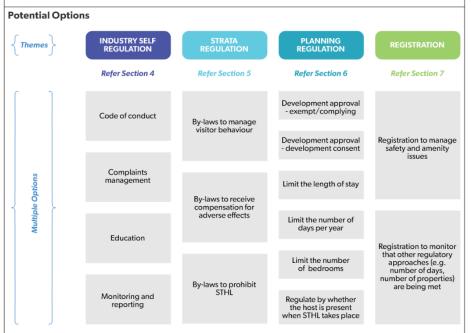
#### Registration or Licensing

15 Could a licensing system for STHL work in NSW? If so, how might it operate?

#### Summary of Options

16 The options outlined in this paper are summarised in the below table. For the future regulatory framework, which top 3 options (if any) would you like to see in this framework? Why?

(Please tell us the reasons for your choices).



Note: The policy options for STHL could include regulatory or non-regulatory approaches, or a combination of both. A combination of options from any rows or columns (or/and other options not covered in the paper) can be chosen to suggest a policy framework for the STHL in the submission form.



#### Appendix 2 – Recommendations and Findings of the Legislative Assembly Committee

NSW Legislative Assembly Committee on Planning and Environment Report 1/56 – October 2016

#### Adequacy of the Regulation of Short-Term Holiday Letting in New South Wales

#### Recommendations:

- The Committee recommends that the NSW Government amends:
  - the Standard Instrument Principal Local Environmental Plan to include a definition of short-term rental accommodation in the category of tourist and visitor accommodation
  - the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to allow short-term rental accommodation.
- The Committee recommends that short-term letting of rooms in any property where the landlord or host is present be permitted as exempt development.
- The Committee recommends that short-term letting of a principal place of residence be permitted as exempt development.
- The Committee recommends that short-term letting of empty properties be permitted under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, as:
  - exempt development where the development does not exceed applicable impact thresholds; and
  - complying development where the development exceeds applicable impact thresholds.
- The Committee recommends that the NSW
  Government investigates, in consultation with
  advocates for traditional accommodation
  operators, the impact of the growth of shortterm rental accommodation on their industry,
  and identifies opportunities to reform current
  regulations.
- 28 | Short-term Holiday Letting in NSW Options Paper

- The Committee recommends that the NSW
  Government participates in the management
  of the Holiday and Short-Term Rental Code of
  Conduct to ensure that it has a broadly-based
  management structure, including community
  representation, and increases its industry
  coverage.
- The Committee recommends that the NSW
  Government develops a compliance system
  for short-term rental accommodation under the
  Environmental Planning and Assessment Act
  1979 which considers:
  - the use of the investigative powers in Division 1C of the Act
  - streamlined development assessment (Complying Development Certificates)
  - the Holiday and Short-Term Rental Code of Conduct
  - · 'party house' provisions.
- The Committee recommends that the NSW
  Government prepares advice to councils and
  the community outlining the changes which will
  apply to short-term rental accommodation, and
  implements a communication and monitoring
  program.
- The Committee recommends that local councils be responsible for communicating with all landowners about their rights and obligations.
- The Committee recommends that the NSW
  Government considers amendments to strata
  regulations to give owners' corporations more
  powers to manage and respond to adverse
  behaviour resulting from short-term letting in
  their buildings.
- The Committee recommends that the NSW Government reviews the impact of short-term letting in the strata environment after no later than three years.
- 12. The Committee recommends that the NSW Government implements a program to collect data on the holiday industry generally, and shortterm letting in particular, to assess the economic contribution of short-term letting and its impact on housing affordability and community viability.



# Appendix 3 – The Holiday and Short-term Rental Code of Conduct

The Holiday Rental Code of Conduct (updated on 24 March 2015) includes:

### Part 1: Obligations of Participating Organisations

- Implement and promote the Code of Conduct and make it available on their website.
- Members must undertake to comply with the Code of Conduct.
- Incorporate Code of Conduct provisions into rental terms and conditions.
- · Display House Rules at all times on premises.
- Provide Code of Conduct, Terms and Conditions, House Rules and any By-Laws in a folder on the premises.
- Impose sanctions for non-compliance with Code of Conduct (includes appeal provisions).
- · Participate in the Code Administration Committee.

#### Part 2: Obligations on Property Managers

- · Comply with Code of Conduct.
- Inform guests of provisions of Code of Conduct.
- Provide information to neighbouring properties on relevant contacts.
- Act with integrity and cooperate with others.
- Offer the property in clean, safe state and in compliance with regulations.
- · Have a local representative and general contacts.
- · Display House Rules and Terms and Conditions.
- Limit occupancy to 2 adults per bedroom.
- No commercial catering or functions without local Council permission.
- · No party houses.
- · Provide information on parking prior to arrival.
- Inform guests of waste practices, and remove any excess waste left by guests.
- Hold appropriate insurance.
- · Handle complaints and resolution.

# Part 3: Terms and Conditions for Owners and Guests: Performance Standards

- · Security deposits
- · Comply with house rules
- · Respect residential amenity
- · Control and be responsible for any visitors
- Comply with any instructions from Managers
- · No offensive noise
- · No party houses
- Comply with parking regulations and maximum number of permitted vehicles.
- · Dispose of garbage appropriately.
- · Report any problems or incidents promptly.

#### Part 4: House Rules for Visitors and Guests: Performance Standards

- · No offensive noise or anti-social behavior
- · Comply with limits on visitor numbers
- No party houses
- Comply with parking regulations and arrangements
- Dispose of garbage appropriately
- · Close windows and doors when absent
- No use of swimming pools between 22:00 and
  07:00
- · No glassware in pool
- Rules about smoking and pets indoors
- Report damages and breakages
- · Departure arrangements
- · Emergency contacts



#### Appendix 4 – Regulatory Approaches to STHL in other Jurisdictions

#### Queensland

Queensland enables councils to define certain STHL as a 'party house' and enforce acceptable behavior through the Sustainable Planning Act . To date only the City of the Gold Coast has done so. The definition does not limit the number of people or bedrooms but defines the accommodation as being for "a period of less than 10 days".

To address noise issues, the Gold Coast City Council passed a local law (No. 19) Control of Party House Noise 2013. For an action to occur, excessive noise has to be experienced "more than 2 times during a 12-month period" or another specified frequency not less than 3 times during a 12-month period" (p2). The compliance section of Gold Coast City Council does not have a direct role as a noise abatement direction under this law is served by the police.

#### Victoria

In Victoria, the Owners' corporations Amendment (Short-Stay Accommodation) Bill 2016 is proposed to give the Victorian Civil and Administrative Tribunal (VCAT) various powers over STHL, including prohibiting it based on inappropriate conduct and compensating other residents for loss of amenity. Both the STHL provider and occupant can be liable for the damage or compensation.

#### South Australia

The South Australian Government has clarified that STHL does not constitute a change of use and does not require development approval.

#### Western Australia

The Planning and Development (Local Planning Schemes) Regulations 2015 defines STHL as temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totaling more than 3 months in any 12-month period.

The City of Fremantle's Short Stay Accommodation Local Law 2008 requires that dwellings which provide accommodation for a maximum of six occupants for a minimum of 2 nights but no more than three consecutive months must be registered.

The City of Perth requires planning approval for STHL as a change of use. These applications need to address fire safety and disability standards.

#### **Tasmania**

The City of Hobart requires a once off planning permit when a residence is used for ongoing or multiple occurrences of STHL. Approval is required for all changes of use of a residence to STHL. Visitor accommodation is permitted in 5 residential zones provided it satisfies acceptable solutions. Visitor accommodation must be in an existing building, meet the parking and access code for on-site parking and have a floor area of no more than 160 square meters.

However, from July 2017 the use of a residence is exempt development if the principal residence is used only when the owner is on vacation; or no more than 4 bedrooms are used for short-term visitor accommodation. The use requires a permit in certain residential zones if in a building with an existing floor area of no more than 300 square meters (corresponding to letting up to 4 bedrooms) and the certain business zones if above ground floor level or at the rear of the Building.

Elsewhere it has been stated that no permit will be required for up to 4 rooms let as short-term visitor accommodation for up to six weeks (42 days) a year.

#### **New York City**

Legislation made on 21 October 2016 is to take effect on 1 May 2017. It makes advertising an entire unoccupied apartment for less than 30 days illegal.

#### Berlin

It is illegal to let more than 50% of an apartment on a short-term basis without a permit from the city.



#### San Francisco

STHL is defined as a rental of all or some of the primary residential unit for less than 30 consecutive nights with a valid Short-term Residential Rental Registration. Only one registration is permitted per person.

#### Registration:

- enables renting a portion or the entire unit while the registered person is present for an unlimited number of nights per year
- provides that renting a portion or the entire unit while the registered host is not present is limited to a maximum of 90 nights per year
- enables the unit to be advertised providing the registration number is listed at the top of the description
- requires that hosts submit quarterly reports of all of the stays within their units for the last three months (or back to the date of their initial registration, whichever is applicable).

A host must be a permanent resident (owner or tenant) of the residential unit rented for short-term periods i.e. the person must live in that specific residential unit for at least 275 nights of any given calendar year.

Although there has been a defined registration by the city, more than half of the hosts were running their businesses illegally since there was no any implemented enforcement by platform providers as Airbnb.

It was recently announced that Airbnb has settled its lawsuit with the city of San Francisco on 1 May 2017. As part of the settlement, Airbnb will offer a streamlined registration process to hosts that makes it easy to register their short-term rental with the city and obtain a business license through Airbnb's platform.

The purpose of the new registration is to eliminate the illegal short-term letting and prevent housing stock from being illegally turned into de facto hotels.

In this context, technology will be provided by Airbnb to automatically register new hosts with the city when they sign up, as well as to deactivate existing hosts who do not comply. During the sign-up process, potential hosts will be notified that their information will be shared with the city. The existing hosts have 8 months

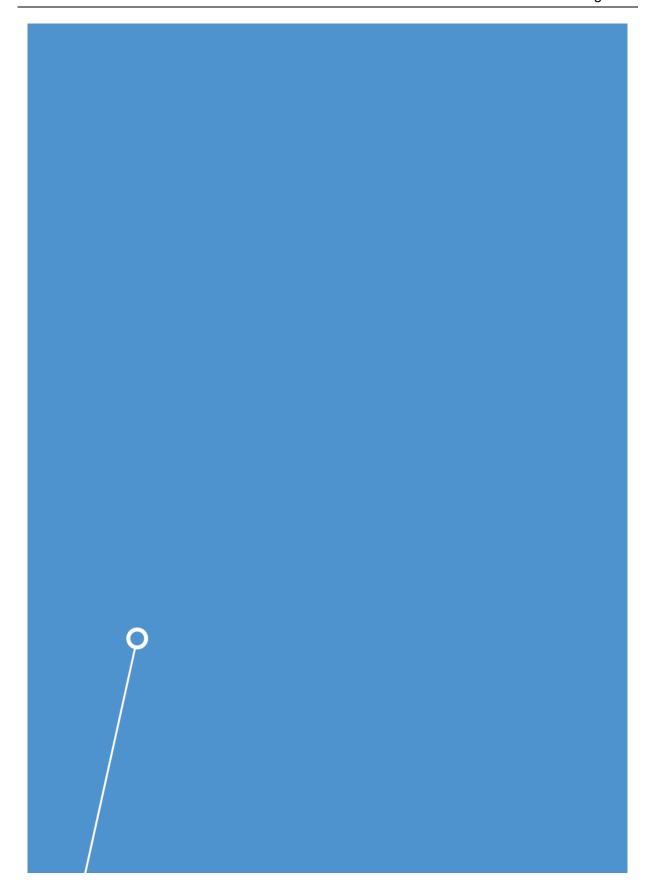
#### **Paris**

An authorisation is required for STHL longer than 120 days.

#### London

The Greater London Council allows STHL for up to a total of 90 nights in any calendar year. Amenity provisions also apply. The use is not considered to be a change of use and no planning permission is required. Where STHL exceeds 90 nights in the same calendar year, planning permission is required, providing 'permanent short-term use' (similar to a hotel) is permissible on that site.







Chapter N19: Huskisson Mixed Use Zones

# Chapter N19: Huskisson Mixed Use Zones

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# Amendment history Version Number Date Adopted by Council Commencement Date Amendment Type 1 14 October 2014 22 October 2014 New 2 23 June 2015 1 July 2015 Amendment 3 Draft



#### **Table of Changes**

#### Key

**Green Highlights** – indicate existing controls that are proposed to be reworded and/or relocated. Where strikethrough is used, the control has been relocated.

Yellow Highlights – indicate controls that are proposed to be deleted.

**Blue Highlights** – indicate controls that are proposed to be inserted, or additional text in existing controls or in association with existing controls (i.e. note boxes, contents, etc.).

Old Section	New Section	Category	Recommended Change	Reason
Throughout	-	Consistency	Replace 'rubbish' or 'garbage' with 'waste'	It is important that consistent wording is used throughout Chapter N19 and wider SDCP 2014.
Throughout	-	Consistency	Objectives as removal numerals.	To ensure consistent formatting is used throughout the SDCP 2014.
Section 2, Figure 1	-	Edit	Amend subject land map	To ensure the figure is more legible.
6.6.2 7.5.2 8.5.2	5.7.2	Transfer, Addition and Edit	The precinct specific controls contained Acceptable Solutions relating to overhanging branches in laneways.  The control has been edited and a new PC has been added to the use of appropriate planting to allow use of laneways as per their function.	It is important that waste collection vehicles are able to provide their functional service to development. Where there are impediments in the laneway such as overhanging branches, this can restrict the provision of these services. The purpose of this Performance Criteria and Acceptable Solution is to ensure that appropriate plant species are selected along laneways to avoid wide canopies with overhanging branches and ongoing maintenance obligations.
-	5.9	Addition	New General Control	Waste collection via Kent



			relating to Waste Collection Areas in Kent Lane and Winnima Lane.	Lane and Winnima Lane is restricted due to the narrow widths and limited kerb side area.  Special consideration is required for waste collection in these lanes so safe waste collection can be undertaken with a rear lift vehicle.
6.6.1(ii) 7.5.1(iii) 8.5.1(iii)	-	Edit	Replace "building" with "the development".	To ensure that the objective does not contradict with existing and proposed controls.
Section 6, Figure 2	-	Edit	Include street names in Figure	To ensure the figure is more legible.
6.6.2	-	Edit	General controls relating to parking, access and movement have been grouped together, and separated from Kent Lane specific controls.  A1.5 specifically has been amended to be clearer.	To ensure that the provisions are better coordinated and enable easier interpretation. The amendments to the controls address concerns raised by Council's Waste Services Section and Traffic Unit.
6.6.2	-	Edit and Addition	Provisions specifically relating to the use of Kent Lane have been separated from the generic controls and grouped together. The function of the laneway is defined.  New Performance Criteria and Acceptable Solution have been inserted to address waste services and traffic management issues.	Include adopted changes from rescinded DCP No. 99 which were inadvertently omitted from SDCP 2014. The wording of the controls from DCP No. 99 have been simplified and a note box provided for additional guidance.  Additional controls and note boxes are inserted to address issues and provide guidance raised by Council's Waste Services Section and Traffic Unit relating to safe waste collection and manoeuvring.
Section 7,	-	Edit	Include street names in	To ensure the figure is



Figure 4			Figure	more legible.
7.1, Figure 5	-	Edit	Replace 'Beach Lane' in Figure 5 with 'Winnima Lane'.	To ensure the correct street name is used in the DCP Figure.
7.5.2	-	Deletion	General controls relating to parking, access and movement have been grouped together, and separated from Winnima Lane specific controls.	To ensure that the provisions are better coordinated and enable easier interpretation. The amendments to the controls address concerns raised by Council's Waste Services Section and Traffic Unit.
			Deletion of an Acceptable Solution relating to laneway turning areas.	The deletion of the Acceptable Solution is consistent with the adopted changes from rescinded DCP No. 99.
7.5.2	-	Edit and Addition	Provisions specifically relating to the use of Winnima Lane have been separated from the generic controls and grouped together. The function of the laneway is defined.  New Performance Criteria and Acceptable Solution have been inserted to address waste services and traffic management issues.	Include adopted changes from rescinded DCP No. 99 which were inadvertently omitted from SDCP 2014. The wording of the controls from DCP No. 99 have been simplified and a note box provided for additional guidance.  Additional controls and note boxes are inserted to address issues and provide guidance raised by Council's Waste Services Section and Traffic Unit relating to safe waste collection and manoeuvring.
Section 8, Figure 6	-	Edit	Include street names in Figure	To ensure the figure is more legible.
8.1, Figure 7	-	Edit	Replace 'Laneway' in Figure 7 with 'Unnamed Lane'.	To ensure the correct street name is used in the DCP Figure.
8.5.2	-	Deletion	General controls relating to parking, access and movement have been grouped	To ensure that the provisions are better coordinated and to enable easier



			together, and separated from Unnamed Lane specific controls.  Deletion of an Acceptable Solution relating to laneway turning areas.	interpretation. The amendments to the controls specifically address issues raised by Council's Waste Services and Traffic Unit. The deletion of the Acceptable Solution is consistent with the adopted changes from rescinded DCP No. 99.
8.5.2	-	Edit and Addition	Provisions specifically relating to the use of Unnamed Lane have been separated from the generic controls and grouped together. The function of the laneway is defined.  New Performance Criteria and Acceptable Solution have been inserted to address waste services and traffic management issues. This includes consolidating two Acceptable Solutions which are proposed to be relocated within the Section, relating to access.	Include adopted changes from rescinded DCP No. 99 which were inadvertently omitted from SDCP 2014. The wording of the controls from DCP No. 99 have been simplified and a note box provided for additional guidance.  Additional controls and note boxes are inserted to address issues and provide guidance raised by Council's Waste Services Section and Traffic Unit relating to safe waste collection and manoeuvring.
Section 9, Figure 8	-	Edit	Include street names in Figure	To ensure the figure is more legible.
9.6.2	-	Edit	Edit acceptable solution relating to service vehicle manoeuvring areas to address waste services and traffic management issues.	To enable easier interpretation and have consistent approach to safe waste collection and manoeuvring on development sites and a note box provided for additional guidance.
10	-	Addition	Add 'Australian Standards (specifically AS2890)' in External Policies & Guidelines.	To ensure that applications in the subject area provide fencing, landscaping and driveway design to enable visual permeability where the



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				proposed access is, including in laneways, consistent with the relevant AS.
Supporting Map 1	-	Edit	Add 'no' in front of 'on street parking on Kent Lane'.	To ensure consistency with the controls in the DCP.



#### 1 Purpose

The purpose of this chapter is to assist with the development of tourist accommodation and facilities within the B4 Mixed Use Zone.

**Advisory Note:** In addition to the provisions outlined in this Chapter, you must refer to:

- Supporting Map: Chapter N19 Map 1.
- Supporting Document 1: Huskisson Mixed Use Zones "Design Guide"

#### 2 Application

This Chapter applies to the 4 precincts zoned B4 Mixed Use in Huskisson as shown in Figure 1 below.



Figure 1: Subject Land Map



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#### 3 Context

#### 3.1 General Controls for All Precincts

The 4 precincts within this Chapter are zoned B4 Mixed Use which allows for a variety of uses and for varying combinations of such uses including higher density residential, commercial and tourist combinations. To avoid competition with the local retail centre (Huskisson Town Centre), these precincts should not include ordinary retail uses.

#### 4 Objectives

#### The objectives are to:

- Encourage design excellence in coastal urban design and architecture to contribute to a beautiful coastal settlement.
- ii. Ensure that the key characteristics of the existing urban structure that give the area its unique character are not lost through future development.
- iii. Ensure that the urban design principles of each precinct are taken into consideration for all future development to maintain appropriate future streetscapes and built forms.
- Support Huskisson as a coastal town, encouraging desirable built forms for housing and tourist accommodation.
- v. Provide accommodation within walking distance to services and water based recreational opportunities such as swimming and boating.
- vi. Encourage residential densities to support the Huskisson commercial centre.
- vii. Guide development to ensure unique and appropriate built form design that is in keeping with a coastal town.
- viii. Protect and enhance the natural environment of the Huskisson B4 Mixed Use zoned areas.
- Understand the importance of each precinct, particularly its relationship with the coastal edge.
- x. Reinforce residential streets for residential amenity in a foreshore location.

#### 5 General Controls for All Precincts

#### 5.1 Design of Development

#### 5.1.1 Objective

 Provide direction to achieve appropriate built form in the Huskisson mixed use zoned areas.

#### 5.1.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Development demonstrates consistency with the urban design considerations outlined in the Design Guide.	A1.1	Your development complies with the Design Guide.	



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#### 5.2 Lot Amalgamation

#### 5.2.1 Objective

- i. Ensure that amalgamated sites do not result in large, bulky buildings.
- ii. Ensure that desirable streetscapes are achieved.

#### 5.2.2 Provisions

#### **Performance Criteria Acceptable Solutions** P1 Development does not result in excessive Your development does not have a length A1.1 bulk and scale. of an unbroken building elevation of more than 10m facing a public place. Building P2 Building massing reflects the original lots' articulation of a minimum 3m width and 2m configurations. depth is required for wider buildings (greater than 10m). P3 Building mass does not result in long building facades along streets and other You may have circulation areas (stairwells) public places. occupying this articulated space if it is setback from the building's elevation by at least 2m. A1.2 Your development has a maximum overall building length of 20m after which a minimum 3m landscaped separation is required between buildings.

#### 5.3 Density

#### 5.3.1 Objectives

- Provide building forms that create distinctive, attractive and pedestrian friendly coastal town streets.
- ii. Provide highly modulated buildings to reduce the bulk and scale of the buildings.
- iii. Provide quality urban building forms.

#### 5.3.2 Provisions

Performance Criteria	Acceptable Solutions	
P1 The scale of development in each precinct minimises any adverse effects of size and bulk on surrounding properties and streetscapes.	A1.1	Your development complies with the maximum FSR as shown on the Floor Space Ratio Map in Shoalhaven LEP 2014.



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#### 5.4 Streetscape

#### 5.4.1 Objectives

- Ensure development enhances and makes a positive contribution to the character of existing landscapes, reinforces the function of the street and is sensitive to the landscape and environmental conditions of Precinct 2.
- ii. Provide buildings with a façade in addition to a building structure that regulates the external environment and provides privacy.
- Create physical and visual connection between the lot and the street reserve thereby increasing surveillance over the street.
- iv. Ensure development is well connected to the street and contributes to the accessibility of the public domain.

#### 5.4.2 Provisions

#### **Performance Criteria Acceptable Solutions** P1 The streetscape reflects the functions and Your development complies with front A1.1 traffic volume of the street, is designed to setback provisions. encourage pedestrian access and support a sense of place and street identify. A1.2 Your development locates entries so that they relate to the existing street and P2 Development is able to orient a visitor and subdivision pattern, street tree planting and contributes positively to the streetscape pedestrian footpath. and building façade design. A1.3 70% of the internal space of units facing P3 Parking spaces and garages do not the street on ground level of the building dominate the frontage of the are to be no more than +/- 250mm above development. finished ground level. P4 Entrances to development provide a Ground level living rooms have direct desirable residential identity for the street. connection with outdoor living areas. The frontage of buildings and their entries address the street. A1.5 Ground level dwelling with a street frontage have an entry from the street. You must provide main building entries A1.6 that are accessible, legible, safe and well-

#### 5.5 Orientation and Separation

#### 5.5.1 Objectives

- i. Ensure building orientation and separation provide the primary source of light, air and outlook to living room areas and private open spaces.
- ii. Provide high visual and acoustic privacy for residents.
- iii. Encourage the sharing of views whilst not restricting the reasonable development of a site.



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- Protect the visual and acoustic privacy of nearby residents in their dwellings and private open space.
- v. Reduce the impact of building bulk created by large unbroken expanses of wall.
- vi. Ensure adequate separation between buildings contributes to the site's capability to infiltrate storm water.
- vii. Achieve development that maximises the potential for energy conservation.

#### 5.5.2 Provisions

**Performance Criteria** 

# P1 Building orientation and separation ensure appropriate urban form and adequate amenity (in terms of solar access and natural ventilation) and privacy (visual and acoustic) for building occupants.

- P2 Building orientation and separation ensures appropriate massing and spaces between buildings.
- P3 Development is designed to maximise the sharing of existing views where possible.
- P4 The privacy of residents and private outdoor spaces are protected.
- P5 Direct overlooking of main internal living areas and private open spaces of other dwellings is minimised by building layout, location and design of windows, balconies, screening devices and landscape.
- P6 Development should not unduly obscure surrounding views that are valued by the community.

#### **Acceptable Solutions**

- A1.1 You must orient buildings to the front and the rear of the lot rather than the side boundaries.
- A1.2 You must provide separate distances in accordance with the table below.

  Distances are measured between residential windows facing one another.

Separation distance	Minimum distance
Between non-habitable room windows (can be measured diagonally).	3m
Between all other windows except primary windows of living areas/external edge of balconies and terraces.	6m
Between primary windows of living areas/external edge of balconies and terraces and all other windows except between primary windows of living areas/external edge of balconies and terraces.	9m
Between primary windows of living areas/external living areas and primary windows of living areas/external edge of balconies and terraces for buildings up to and including four storeys.	12m

A1.3 If your lot has a frontage (including where amalgamated) greater than 30m, no individual building may be wider than 20m



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and there must be at least 3m separation between buildings.

#### 5.6 Energy Conservation

#### 5.6.1 Objectives

- Provide dwellings with adequate daylight and natural ventilation to habitable rooms and adequate sunlight to private open spaces.
- ii. Avoid the potential for significant overshadowing of habitable rooms and private open spaces.
- iii. Ensure development maximises the potential for energy conservation.

#### 5.6.2 Provisions

#### **Performance Criteria** Acceptable Solutions You must provide windows to living areas P1 Buildings are sited to maximise solar of individual units that receive at least 2 access of living areas and principal areas hours of sun between 8am and 4pm on of open space having regard to slope, June 21. views, existing vegetation, overshadowing and lot configuration. A1.2 You must select building materials and insulation to assist thermal performance P2 All habitable rooms are designed to and maintain internal comfort levels. provide direct access to fresh air and assist in promoting thermal comfort for A1.3 You must use materials of high thermal occupants. mass for living areas and locate living areas to receive direct sun during cooler P3 Windows are appropriately sized and months. shaded to reduce summer heat load and permit entry of winter sun. A1.4 You must use the building layout and section to increase the potential for natural ventilation. You must provide doors, windows and other openings that have adequate draught control.

#### 5.7 Landscaping and Deep Soil Area

#### 5.7.1 Objectives

- i. Ensure existing trees contribute to visual setting by complementing the landscape setting adjacent to the foreshore.
- ii. Encourage mature tree planting to improve the amenity of development and streetscapes.
- iii. Ensure landscaping dominates the ground plane around buildings.
- iv. Ensure landscaped areas are useable and maintainable spaces.



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 Allow for soft landscaping to provide screening between buildings and privacy for dwellings and private open spaces.

Assentable Colutions

#### 5.7.2 Provisions

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Performance Criteria	Acceptable Solutions		
P1 Where practical, development protects and retains mature trees.	A1.1 Where practical, you must retain existing trees and shrubs. You should consider locating and designing the building		
P2 Development provides opportunities for mature and substantial tree planting.	footprint to enable their retention.  A1.2 You are to provide two main deep soil		
P3 Development provides for deep soil landscaped areas that are useable and maintainable.	areas. You are to locate one to the rear or centre of the lot and one to the front of the lot.		
P4 Dense shrub and trees provides screening between buildings and lower floor screening.	A1.3 You are to use at least 50% indigenous tree and shrub species in your landscaping.		
P5 Vegetation types allow use of laneways as per their function.	<b>Note:</b> A list of plant species suitable for Huskisson can be found on <u>Council's website</u> .		
	A1.4 Deep soil areas cannot be covered by any impervious ground surface. Deep soil areas cannot be located on structures such as basement car parks or in planter boxes.		
	A1.5 You are to include deep soil areas in the total permeable area for the allotment.		
	A1.6 Plant selection along rear boundaries and adjacent to laneways must not overhang, impede access or sight lines, or impede the ability to provide waste collection.		

#### 5.8 Fences and Walls

#### 5.8.1 Objectives

- Ensure than front and side fences plus walls provide privacy, security and noise attenuation without having a detrimental impact upon the streetscape and adjacent buildings.
- ii. Ensure development defines boundaries between communal and private areas.
- iii. Define boundaries between private and public land which contributes positively to the public domain.



#### 5.8.2 Provisions

#### Performance Criteria **Acceptable Solutions** You must provide low and open fences P1 Fences and walls define public and continuously along all street boundaries. private spaces. A1.2 You are to provide front and side boundary P2 Privacy and security for development is fences that reflect the design character of enhanced. the dwelling. P3 Fences and walls are low and open to A1.3 You may construct front fences to a ensure adequate surveillance from the maximum height of 1.2m as long as the street. fence is an open fence of with an openness ratio of at least 60%. The fence P4 Fences and walls contribute positively to may have a solid base not higher than the public domain. 300mm the remainder of the fence shall have an openness of the fence shall have an openness ratio of 60%. You are to construct side boundary fences (for least 5m from the front boundary) in the same materials and design as the front fence. A1.5 You may construct side boundary fences, from behind the building line to the rear boundary, with a maximum fence height of A1.6 You must construct retaining walls so that they are no higher than 400mm. A1.7 You must not use Colorbond fencing for front, side or return boundary fences within the 5m front setback. You must construct fences and walls so that they do not impede the natural flow of stormwater runoff. A1.9 Controls for front fences and walls also apply to secondary street frontages on corner lots measured for the length of the dwelling. A1.10 Where you are providing fences along laneways they are to be visually permeable.



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#### 5.9 Waste Collection (Kent Lane and Winnima Lane Only)

Kent Lane and Winnima Lane are narrow and have insufficient kerb space for the collection of waste receptacles via a side lift waste collection service. Rear lift waste collection vehicles will be required to service these developments. This requires consideration of the location of waste bin storage areas.

**Note:** Contact Council's Waste Services Section to discuss the waste collection requirements for your development.

#### 5.9.1 Objectives

 Ensure development enables appropriate waste collection to occur from Kent Lane and Winnima Lane.

#### 5.9.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Waste bin storage areas are easily accessible for rear lift waste collection.	A1.1 Waste bin storage areas are provided within the basement level or rear setback and are appropriately integrated into the design of the development.  Note: All on-site collection must occur as per Chapter G7 Waste Minimisation and Management Controls and G21 Car Parking and Traffic.		



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#### 6 Precinct 1

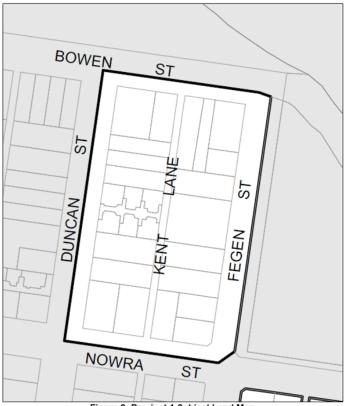


Figure 2: Precinct 1 Subject Land Map

#### 6.1 Urban Design Principles

- Creation of building forms that complement the lower density surrounds along Duncan, Bowen, Fegen and Nowra Streets.
- Retention of the dominance of mature trees along the foreshore reserve.
- Retention of view corridors down streets and along the foreshore reserve.
- · Retention of public access to and along the foreshore and reserves.
- Ensure the maintenance of the area as a safe and pedestrian friendly place.
- Retention of the informal character of streets and landscaping as the dominant streetscape theme.
- Creation of building forms that match the beauty and uniqueness of the place.



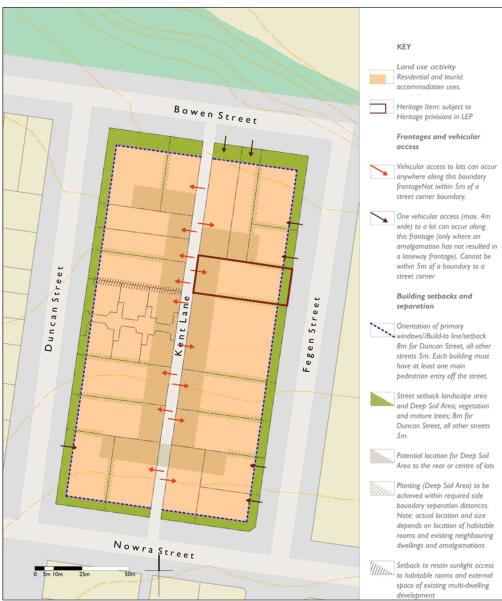


Figure 3: Precinct 1 Development Control Map

You should also refer to the Supporting Map with additional controls for Precinct 1.



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#### 6.2 Land Use

#### 6.2.1 Objectives

- Ensure that land use in Precinct 1 predominately caters for a range of residential and tourism development.
- ii. Ensure that development appropriate to the precinct does not complete with the Huskisson Town Centre.
- iii. Ensure land use of Precinct 1 is consistent with the urban design principles for the precinct.
- iv. Ensure the land use for Precinct 1 addresses the heritage item located within the precinct.

#### 6.2.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Urban design principles of the precinct are achieved.	A1.1 You must demonstrate that your development adheres to the precinct's urban design principles.		
P2 Development form is residential in nature affording opportunities for tourist accommodation.	A1.2 Developments could include apartments, serviced apartments, boutique hotels, residential flat buildings, small resort/and		
P3 Land uses maximise the precincts strategic location and tourist resources i.e. beaches, public reserves and water bodies.	or conference/function centre.		

#### 6.3 Heritage Considerations

#### 6.3.1 Objective

i. Conserve the heritage significance of heritage items within the Precinct.

#### 6.3.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 The heritage significance of the Interwar Holiday Cottage and trees located at 7 Fegen Street is maintained.	A1.1	Your development does not impact on the heritage significance of the heritage item.	

#### 6.4 Building Height

#### 6.4.1 Objectives

- i. Ensure development responds to the desired scale and character of the street within the precinct.
- ii. Provide highly modulated buildings to reduce the bulk and scale of the buildings.



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iii. Provide buildings forms that create distinctive and attractive coastal town streets.

#### 6.4.2 Provisions

#### **Performance Criteria Acceptable Solutions** P1 The height of development is compatible A1.1 Your development must comply with with the desired future character of the maximum height of buildings is as shown surrounding area and built forms. on the Height of Buildings Map in Shoalhaven LEP 2014. P2 The height of development protects the A1.2 The maximum building form of your residential amenity of surrounding properties by not unduly impacting on development shall be 2 storeys with a 3rd their visual outlook, privacy or access to level recessed from the front building sunlight. alignment. P3 Development provides design relief as the building increases in height. See also Section 6.8 Bonus provisions for amalgamated lots.

#### 6.5 Setbacks and Alignments

#### 6.5.1 Objectives

- Provide building forms that create distinctive, attractive and pedestrian friendly coastal town streets.
- ii. Allow for deep soil planting areas.
- iii. Define boundary between private and public land which contributes positively to the streetscape.

#### 6.5.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Building setback and building alignment reflect the existing alignment of the street.	A1.1 Along Bowen Street, the minimum front setback shall be 8m. Along all other streets, the minimum front setback shall be		
P2 The design of development and site placements are compatible with and enhances the prevailing and desired future streetscape.	5m. For corner lots where Bowen Street is a secondary street, the minimum secondary street setback shall be 5m.		
·	A1.2 Minimum 50% of the buildings street		
P3 The building setback from street frontages does not undermine the integrity of the existing in avoiding loss of	elevation is to be parallel with the street boundary.		
view, undue overshadowing, privacy and traffic safety.	A1.3 Along Bowen Street, minimum 50% buildings street elevation shall be located on the front setback line of 8m and the		
P4 Setbacks provide space for residents to feel an adequate sense of visual and acoustic privacy when using rooms	remainder shall be located behind this front setback line. For corner lots where Bowen Street is a secondary street, minimum 50%		



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fronting the street.

- P5 The distance between development and adjoining properties allows adequate solar penetration, privacy, acoustic privacy and minimises visual and other bulk related impacts.
- P6 Development maintains setbacks from the street to ensure they are consistent and visually harmonious with other buildings in the streetscape.
- buildings street elevation shall be located on this secondary street setback line of 5m and the remainder shall be located behind this secondary street setback line.
- A1.4 Along all other streets, minimum 50% of the building street elevation shall be located on the front setback line of 5m and the remainder shall be located behind this front setback line.
- A1.5 The front setback for the recessed 3<sup>rd</sup> level of buildings shall be setback from the level below (2<sup>nd</sup> level) by a minimum of 4m (where facing a public street).
- A1.6 Recessed 3<sup>rd</sup> level shall have a maximum footprint of 70% of the level below.
- A1.7 Maximum 2 storeys can be built to the laneway boundary (Kent Lane) where deep soil zones are being provided to the centre of the lot. Where buildings other than garages are not built to the laneway boundary, they shall provide 5m setback and achieve rear deep soil planting and separation distances.
- A1.8 Rear boundaries without a laneway frontage are to be treated as side boundaries.
- A1.9 1.5m minimum side boundary setback are allowed but buildings shall achieve the required separation distances i.e. Clause 4.9.

See also Section 6.8 Bonus provisions for amalgamated lots.

#### 6.6 Car Parking, Vehicle Access and Vehicle Movement

#### 6.6.1 Objectives

- Provide convenient, accessible and safe parking to meet the needs of residents and visitors.
- ii. Ensure development provides appropriate vehicle access and movement.
- iii. Ensure service vehicle access is integrated into the design of the development
- iv. Encourage the design of driveways and car parking structures that minimise their visual impact and stormwater runoff.



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#### 6.6.2 Provisions

#### **Performance Criteria**

- P1 Amalgamated sites combine and rationalise car manoeuvring areas and car parking.
- P2 Development provides adequate car parking.
- P3 The design of driveways and provision of parking areas enhances the safety of pedestrians, cyclists and vehicles and does not pose a visual detriment to streetscapes as a result of additional traffic generated by the development.
- P4 Development integrates adequate at grade and/or basement car parking without compromising street character, landscape quality or pedestrian amenity and safety.
- P5 Services are integrated in a sensitive manner such that they relate to the building and landscape design, enable easy access and require minimal maintenance.

#### Acceptable Solutions

- A1.1 A maximum of only 1 driveway entry/exit to any street frontage is permitted.
- A1.2 Car parking numbers, design and layout of parking is in accordance with the car parking section of this DCP.

# A1.3 Kent Lane is used as the main vehicle access to development.

- A1.4 Where there is no laneway frontage, lots may have 1 car entry from the street of a maximum of 4m width which cannot be located closer than 5m from a street corner.
- A1.5 At grade car manoeuvring areas or parking may be allowed if setback a minimum distance of 3m from the front (primary) boundary.
- A1.6 Any basement car parking may be raised to a maximum height of 1m above natural ground level and appropriate ventilation is installed within the raised height.
- A1.7 Where basement car parking is raised, the overall height of the building shall still be contained within the defined building envelope. This visual impact from any public place of any unrelieved basement wall shall be mitigated through the use of design elements and/or landscaping.
- A1.8 Basement garages are to be setback a minimum of 1.5m from the side boundaries but preferably in line with the building above.
- A1.9 Garage doors are to be provided to all basement car park entries. Garage doors are to be in line with the buildings elevation and be compatible in colour and material with the buildings elevations.
- A1.10 Garage doors and entries to basement car parks along the street cannot be more than 7m wide or 50% of the width of the lot whichever is the lesser.

A1.11 Rubbish collection is to occur along Kent Lane. As an interim measure until such time that Kent Lane is constructed as a through



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lane, rubbish collection may occur from the street.

A1.12 Waste collection and truck manoeuvring areas are not permitted on private property, except where contained within the basement.

Note: All on-site collection must occur as per Chapter G7 Waste Minimisation and Management Controls and G21 Car Parking and Traffic.

Contact Council's Waste Services Section to discuss requirements for waste collection and manoeuvring areas within the basement.

A1.13 Landscape planting at the shared boundary of the property and the laneway shall not overhang or impede access or the ability to provide waste services.

P6 Kent Lane is utilised for its intended function.

Note: Kent Lane is intended for vehicle access and servicing in a one-way direction (north to south). Laneways are not to incorporate pedestrian footpaths in the verge.

- A1.14 Kent Lane is the main vehicle access point for development and waste collection.
- A1.15 Waste collection is to occur from Kent Lane. As an interim measure until such time that Kent Lane is constructed as a through lane, waste collection may occur from the primary frontage.
- A1.16 Where upgrades are required to Kent Lane, it is constructed to a minimum 4m pavement width and 1m verge on each side.

**Note**: Construction of the laneway is to consider the following;

- Sight lines;
- Minimum standard for laneway construction as per G11 Subdivision of Land; and
- No parking shall be located within the laneway. Car parking for developments must be contained within the development site as per Chapter G21 Car Parking and Traffic.



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#### 6.7 Permeable Site Area

#### 6.7.1 Objective

 Ensure development provides sufficient permeable site area in order to increase storm water infiltration, maximise natural site drainage and protect the water table.

#### 6.7.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Development integrates on-site stormwater management with the design of landscaped areas.	A1.1 For lots less than 750m², permeable site areas shall be a minimum of 30% of site area.		
	A1.2 For lots larger than 750m², permeable site areas shall be a minimum of 35% of site area.		

#### 6.8 Bonus Provisions for Amalgamated Lots

For amalgamated lots (2 or more) in Precinct 1, Council may consider a bonus in FSR up to a maximum of 1.3:1, height up to a maximum of 13m and number of storeys up to a maximum of 4 (recessed 3<sup>rd</sup> and 4<sup>th</sup> level) subject to:

- Compliance with all designed element provisions for Precinct 1 other than FSR, height and number of storeys where a bonus provision is being sought.
- Development is able to address higher level density impacts (privacy, overshadowing, loss of views) within the development site itself via adequate separation distances, setbacks, landscaping, deep soil planting etc.
- Development is presented to Fegen and Duncan Streets as 3 storey buildings.
- · Development achieves high level of design excellence.
- · All car parking to be provided as basement car parking.
- Compliance with setbacks and alignment provisions of Clause 4.7, and additionally:
  - The front setback for the recessed 4<sup>th</sup> level of buildings shall be setback from the level below (3<sup>rd</sup> level) by a minimum of 4m where facing a public street.
  - Recessed 4<sup>th</sup> level shall have a maximum footprint of 70% of the level below (3<sup>rd</sup> level).
  - 3m minimum side boundary setbacks for the 4<sup>th</sup> level and compliance with orientation and separation Clause 4.9.
  - Along Kent Lane, the first 2 levels shall have a setback of 5m from the laneway boundary. For subsequent levels (3<sup>rd</sup> and/or 4<sup>th</sup>), the setback along the land shall be further recessed by 4m from the levels below.
- An additional side boundary setback shall be provided to ensure there is an acceptable visual transition between new development and any listed heritage item. The size of the additional setback will be determined as part of the development application assessment.



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#### 7 Precinct 2

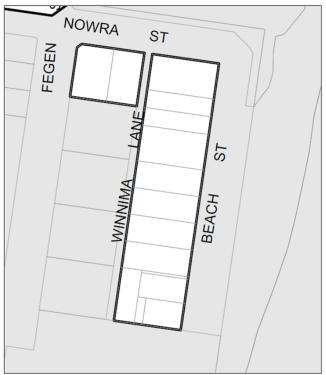


Figure 4: Precinct 2 Subject Land Map

#### 7.1 Urban Design Principles

- Any development along Nowra and Beach Streets shall not compromise the view corridor along Nowra Street and the general view along the foreshore reserve.
- Retention of the visual dominance of mature eucalypts surrounding the buildings.
- Ensure that development sits below the tree canopy.
- Ensure that development does not dominate the current natural environmental setting of the precinct particularly the tree canopy.
- Retention of the vegetated visual setting of the backdrop of the beach.
- · Development frames the view corridor of the water along Nowra Street.
- Development frames the edge of Beach Street and the Reserve.
- Retention of the informal character of streets and landscaping as the dominant streetscape theme.
- Ensure the maintenance of the area as a safe and pedestrian friendly place.
- Create building forms that match the beauty and uniqueness of the place.



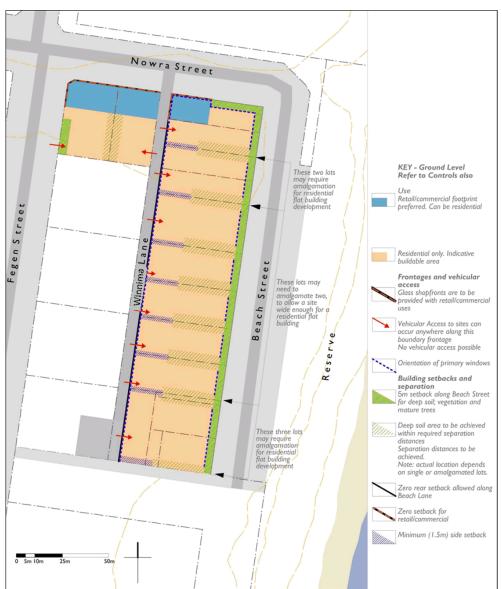


Figure 5: Precinct 2 Development Control Map



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#### 7.2 Land Use

#### 7.2.1 Objectives

- i. Ensure that land use in Precinct 2 predominately caters for a range of residential and tourism activities, with ground floor retail or commercial.
- Ensure opportunities for ground floor retail or commercial development does not compete with the Huskisson Town Centre.
- iii. Ensure the land use of Precinct 2 is consistent with the urban design principles of the precinct.

#### 7.2.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Urban design principles of the precinct are achieved.	A1.1	Development addresses and demonstrates adherence to the precinct's urban design principles.	
P2 Land use maximises the precinct's strategic location and tourist resources i.e. beaches, public reserves and water bodies.		Development could include apartments, serviced apartments, boutique hotels, residential flat buildings, small resort, conference/function centre, café,	
P3 Development is of low scale medium density and is residential and tourist in nature, with ground floor retail or commercial.		restaurants and the like.	

#### 7.3 Building Height

#### 7.3.1 Objectives

- i. Ensure development responds to the desired scale and character of the street within the precinct.
- ii. Provide highly modulated buildings to reduce the bulk and scale of the buildings.
- iii. Provide buildings forms that create distinctive and attractive coastal town streets.

#### 7.3.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 The height of development is compatible with the desired future character of the surrounding area and built forms.	A1.1 The maximum height of buildings is shown on the Height of Buildings Ma Shoalhaven LEP 2014.		
P2 The height of development protects the residential amenity of surrounding properties by not unduly impacting on their visual outlook, privacy or access to sunlight.	A1.2 Maximum building form shall be 3 sto with a 4 <sup>th</sup> level setback.	reys	



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P3 Development provides design relief as the building increases in height.

#### 7.4 **Setbacks and Alignments**

#### 7.4.1 Objectives

- i. Provide building forms that create distinctive, attractive and pedestrian friendly coastal town streets.
- ii. Allow for deep soil planting areas.
- Define boundary between private and public land which contributes positively to the iii. streetscape.
- Establish a well-proportioned rhythm between buildings consistent with a residential streetscape.

#### 7.4.2 Provisions

#### Performance Criteria

- P1 Building setback and building alignment reflect the existing alignment of the street.
- P2 The design of development and site placement are compatible with and enhances the prevailing and desired future streetscape.
- building setback from street P3 The frontages does not undermine the integrity of the existing in avoiding loss of view, undue overshadowing, privacy and traffic safety.
- P4 Setbacks provide space for residents to feel an adequate sense of visual and acoustic privacy when using rooms fronting the street.
- P5 The distance between development and adjoining properties allows adequate solar penetration, privacy, acoustic privacy and minimises visual and other bulk related impacts.
- P6 Development maintains setbacks from the street to ensure they are consistent and visually harmonious with other buildings in the streetscape.

#### **Acceptable Solutions**

- The residential component along Beach A1.1 Street shall have a minimum front setback of 5m and that along Nowra Street shall have a minimum of 4m from their primary street frontages.
- A1.2 Minimum 70% of the buildings street elevation is to be parallel with the street boundary.
- A1.3 Along Beach and Nowra Streets (except for the commercial component of buildings), minimum 60% of the buildings street elevation shall be located on the front setback line and the remainder shall be located behind the front setback line.
- A1.4 The frontage of the commercial component of a building shall be built 100% to the street boundary or where there is an existing commercial premise, then the frontage is to be built to this existing alignment instead.
- A1.5 The 3<sup>rd</sup> and 4<sup>th</sup> level shall have a maximum footprint of 70% of the level below and shall be setback 4m from the level below along Beach and Nowra Streets.
- A1.6 Buildings shall be built to the laneway boundary where deep soil zones are being provided to the centre of the lot. Where buildings other than garages are not built



to	the	lar	าeway	bour	ndary,	they	shall
pro	vide	5m	setbac	k and	achiev	e rear	deep
soi	l plar	nting	and se	eparat	ion dis	tances	

- A1.7 Rear boundaries without a laneway (Winnima Lane) are to be treated as side boundaries.
- A1.8 1.5m minimum side boundary setback are allowed but buildings shall achieve the required separation distances i.e. Clause 5.9.
- A1.9 The commercial component of buildings shall have a zero setback along the street for at least 10m back from the laneway boundary.

#### 7.5 Car Parking, Vehicle Access and Vehicle Movement

#### 7.5.1 Objectives

- Provide convenient, accessible and safe parking to meet the needs of residents and visitors.
- ii. Ensure development provides appropriate vehicle access and movement.
- iii. Ensure service vehicle access is integrated into the design of the development
- iv. Encourage the design of driveways and car parking structures that minimise their visual impact and stormwater runoff.

#### 7.5.2 Provisions

Performance Criteria	Acceptable Solutions
P1 Amalgamated sites combine and rationalise car manoeuvring areas and car parking.	A1.1 A maximum of only 1 driveway entry/exit to any street frontage is permitted.
P2 Development provides adequate car parking.	A1.2 Car parking numbers, design and layout
P3 The design of driveways and provision of parking areas enhances the safety of pedestrians, cyclists and vehicles and does not pose a visual detriment to streetscapes as a result of additional traffic generated by the development.  P4 Development integrates adequate at grade and/or basement car parking without compromising street character, landscape quality or pedestrian amenity and safety.	of parking is in accordance with the car parking section of this DCP.
	A1.3 Winnima Lane is used as the main vehicle access to development.
	A1.4 Vehicle access for development shall
	not occur from Beach or Nowra Streets.
	A1.5 Where there is no laneway frontage, lots may have 1 car entry from the street of a maximum of 4m width which cannot be located closer than 5m from



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P5 Services are integrated in a sensitive manner such that they relate to the building and landscape design, enable easy access and require minimal maintenance.

a street corner.

- A1.6 At grade car manoeuvring areas or parking may be allowed if setback a minimum distance of 3m from the front (primary) boundary.
- A1.7 Any basement car parking may be raised to a maximum height of 1m above natural ground level and appropriate ventilation is installed within the raised height.
- A1.8 Where basement car parking is raised, the overall height of the building shall still be contained within the defined building envelope. This visual impact from any public place of any unrelieved basement wall shall be mitigated through the use of design elements and/or landscaping.
- A1.9 Basement garages are to be setback a minimum of 1.5m from the side boundaries but preferably in line with the building above.
- A1.10 Garage doors are to be provided to all basement car park entries. Garage doors are to be in line with the buildings elevation and be compatible in colour and material with the buildings elevations.
- A1.11 Garage doors and entries to basement car parks along the street cannot be more than 7m wide or 50% of the width of the lot whichever is the lesser.
- A1.12 Rubbish collection is to occur along Winnima Lane and is not permitted along Beach or Nowra Streets. As an interim measure until such time that Winnima Lane and its turning point is constructed, rubbish collection may occur from the street.
- A1.13 Turning area shall be at the southern end of Winnima Lane to allow for service vehicles.
- A1.14 Waste collection and truck manoeuvring areas are not permitted on private property, except where contained within



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#### the basement.

Note: All on-site collection must occur as per Chapter G7 Waste Minimisation and Management Controls and G21 Car Parking and Traffic.

Contact Council's Waste Services Section to discuss requirements for waste collection and manoeuvring areas within the basement.

A1.15 Landscape planting at the shared boundary of the property and the laneway shall not overhang or impede access or the ability to provide waste services.

P6 Winnima Lane is utilised for its intended function.

**Note:** Winnima Lane is intended for vehicle access and servicing. Laneways are not to incorporate pedestrian footpaths in the verge.

A1.16 Winnima Lane is used as the main vehicle access point for development and waste collection, not Beach Street or Nowra Street, except for where there is no laneway frontage.

A1.17 Waste collection is to occur from Winnima Lane. As an interim measure until such time that Winnima Lane is constructed to allow manoeuvring in a forward direction, waste collection may occur from the primary frontage.

A1.18 Where upgrades are required to Winnima Lane, it is constructed to a minimum 5m width.

**Note**: Construction of the laneway is to consider the following:

- Sight Lines;
- Minimum standard for laneway construction as per G11 Subdivision of Land; and
- No parking shall be located within the laneway. Car parking for developments must be contained within the development site as per Chapter G21 Car Parking and Traffic.



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## 7.6 Permeable Site Area

#### 7.6.1 Objective

Ensure development provides sufficient permeable site area in order to increase storm water infiltration, maximise natural site drainage and protect the water table.

#### 7.6.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Development integrates on-site stormwater management with the design of landscaped areas.	A1.1 For lots less than 750m², permeable site areas shall be a minimum of 25% of site area.		
	A1.2 For lots larger than 750m², permeable site areas shall be a minimum of 30% of site area.		



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#### 8 Precinct 3

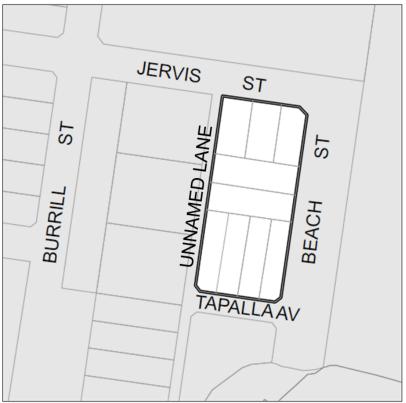


Figure 6: Precinct 3 Subject Land Map

#### 8.1 Urban Design Principles

- Retention of the dominance of mature trees.
- Retention of view corridors down Beach Street and along the foreshore reserve.
- · Retention of public access to and along the foreshore and reserves.
- Ensure the maintenance of the area as a safe and pedestrian friendly place.
- Reinforcement of the precinct as a place for enjoyment of the foreshore.
- Retention of the visual dominance of mature eucalypts surrounding buildings.
- Retention of the vegetated visual setting of the backdrop to the beach.
- Retention of the informal character of streets and landscaping as the dominant streetscape theme.
- Creation of building forms that match the beauty and uniqueness of the place.



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Figure 7: Precinct 3 Development Control Map

#### 8.2 Land Use

#### 8.2.1 Objectives

i. Ensure that land use in Precinct 3 predominantly caters for a range of residential and tourism development.



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- ii. Ensure that development appropriate to the precinct does not compete with the Huskisson Town Centre.
- iii. Ensure land use of Precinct 3 is cognisant of the urban design principles for the precinct.

#### 8.2.2 Provisions

#### **Performance Criteria Acceptable Solutions** P1 Urban design principles of the precinct Development addresses and demonstrates are achieved. adherence to the precinct's urban design principles. P2 Development form is residential in nature Developments could include apartments, affording opportunities for tourist A1.2 accommodation. serviced apartments, boutique hotels, residential flat buildings, small resort/and P3 Land uses maximise the precincts or conference/function centre. strategic location and tourist resources i.e. beaches, public reserves and water bodies.

#### 8.3 Building Height

#### 8.3.1 Objectives

- Ensure development responds to the desired scale and character of the street within the precinct.
- ii. Provide highly modulated buildings to reduce the bulk and scale of the buildings.
- iii. Provide buildings forms that create distinctive and attractive coastal town streets.

#### 8.3.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 The height of development is compatible with the desired future character of the surrounding area and built forms.	A1.1 The maximum height of buildings is as shown on the Height of Buildings Map in Shoalhaven LEP 2014.		
P2 The height of development protects the residential amenity of surrounding properties by not unduly impacting on their visual outlook, privacy or access to sunlight.	A1.2 Your development will have a maximum building form of 2 storeys with a 3 <sup>rd</sup> level recessed from the front building alignment.		
P3 Development provides design relief as the building increases in height.			



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#### 8.4 Setbacks and Alignments

#### 8.4.1 Objectives

- Provide building forms that create distinctive, attractive and pedestrian friendly coastal town streets.
- ii. Allow for deep soil planting areas.
- Define boundary between private and public land which contributes positively to the streetscape.
- To established a well-proportioned rhythm between buildings consistent with a residential streetscape.

#### 8.4.2 Provisions

#### Performance Criteria

## P1 Building setback and building alignment reflect the existing alignment of the street.

- P2 The design of development and site placements are compatible with and enhances the prevailing and desired future streetscape.
- P3 The building setback from street frontages does not undermine the integrity of the existing in avoiding loss of view, undue overshadowing, privacy and traffic safety.
- P4 Setbacks provide space for residents to feel an adequate sense of visual and acoustic privacy when using rooms fronting the street.
- P5 The distance between development and adjoining properties allows adequate solar penetration, privacy, acoustic privacy and minimises visual and other bulk related impacts.
- P6 Development maintains setbacks from the street to ensure they are consistent and visually harmonious with other buildings in the streetscape.

#### Acceptable Solutions

- A1.1 Along all streets, the minimum front setback shall be 5m.
- A1.2 Minimum 70% of the buildings street elevation is to be parallel with the street boundary.
- A1.3 Along all streets, minimum 60% buildings street elevation shall be located on the front setback line and the remainder shall be located behind this front setback line.
- A1.4 The 3<sup>rd</sup> and 4<sup>th</sup> level shall have a maximum footprint of 70% of the level below and be setback 4m from the level below along streets (where facing a public street).
- A1.5 Buildings shall be built to the laneway boundary where deep soil zones are being provided to the centre of the lot. Where buildings other than garages are not built to the laneway boundary, they shall provide 5m setback and achieve rear deep soil planting and separation distances.
- A1.6 Rear boundaries without a laneway frontage are to be treated as side boundaries.
- A1.7 1.5m minimum side boundary setback are allowed but buildings shall achieve the required separation distances i.e. Clause 6.9.



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#### 8.5 Car Parking, Vehicle Access and Vehicle Movement

#### 8.5.1 Objectives

- Provide convenient, accessible and safe parking to meet the needs of residents and visitors.
- ii. Ensure development provides appropriate vehicle access and movement.
- iii. Ensure service vehicle access is integrated into the design of the development
- Encourage the design of driveways and car parking structures that minimise their visual impact and stormwater runoff.

#### 8.5.2 Provisions

#### **Performance Criteria Acceptable Solutions** A1.1 A maximum of only 1 driveway entry/exit P1 Amalgamated sites combine and to any street frontage is permitted. rationalise car manoeuvring areas and car parking. A1.2 Car parking numbers, design and layout of parking is in accordance with the car P2 Development provides adequate car parking section of this DCP. parking. A1.3 Vehicle access shall be from the laneway P3 The design of driveways and provision of in Precinct 3. parking areas enhances the safety of pedestrians, cyclists and vehicles and does A1.4 Vehicle access for development shall not not pose a visual detriment to streetscapes occur from Beach or Jervis Street. as a result of additional traffic generated by the development. Where there is no laneway frontage, lots may have 1 car entry from the street of a P4 Development integrates adequate at grade maximum of 4m width which cannot be and/or basement car parking without located closer than 5m from a street compromising street character, landscape corner. quality or pedestrian amenity and safety. At grade car manoeuvring areas or P5 Services are integrated in a sensitive parking may be allowed if setback a manner such that they relate to the building minimum distance of 3m from the front and landscape design, enable easy access <mark>(primary)</mark> boundary. and require minimal maintenance. Any basement car parking may be raised to a maximum height of 1m above natural ground level and appropriate ventilation is installed within the raised height. Where basement car parking is raised, the overall height of the building above natural ground level shall still be contained within the defined building envelope. This visual impact from any public place of any unrelieved basement wall shall be mitigated through the use of design elements and/or landscaping.

Basement garages are to be setback a



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- minimum of 1.5m from the side boundaries but preferably in line with the building above.
- A1.10 Garage doors are to be provided to all basement car park entries. Garage doors are to be in line with the buildings elevation and be compatible in colour and material with the buildings elevations.
- A1.11 Garage doors and entries to basement car parks along the street cannot be more than 7m wide or 50% of the width of the lot whichever is the lesser.
- A1.12 Rubbish collection is to occur along the lane. As an interim measure until such time that the lane is constructed as a through lane, rubbish collection may occur from the street.
- A1.13 Turning area shall be at the southern end of the lane to allow for service vehicles.
- A1.14 Rubbish truck manoeuvring area is not permitted on private properties.
- A1.15 Landscape planting at the shared boundary of the property and the laneway shall not overhang or impede access or the ability to provide waste services.
- P6 Developments utilise Unnamed Lane for its intended function.

**Note:** Unnamed Lane is intended for vehicle access only. Laneways are not to incorporate pedestrian footpaths in the verge.

- A1.16 Vehicle access shall be from Unnamed Lane, and not via Beach Street or Jervis Street.
- A1.17 Waste collection is to occur from Beach Street and Jervis Street.

**Note**: Waste collection may be via rear or side lift trucks depending on the specifications of the development site.

A1.18 Despite A1.17 waste collection may be considered via Unnamed Lane where waste storage, manoeuvring areas and collection can be wholly accommodated on site (e.g. within the basement).

Note: All on-site collection must occur as per Chapter G7 Waste Minimisation and Management Controls and G21 Car



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#### Parking and Traffic.

Contact Council's Waste Services Section to discuss requirements for waste collection and manoeuvring areas within the basement.

A1.19 Where upgrades are required to Unnamed Lane, it is constructed to a minimum 5m width.

## **Note**: Construction of the laneway is to consider the following:

- Sight Lines;
- Minimum standard for laneway construction as per G11 Subdivision of Land; and
- No parking shall be located within the laneway. Car parking for developments must be contained within the development site as per Chapter G21 Car Parking and Traffic.

#### 8.6 Permeable Site Area

#### 8.6.1 Objective

 Ensure development provides sufficient permeable site area in order to increase storm water infiltration, maximise natural site drainage and protect the water table.

### 8.6.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Development integrates on-site stormwater management with the design of landscaped areas.	A1.1 For lots less than 750m², permeable site areas shall be a minimum of 25% of site area.		
	A1.2 For lots larger than 750m², permeable site areas shall be a minimum of 30% of site area.		



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#### 9 Precinct 4

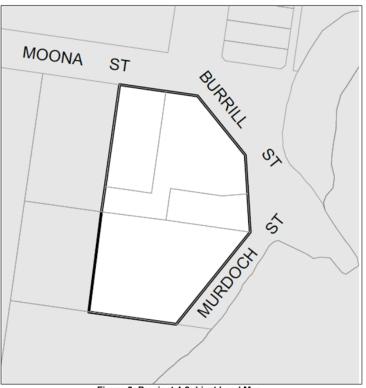


Figure 8: Precinct 4 Subject Land Map

#### 9.1 Urban Design Principles

- · Protection of ecological systems.
- · Consideration of and responding to environmental constraints.
- · Reinforce the boundary of the Huskisson locality.
- Reinforce the southern entry into Huskisson.
- Retention of public access to and along the foreshore.
- Ensure the maintenance of the area as a safe and pedestrian friendly place.
- Reinforcement of the precinct as a place for enjoyment of the foreshore.
- · Retention of the visual dominance of nature and bushland.
- Retention of the informal character of streets and landscaping as the dominant streetscape theme.
- · Creation of building forms that match the beauty and uniqueness of the place.



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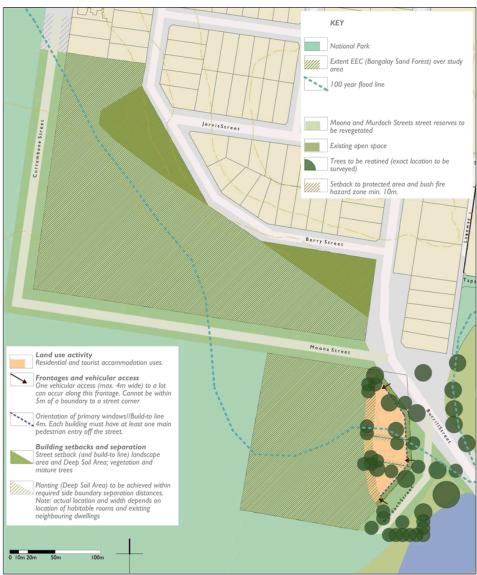


Figure 9: Precinct 4 Development Control Map

#### 9.2 Land use

#### 9.2.1 Objectives

- i. Ensure that land use in Precinct 4 predominately caters for a range of residential and tourism development.
- ii. Ensure that development appropriate to the precinct does not complete with the Huskisson Town Centre.



#### Chapter N19: Huskisson Mixed Use Zones

iii. Ensure land use of Precinct 4 is consistent with the urban design principles for the precinct.

#### 9.2.2 Provisions

Performance Criteria	Acceptable Solutions			
P1 Urban design principles of the precinct are achieved.		Development addresses and demonstrates adherence to the precinct's urban design principles.		
P2 Land uses maximise the precincts strategic location and tourist resources i.e. beaches, public reserves and water bodies.	A1.2	Developments could include apartments, serviced apartments, boutique hotels, residential flat buildings, small resort/and or conference/function centre.		
P3 Land use is of low scale medium Density and is residential and tourism in nature.				

#### 9.3 Flooding

#### 9.3.1 Objectives

i. Recognise that the southern part of the precinct is constrained by flooding.

#### 9.3.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Development enables safe occupation and evacuation of land subject to flooding.	A1.1 Your development complies with Section G9 of this DCP.		

#### 9.4 Building Height

#### 9.4.1 Objectives

- Ensure development responds to the desired scale and character of the street within the precinct.
- ii. Provide highly modulated buildings to reduce the bulk and scale of the buildings.
- iii. Ensure the height of development in the flood prone area is contained within the defined building form.
- iv. Provide buildings forms that create distinctive and attractive coastal town streets.

#### 9.4.2 Provisions

Performance Criteria	Accep	table Solutions
P1 The height of development is compatible with the desired future character of the	A1.1	Your development complies with the maximum height of buildings is as shown on the Height of Buildings Map in



#### Chapter N19: Huskisson Mixed Use Zones

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surrounding	araa	and	huult	torme
Sulfouliullu				

# P2 The height of development protects the A1.2 residential amenity of surrounding properties by not unduly impacting on their visual outlook, privacy or access to sunlight.

- P3 Development provides design relief as the building increases in height.
- P4 Flooding consideration not compromise overall height of development. The overall height of the building above natural ground level shall still be contained within the defined building form and maximum allowable height.

#### Shoalhaven LEP 2014.

1.2 Maximum building form of your development is 2 storeys with a 3<sup>rd</sup> level recessed from the front building alignment.

#### 9.5 Setbacks and Alignments

#### 9.5.1 Objectives

- Provide building forms that create distinctive, attractive and pedestrian friendly coastal town streets.
- ii. Allow for deep soil planting areas.
- iii. Define boundary between private and public land which contributes positively to the streetscape.

#### 9.5.2 Provisions

Performance Criteria	Acceptable Solutions			
P1 Building setback and building alignment reflect the existing alignment of the street.	A1.1	You must setback your development a minimum 5m from the front boundary.		
P2 The design of development and site placements are compatible with and enhances the prevailing and desired future streetscape.	A1.2	You must construct your building so that a minimum of 60% of the building's street elevation is located on the front setback line		
P3 The building setback from street frontages does not undermine the integrity of the existing in avoiding loss of	A1.3	If your development includes a $3^{\rm rd}$ level, it shall have a maximum footprint of 70% of the level below.		
view, undue overshadowing, privacy and traffic safety.	A1.4	If your development includes a 3 <sup>rd</sup> level, you must have a setback from the level		
P4 Setbacks provide space for residents to feel an adequate sense of visual and		below of a minimum of 4m (where facing a public street).		
acoustic privacy when using rooms fronting the street.	A1.5	You must set back your development 5m from the rear boundaries of your property and achieve rear deep soil zones and		



### Chapter N19: Huskisson Mixed Use Zones

Ρ5	The dis	stance	between	develo	omen	t and
	adjoinir	ng pr	operties	allows	ade	quate
	solar	penet	ration,	privacy,	acc	oustic
	privacy	and	minimises	visual	and	other
	bulk rel	ated in	npacts.			

P6 Development maintains setbacks from the street to ensure they are consistent and visually harmonious with other buildings in the streetscape.

#### separation distances.

A1.6 You may setback your development by a minimum 1.5m from side boundary but buildings shall achieve the required separation distances i.e. Clause 7.9.

#### 9.6 Car Parking, Vehicle Access and Vehicle Movement

#### 9.6.1 Objectives

- Provide convenient, accessible and safe parking to meet the needs of residents and visitors.
- ii. Ensure development provides appropriate vehicle access and movement.
- iii. Ensure service vehicle access is integrated into the design of buildings.
- Encourage the design of driveways and car parking structures that minimise their visual impact and stormwater runoff.
- v. Ensure the design of driveway and car parking structures consider flood planning levels.

#### 9.6.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Amalgamated sites combine and rationalise car manoeuvring areas and		A maximum of only 1 driveway entry/exit to any street frontage is permitted.	
car parking.	A1.2	Car parking numbers, design and layout of	
P2 Development provides adequate car parking.		parking is in accordance with Chapter G21 of this DCP.	
P3 The design of driveways and provision of parking areas enhances the safety of pedestrians, cyclists and vehicles and does not pose a visual detriment to streetscapes as a result of additional traffic generated by the development.		Vehicle access shall be from Murdoch or Burrill Streets.	
		One vehicle entry shall be permitted per lot from the street of a maximum of 4m width which cannot be located closer than 5m from a street corner.	
P4 Development integrates adequate at grade car parking taking into account flooding constraints without compromising		Compliance with Chapter G9 Development on Flood Prone Land.	
street character, landscape quality or pedestrian amenity and safety.	A1.6	At grade car manoeuvring areas or parking may be allowed if setback a minimum	
P5 Services are integrated in a sensitive		distance of 3m from the front boundary.	
manner such that they relate to the building and landscape design, enable	Δ1/	Waste truck manoeuvring areas are not	



Chapter N19: Huskisson Mixed Use Zones

easy access and require minimal maintenance.

permitted on private property, except where contained within the basement.

Note: All on-site collection must occur as per Chapter G7 Waste Minimisation and Management Controls and G21 Car Parking and Traffic.

Contact Council's Waste Services Section to discuss requirements for waste collection and manoeuvring areas within the basement.

A1.8 No vehicle parking is permitted on the western side and the vehicle turning area of Murdoch Street to assist waste collection in this street.

#### 9.7 Permeable Site Area

#### 9.7.1 Objective

Ensure development provides sufficient permeable site area in order to increase storm water infiltration, maximise natural site drainage and protect the water table.

#### 9.7.2 Provisions

Performance Criteria	Acceptable Solutions		
P1 Development integrates on-site stormwater management with the design of landscaped areas.	A1.1 For lots less than 750m², permeable site areas shall be a minimum of 30% of site area.		
	A1.2 For lots larger than 750m², permeable site areas shall be a minimum of 35% of site area.		



Shoalhaven Development Control Plan 2014
Chapter N19: Huskisson Mixed Use Zones

## 10 Advisory Information

### 10.1 Other legislation or policies you may need to check

**Note:** This section is not exclusive and you may be required to consider other legislation, policies and other documents with your application.

Council Policies & Guidelines	•	Contributions Plan
External Policies & Guidelines	•	Australian Standards (e.g. AS2890)
Legislation	•	Shoalhaven Local Environmental Plan 2014





## **NOWRA RIVERFRONT**

**ENTERTAINMENT+LEISURE PRECINCT** 

Strategic Direction: Review & Analysis

October 2017

Prepared for Shoalhaven City Council

by Studio GL





#### Document Information

Job title	Nowra Riverfront Entertainment & Leisure Precinct	
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This document takes into account the particular instructions and requirements of our client. It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party



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- **1** BACKGROUND
- UNDERSTANDING
  THE RIVERFRONT PRECINCT
- **03** A DECADE OF PLANNING EFFORTS
- **04** PRINCIPLES AND STRATEGIC DIRECTION









- ▶ Introduction
- Purpose
- Process
- Structure



# **01** BACKGROUND

### Introduction

The Nowra Riverfront Precinct has been explored through a wide variety of workshops and strategic plans over many years. The area is constrained and subject to a variety of challenges including flooding, steep topography, difficulty of access, lack of visual connections, fragmented lot ownership and major road infrastructure. NSW Road and Maritime Services (RMS) is currently proposing a second river crossing (a new bridge) west of the existing Shoalhaven Bridge. This major infrastructure proposal will have a significant impact on the Riverfront Precinct.

The riverfront precinct is also a desirable area, due to its prominence, proximity to the highway and the high amenity provided by the Shoalhaven River and views to the Cambewarra Mountain Ranges. The Nowra Riverfront Precinct provides a significant opportunity to shape the future of Nowra and strengthen its role as the civic, community, tourism and recreational hub for the Shoalhaven region.

## Purpose

Studio GL was commissioned by Shoalhaven City Council in December 2015 to provide a review of previous strategic studies, a concise summary of opportunities and constraints, identify recommended planning and design principles and recommend a strategic direction for the precinct. The strategic direction would then inform draft Development Controls for the precinct.

At the time of commissioning it was anticipated that the detail of the future design of the second river crossing (a new bridge) was imminent and Council was keen to ensure previous work was consolidated in order to ensure that the planning for transport and access could be effectively integrated with the land use planning.

At the time of issuing this report (October 2017) details of the new bridge and its impact on the precinct are still unknown.



View towards Shoalhaven Bridge from riverfront



View beneath Shoalhaven Bridge





Sweeping views across the Shoalhaven River from near Scenic Drive

#### Process

The process undertaken included a review of previous studies on the Precinct including:

- The Nowra Gateway Masterplan (Cox Humphries Moss, 2010)
- Chapter N7 Nowra Hotel Site and Civic Precinct in Shoalhaven Development Control Plan (DCP) 2014 (previously DCP No. 119)
- The Nowra CBD Master Plan (Arup 2011)
- The Nowra CBD FSR and Heights Study (Jackson Teece, 2013)
- The RMS preferred bridge option (2012/2013)
- Riverfront Precinct Master Plan Submission (Elton Consulting 2011)

Following this review, a series of workshops were held with Councillors, Council staff, RMS, Department of Planning and Environment, Department of Health, NSW Land & Housing Corporation and Landowners to present the analysis and planning history of the Riverfront Precinct, the issues identified and the preferred direction. This has allowed the preferred direction to be discussed and tested during focused face-to-face meetings.

## Structure

This document is structured in four parts.

- Chapter 01 provides an introduction to the report
- Chapter 02 is a review of key issues to help create an understanding of the riverfront precinct
- Chapter 03 is a review and summary of previous reports and studies
- Chapter 04 identifies the principles and recommended strategic direction for the precinct













- ▶ The study area
- Context
- ▶ Topography and landform
- ▶ Flooding risk
- Urban structure
- ▶ Land ownership
- Access and traffic
- ▶ Built form and heritage





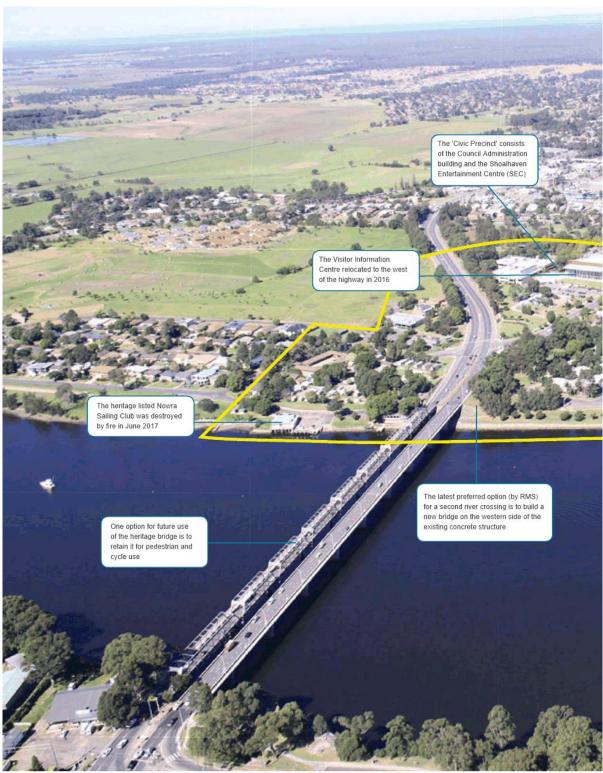


Figure 1 Aerial view of the Riverfront Precinct (Photo taken by Colin Douch in 2010)











## The study area



Open space next to the Shoalhaven River



Pedestrian and cycle path next to the steel trusses of the historic Nowra Bridge

Nowra's Riverfront Precinct is bound by Scenic Drive to the north, Hawthorn Avenue to the east, Hyam Street and Graham Street to the south and Shoalhaven Street to the west. The Princes Highway bisects the precinct along a north south alignment into an eastern and a western area and forms a significant barrier to connections between these two areas.

A striking feature of the precinct is its riverfront location, on the southern side of the Shoalhaven River. The area also has views to the Canberwarra Mountains to the north.

Due to its prominent gateway location and the amenity provided by the river and natural surrounds, the area provides a significant opportunity to shape the character of Nowra in the future and strengthen the town's role as the civic, community, tourism and recreational hub for the region.

The Riverfront Precinct is arguably one of the most constrained areas within Nowra. The land is subject to a range of challenges including flooding, steep topography, heritage, difficulty of access, lack of visual connections, fragmented lot ownership and subdivision and the impact of major road infrastructure including the Shoalhaven Bridge and Princes Highway.

The area west of the highway provides a number of community facilities and uses including the Nowra Olympic Pool and surrounding public open space and the Council Administration building, the Shoalhaven Visitor Information Centre and the Shoalhaven Entertainment Centre (SEC) to the south. The area also includes a hotel/motel (not currently in business) and low density residential housing.

The area east of the highway features the historic Nowra Public Wharf, a public boat ramp, a restaurant and a steakhouse, a motel and a caravan park and the state heritage listed Graham Lodge.









View of the historic bridge from the south



Heritage-listed Graham Lodge



The Nowra Riverfront study area (Source: Nearmap 2014)





## Context

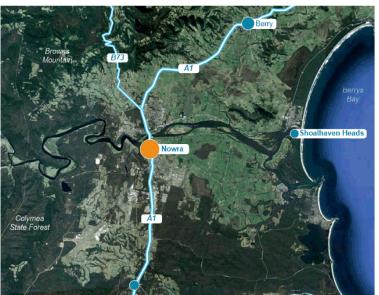


Figure 3 Regional Context (Source Image: Google maps)

Nowra is located approximately 125km south of Sydney by road and 142km north east of Canberra. The area forms a gateway to popular tourist destinations along the coast including Jervis Bay.

Nowra provides the administration facilities for Shoalhaven City Council which currently stretches from just north of Berry to just north of Batemans Bay and encompasses an area of 4,567 square kilometres. The area is growing and in June 2012 the population of the LGA was 96,927.

The Nowra Riverfront precinct is part of the Nowra CBD which includes a large shopping centre, main street shopping and the majority of commercial, retail and entertainment facilities for the region. In 2014 the urban conurbation of Nowra/ Bomaderry had an estimated population of 35,383.



The Shoalhaven District Memorial Hospital is located to the west of the investigation area



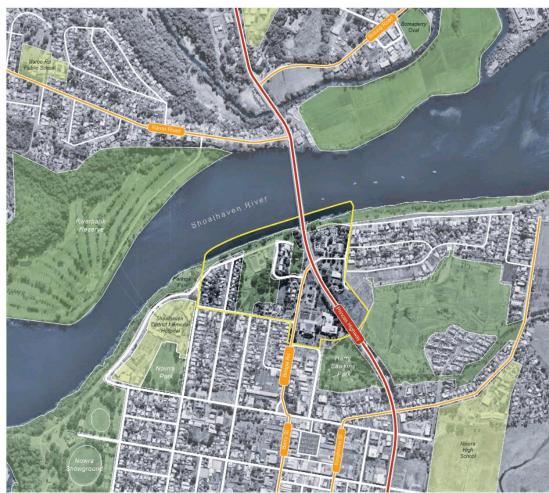
Nowra entry sign at the gateway intersection of Princes Hwy and Bridge Rd



State context of Nowra in relation to Sydney, Canberra and Wollongong







Local context diagram (aerial photo: Google maps)





## Topography and landform

While most of the Riverfront Precinct is relatively flat, low lying land next to the river, it does rise to two local high points. These occur in the west where it adjoins Shoalhaven Street and to the east at a local high point north of the Council Administration building and the Shoalhaven Entertainment Centre (SEC).

The land along the river frontage is approximately 4 metres above the average water level near the bridge but rises sharply (to approximately 12 metres) in the western corner towards the hospital.



View along Hyam Street towards the SEC



View of the Shoalhaven River down Mandalay Avenue

The western side of the highway has a low lying flood-prone central area that cuts diagonally across the precinct. The topography from this point rises approximately 6 metres, to the Civic Precinct.

Much of the Riverfront Precinct is flood prone which is discussed in greater detail in the following section.

Bridge Road is located on higher land running along a small local ridge. After the construction of the Shoalhaven River Bridge in 1881, Bridge Road was the main access into town until the current Princes Highway alignment was constructed in the late 1970's.

The majority of views of the river occur along Scenic Drive and the public walk through the public open space along the foreshore. Views beyond the river to the escarpment and toward the mountain ranges reinforce the unique setting of the Riverfront Precinct. There are limited visual links to the riverfront due to the street layout and existing landscaping, however views are possible along Shoalhaven Street and Mandalay Avenue to the east. and down Hawthorne Avenue to the east.

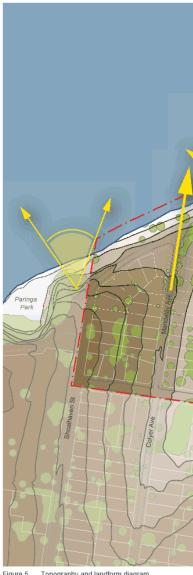
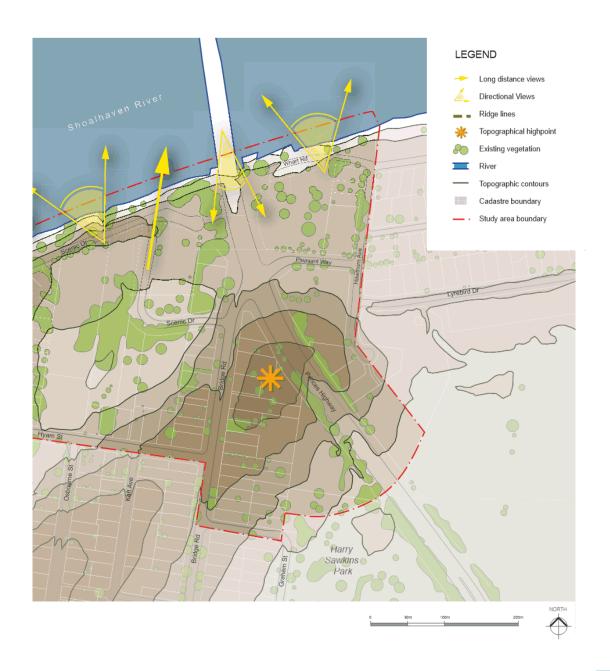


Figure 5 Topography and landform diagram









## Flooding risk

The western area of the Riverfront Precinct is impacted by flooding which can occur from two directions. Overland flows from the local catchment to the south are drained by two existing culverts that discharge beneath Hyam Street and then flow across open space to the river. In addition, flooding from the Shoalhaven River can over-top Scenic Drive and Wharf Road and flow back into the precinct.

Previous studies and recorded events have determined that the area is subject to flood inundation. The critical maximum flood level has been stated as RL 7.57 AHD and much of the area is identified as High Hazard Flood Storage.



Localised filling and levee banks create an environment next to the river that hinders wayfinding and visual connections

In a 1 in 100 year event, the inundation of parts of the precinct could be up to 2 metres in depth through the central portion of the eastern area.

The Scenic Drive Hydraulic Assessment Stage 1 Report (2008) noted that redevelopment has the potential to reduce the overall flood risk in the area by removing existing flood liable buildings and land usage, and replacing these with buildings designed in accordance with current flood planning controls.

The Gateway Master Plan Report Study (2010) stated that it would be possible to fill parts of the site to enable development if appropriate culverts and overland flow paths were provided. A similar approach may also be possible in the eastern area of the Riverfront Precinct.

Due to the flood prone nature of the entire Riverfront Precinct, future planning will need to undertake significant hydrological and geotechnical investigation and assessment to determine the engineering requirements (and consequently economic viability) of developing flood liable land.



Flooding risk diagram











## Flooding risk - historic events



The Former Nowra Sailing Club



Ambulance vehicle on flooded street



Fast moving waters under bridge



Wharf Road Restaurant during a flood event



The former Nowra Sailing Club



Flooded river bank



Firecrew in operation (Source of photos on this page: southcoastregister.com.au)





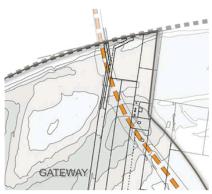
Flood event in 1978 showing a large area of the Riverfront Precinct under water (Source: Lower Shoalhaven River Floodplain Risk Management Study



### Urban structure



Aerial photograph from the north showing the historic entry into Nowra down the wide, tree lined Bridge Road (Source: Berry Historical Society)



The current Princes Highway alignment (orange) shown over early urban structure

The urban structure of the Riverfront Precinct is poor as it is where the historic north/south east/west grid structure of the town clashes with the angled alignment created by the river and the highway. To the north of the precinct the curvilinear nature of the river is echoed by Scenic Drive which runs parallel to the river bank.

On either side of the highway the diagonal alignment of the highway has created a number of triangular and oddly shaped blocks and severed connectivity across the precinct.

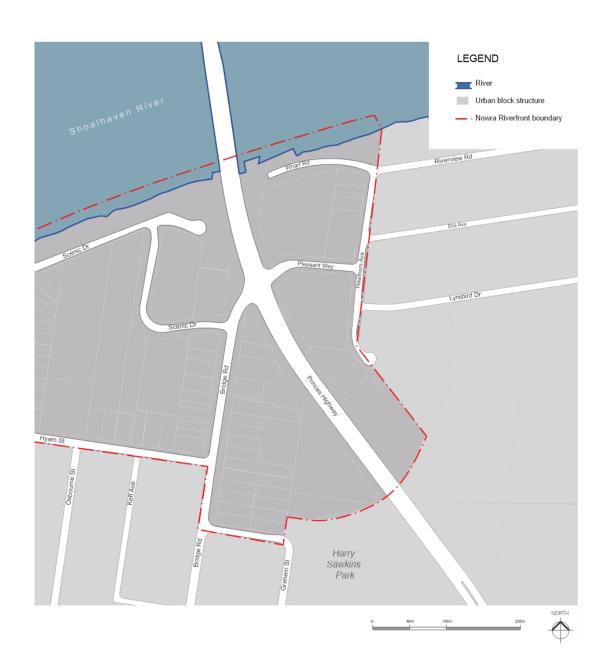
There are also fewer roads in the precinct which results in very large blocks, limited access and a number of instances where lots back onto areas of open space, reducing the safety and amenity of the area.

The limited number of roads and the unusual alignment of some roads like Scenic Drive, results in poor wayfinding throughout the area.



Figure 7 Urban structure diagram









## Land ownership

A large area of the Riverfront Precinct is Council-owned, including areas of open space along the riverfront and undeveloped land adjoining the Civic Precinct.

Another major landowner in the precinct is the NSW Land and Housing Corporation, who own a large proportion of land between Shoalhaven Street, Mandalay Avenue and north of Hyam Street. Approximately 20% of land within the Riverfront Precinct is in private ownership



Single storey housing along Mandalay Ave belonging to NSW Land and Housing Corporation

Open space within the precinct is typically located on land which is subject to inundation. This has created a green edge along the northern part of the precinct immediately adjacent to the riverfront. and extending southward to include the aquatic centre and local park.

The existing swimming pool is centrally located within this open space and is considered an appropriate use as the land is subject to flood inundation. The area around the pool currently experiences comparably low utilisation due to its lack of connectivity and wayfinding, the low density of land uses within walking distance and limited public facilities.

Some of this green edge is Crown Land although a substantial amount is Council owned land, including open space that extends north from Hyam Street through to Scenic Drive on the River frontage, bordering the eastern rear boundary of houses on Mandalay Avenue, the rear boundary of houses fronting Hyam Street, and privately owned vacant land behind residences fronting Bridge Road.

The substantial amount of government owned land provides increased flexibility for future planning of the area as it opens up opportunities that may not be possible if the land was in private ownership.













### Access network

The Princes Highway is a major north-south highway connecting Sydney to Melbourne via the coast. This road experiences high volumes of traffic (especially during school holidays) heading to the NSW south coast and beyond.

The highway bisects the precinct making access to land on both sides of the Princes Highway difficult. When the second bridge crossing was built in the late 1970's a new alignment of the Princes Highway diverted traffic away from Bridge Road and effectively cut east-west connections in the precinct. This is evident in the 'dead-end' streets of Scenic Drive to the east and Wharf Road to the west.



Pedestrian access under the highway next to the Shoalhaven River

The signalised intersection into the precinct provides limited access. Traffic is not able to cross the highway from Bridge Road to Pleasant Avenue and traffic entering the highway can only turn left. This intersection, also referred to as the 'Northern Gateway' intersection, has been the subject of considerable debate over the years due to its poor performance, with congestion and traffic delays during the morning peak being the major concerns.

NSW Road and Maritime Services (RMS) has proposed a second river crossing (a new bridge) west of the existing Shoalhaven Bridge (for more detail see Chapter 2). The new bridge will have a significant impact on the Riverfront Precinct as it is expected to include widening of Princes Highway and potential changes to the Bridge Road/ Princes Highway and Pleasant Way intersection.

The long term use of the historic bridge is also unknown but one option proposed is for it to be allocated as a pedestrian and cycle use which could generate significant activity especially to the eastern side. Pedestrian and cycle access across the highway is possible via a path (along the riverfront) under the bridges and at the signalised











## Built form and heritage

The range of building typologies within the Riverfront Precinct vary from low density, single storey residential dwellings, low scale tourist accommodation, including a single storey motel and a caravan park along the foreshore and prominent civic facilities such as the Council Administration building and the Shoalhaven Entertainment Centre (SEC) located to the south of the study area.

Large areas within the precinct have little development with areas of open space and off-street carparking near the SEC and Council.



Construction of the Nowra bridge in 1881 Graham Lodge visible on the far side of the (Source: Berry Historical Society)

The precinct contains a number of items that are heritage listed. The historic Nowra Bridge was completed in 1881, built from cast iron and steel it is considered a technically sophisticated structure, unique for its time. Due to its visual aesthetics, the bridge has become a symbol and landmark for Nowra and the Shoalhaven River.

Graham Lodge and Cemetery which lies to the east of the Princes Highway at the southern end of Hawthorn Avenue is one of the oldest buildings in Nowra, built in 1861-62. The residence was acquired by Shoalhaven City Council in 1998 with the aim of adaptively reusing the building to establish a local history interpretive facility. However in 2017 council went out to tender on this site and has agreed on an option to purchase

Other heritage items include the Nowra public wharf adjacent to the bridge, two houses along Bridge Road and the Captain Cook Bicentennial Memorial (restored boat used in the re-enactment of Cook's landing at Botany Bay, currently in Council storage).



Figure 10 Access network diagram





- 1. "Shoalhaven River Bridge"—Victorian wrought iron bridge
- 2. Inter-war Weatherboard Building and Timber Wharf (destroyed by fire in 2017)
- 3. Graham Lodge (former Greenhills Estate Homestead) and grounds
- 4. Captain Cook Bicentennial Memorial
- 5. "Kilsyth"—Federation weatherboard residence
- 6. "Uuna"—late Victorian weatherboard cottage and garden

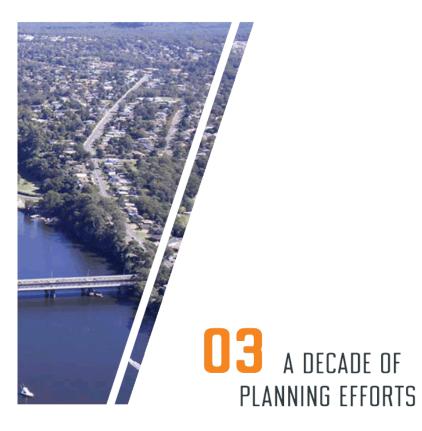












- ▶ Hotel Site + Civic Precinct DCP
- ▶ Gateway Master Plan
- ▶ Gateway Master Plan Consultation
- Nowra CBD Master Plan
- Nowra CBD Heights and FSR study
- ▶ Shoalhaven River Bridge crossing













### Hotel + Civic Site Proposal (2007)

Gateway

Connection to CBD

The DCP for the Hotel & Civic site, prepared in 2007, applies to a triangular piece of land to the north of the Nowra CBD, at the corner of Bridge Road and Princes Highway. It incorporates Council-owned vacant land, the Shoalhaven Entertainment Centre, Council's administration building and associated carparks.

The site is considered of key importance for the perception and future character of the CBD as it is located at the 'northern gateway' into town. Due to its natural elevation, any built form in this location will be highly visible and prominent.

#### Objectives

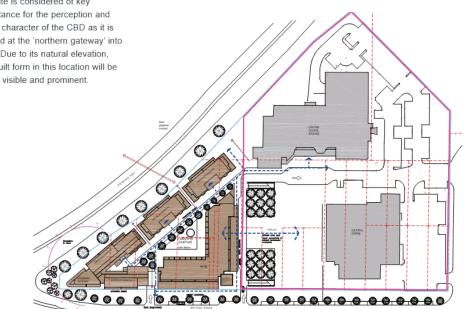
Key objectives of the DCP include creating a strong identifiable gateway into Nowra, providing opportunities for the establishment of a hotel and associated tourist development, providing opportunities for quality apartments, improving existing streetscapes with attractive landscaping and promoting stronger pedestrian links to surrounding recreational areas and the CBD,

The DCP seeks to guide future development proposals with respect to building design, height and bulk, layout and integration with existing development.

#### Key controls

The document outlines principles, objectives, performance criteria and acceptable solutions in regard to urban design, mitigation of environmental impacts, traffic and access and public domain enhancement and integration.

Key controls contained in the DCP include three different height zones ranging from 3 up to 9 storeys, no maximum FSR, buildings to be contemporary in nature, landscape buffer zones to Princes Highway. and orientation to maximise views of the Shoalhaven River and mountain ranges to the north.



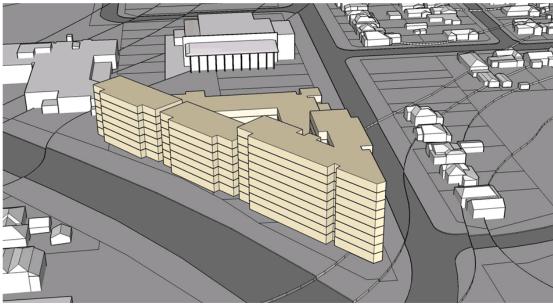
DCP Public Domain Plan







Approach from the bridge travelling south - indicative 3D Model view prepared during analysis background work for the draft Nowra CBD DCP, 2015



Aerial perspective of the extent of permitted development - indicative 3D Model view prepared during analysis background work for the draft Nowra CBD DCP, 2015



## Shoalhaven Gateway Master Plan (2010)

Dealing with flooding

Traffic and access

Balanced development

The Riverfront Gateway Master Plan, prepared by Cox Humphries Moss in early 2010, considered land west of the Princes Highway. Key principles included improved access and use of the precinct, integrated (sensitive) development, balancing private development and publicly accessible facilities and open spaces, and high quality visual appearance of new development reflecting community aspirations for the area.

#### Flooding issues

The study outlines that a significant flow path for flood waters is required between the Shoalhaven River, across Bridge Road, and across the Princes Highway, to allow for extreme flood conditions.

The study proposes to manage local catchment from Hyam Street through to the Shoalhaven River via a combination of a surface and/or piped stormwater flow path and a landscaped overland flow path minimum 15 metres wide, linking Hyam Street and the river.

#### Connecting the precinct

The study proposed extending the existing street grid south of Hyam Street into the site to create a strong connection to, and permeability with, the existing pedestrian and road network. The main entry point to the precinct is proposed to be off Hyam Street.

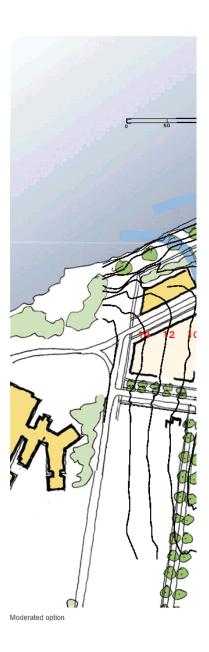
#### Building heights and uses

New development aimed to contribute to the successful integration of the site and the Riverfront with the existing town. Building heights extended up to 4 storeys and active frontages were to be provided along the riverfront. The area between the existing Mandalay Ave and Shoalhaven Street was identified for possible use as a health facility adjacent to the existing Hospital.

#### Implementation

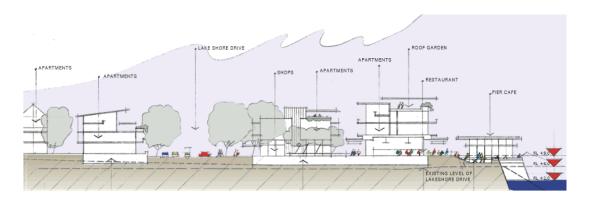
The study suggested a 'progressive' implementation approach selecting individual development sites that require little or no major infrastructure work and offering these to the market first. The proceeds could then be used to implement sufficient infrastructure work to enable the release of additional sites.

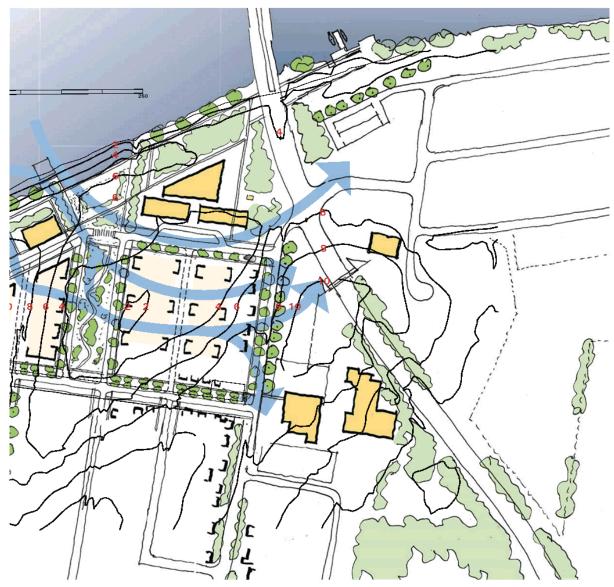
Prior to this, the Masterplan noted that issues such as land ownership and possible consolidation and rationalisation of land within the site would need to be addressed.













# Shoalhaven Gateway Master Plan (2010) Tr**affic Report**

Eastern T-intersection

Scenic Drive to Wharf Road

Roundabout

Right-turn overpass

This traffic study was undertaken as part of the Riverfront Gateway Master Plan, by Hughes Trueman in 2010. It reviews the (poor) performance of the Bridge Road/ Princes Highway/ Pleasant Way intersection and proposes possible treatment options to improve traffic flow, reduce queuing and speed up turning movements.

The study also identifies the opportunity for a new bridge across the Shoalhaven River to the west of the existing bridge. The report further anticipates that there will be a high demand for pedestrians to cross the highway and recommends that a pedestrian bridge be provided to increase pedestrian safety and minimise the impact on traffic efficiency.



Currently Wharf Road and Scenic Drive (to the west of the highway) do not connect.

The northern intersection is currently performing poorly with long waiting periods and queuing on the highway.

Right-turn movements from the highway into Bridge Road are a key concern.





#### Eastern T-intersection

This option closes access to Pleasant Way and provides a T-Intersection further south to connect directly with Hawthorn Avenue. However, this would result in traffic on Princes Highway queuing at the new intersection in order to allow motorists in and out of Hawthorn Ave.



#### Roundabout

This was considered to be the preferred option in terms of the intersection's aesthetic appeal. It was noted that a roundabout may not operate as efficiently as signals, however, a detailed analysis is required to test and compare each treatment.



#### Scenic Drive - Wharf Road

This option also closes off access to Pleasant Way. It connects Scenic Drive to the west with Wharf Road to the east. This would increase right turning traffic into Bridge Road and is likely to increase queuing into the southbound through lane(s) on Princes Highway.



#### Right-turn overpass

This option provides an overpass for motorists turning right into Bridge Road in order to provide uninterrupted flow and consequently improve the intersection's performance. It was noted that the option may be considered in combination with the closure of Pleasant Way.





## Shoalhaven Gateway Master Plan Consultation (2011)

Flooding issues

Traffic and access

Heritage significance

Activation of the riverfront

Nowra Pool

Future development & uses

Following the public exhibition of the Shoalhaven Gateway Master Plan Study, Elton Consulting prepared this document which records the views, issues and ideas expressed by 20 community participants during the Shoalhaven River Front Precinct Stakeholders Advisory Group workshop. The workshop was held on Wednesday 23 March 2011.

The following summary seeks to idenity the community's aspirations for the precinct in order to inform future planning and discussion.



Flooding was identified as a major challenge for the future development of the precinct. The advisory group also noted that the resolution of traffic issues was crucial, identifying congestion, the poor performance of the Bridge Rd/ Princes Highway intersection and the lack of pedestrian/ cycle connections to the riverfront precinct as key issues.

The heritage significance of the area was highlighted. The riverfront precinct is seen as a place of considerable historical importance (both indigenous and non indigenous) and it was expressed that the area 'should become a vibrant, living history site and a celebration of the past.'

Ideas for activating the riverfront included leveraging of the natural beauty of the river and mountain ranges, increasing commercial uses within the precinct (i.e. motel/hotel, cafe, restaurants, expansion of uses in synergy with the Nowra Olympic Pool) and relocating the tourist information centre.

It was felt that better connections and signage to existing facilities would improve wayfinding. The Nowra Pool in the centre of the site was a much valued community asset and participants of the workshop expressed their desire for further upgrades and improvements to the facility and its surrounds. The advisory group also stressed that the pool was located on land dedicated as 'community' land.







#### Flooding

There are a number of constraints to development and activation of the Riverfront Precinct, including the (frequent) potential for flooding.



#### Traffic and access

Better access, wayfinding, ease of congestion and ensuring sufficient access to and from the precinct is a key aspiration.



#### Heritage significance

The Riverfront Precinct is historically significant and this should be recognised and acknowledged in future planning.



#### Activation of the precinct

The Riverfront Precinct is the 'Gateway to Nowra' and needs to be better activated to attract more locals and visitors.



#### Nowra Olympic Pool

The Nowra Pool should be retained and its facilities and surrounds improved to become the focal point of the precinct.



#### Future development & uses

Compatible commercial uses should be considered (potentially in conjunction with the Nowra Pool to improve its economic viability).





### Nowra CBD Master Plan (2011)

River promenade upgrade

Relocation of intersection

North-south green link

The Nowra CBD Urban Design Master Plan, prepared by Arup in 2011, outlines a strategic direction to revitalise the Nowra CBD over the next 25 years. It provides a framework and identifies a vision, key initiatives and strategies.

The document states that the Riverfront Precinct "plays a role in defining the identity of the Nowra CBD. Future development and changes to access should maximise open rural views to the east from the highway, protect heritage values and improve access to the river and the western side of the CBD." Relevant proposed initiatives included the upgrades as indicated.

#### Riverfront promenade

The river foreshore offers outstanding views and was considered one of Nowra's greatest assets.
Suggestions for the reinvigorating of the water's edge included provision of playground facilities, BBQs and public art, increasing of lighting levels, and the potential realignment of Scenic Drive.

#### Northern gateway intersection

The master plan stated that a strong northern gateway into the Nowra CBD is highly desirable, and suggests two potential alternative locations. Treatment options explored included a roundabout and grade separation (overpass or underpass).

#### Green link to CBD

High-quality green links assist in wayfinding. A key pedestrian route was identified as the North-South Green Link, which is an extension to the existing Graham Street link.

The link was to connect the Riverfront Precinct with Harry Sawkins Park, Egans Lane car park, the proposed town square ( now established and named 'Jelly Bean Park') and down Kinghorne Street towards Marriott Park.

Proposed improvement to the Shoalhaven River promenade

Investigate the possibility of a relocation of the northern gateway intersection

Proposed extension of the north-south "Green Link"

Proposed new gateway park at Moss Street

Strengthened Cultural Precinct and night-time activity zone

Proposed new town square at Egans Place

Proposed upgrade and revitalisation of Junction Court

Proposed new civic space at Stewart Place

Proposed new pedestrian access across highway at Junction Street

Proposed upgraded "Green Link" to the core of the OBD and Marriott Park

Proposed CBD Loop Road creating an access route around the core of the CBD









# Nowra CBD Master Plan (2010) Northern Gateway Options

9x options considered

Long term recommendation

A range of options were explored for the Bridge Road/ Princes Highway intersection and nine of these options were documented in the Nowra CBD Urban Design Master Plan 'Ideas and Illustrations' report, Arup, 2011.

The recommended option relocated access from the highway to the east (Riverview precinct) and the west (Gateway precinct) to a new signalised intersection north of the Council Chambers but south of Graham Lodge.

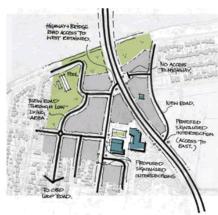
This option also proposed realigning Scenic Drive to improve access and views to the river and to create a more regular development parcel next to the highway.

A key advantage of this option was that the signalised intersection would provide good pedestrian and cycle connections east to west. It was hoped that relocating the intersection further south, away from the bridge, would reduce congestion. The location and arrival experience at this location, next to key civic landmarks such as Council's Administration building and the Shoalhaven Entertainment Centre (SEC), would create a prominent entry into town.

Another advantage is the creation of regular shaped, well-connected potential development sites. The proposed realignment of Scenic Drive and the new entry road also improved access and views to the river.

A disadvantage of the new location of the intersection and road connecting to Bridge Road was the separation of the potential triangular-shaped development site to the north of the Council building and SEC, however the new more regular site, was likely to be more suitable and efficient to develop.





Option 2B



Option 3A







Option 1B (recommended - short term)



Option 2A



Option 2C (recommended - long term)



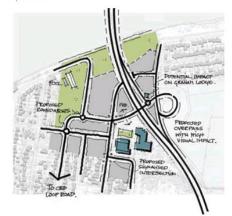
Option 2D



Option 3B



Option 30







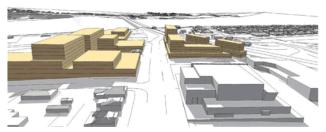
### Nowra CBD Heights and FSR study (2013)

Height limit up to 28m

The Building Height and Floor Space Ratio Controls Study by Jackson Teece, prepared in 2013. examines the proposed Nowra CBD Commercial Core (B3) and Mixed Use (B4) Zones to inform the setting of controls in the Shoalhaven Local Environmental Plan, as well as complementary controls in the Shoalhaven Development Control

The study consists of a Technical Review and an Analysis Summary Report, overshadowing studies of selected areas and the main report. which recommends maximum building heights, floor space ratios and other related controls.

Key conclusions relevant to the northern part of the study area are that future development should aim to maintain the positive features and character of the town, that there is a need to achieve greater legibility for the township from the highway (both visual and physical access) and that various existing development controls, including parking requirements, are considered to be a disincentive to development.



Overshadowing at 12pm (Winter) of potential built form along Bridge Road

#### Planning controls

The report reviewed the draft SLEP 2013 which defined a standard maximum building height limit of 11.0 metres for the majority of the CBD area. The most notable exception is the 'hotel site and civic precinct' north of the Shoalhaven Entertainment Centre along Bridge Road with building heights permissible up to 28 metres (8 storeys). The relevant recommendations of the study are summarised as:

28m - 8 storeys - for land north of Hyam Street, identified as a major gateway in to Nowra CBD, with the potential for built form to leverage off the proximity to the river foreshore and views to the hinterland.

15m - 4 to 5 storeys - for land north of Harry Sawkins Park and part of the potential tourism precinct at Scenic Drive

12m - 3 to 4 storeys - for land to the east of Princes Highway and to the south of Hyam Street.

FSR 1.5:1 - for land to the east of Princes Highway and to the south of Hyam Street

FSR 1.8:1 - for some land to the north at the river foreshore part of the potential tourism precinct at Scenic

FSR 2.0:1 - For land near the northern gateway; proposed lower FSR coupled with building heights of up to 28m to achieve developments with narrow tall residential towers.

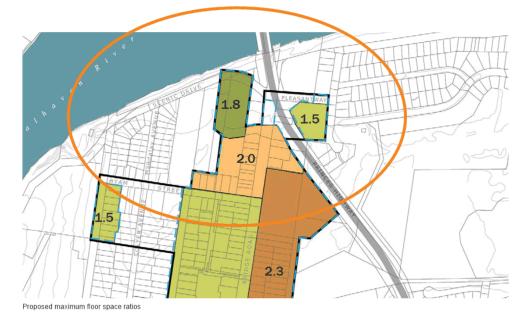
FSR 2.3:1 - for land surrounding Harry Sawkins Park with the potential to accommodate higher density mixed use buildings.







Proposed maximum building heights



od L



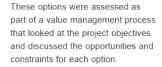
## Shoalhaven River Bridge crossing

New Bridge

Decision on old Nowra Bridge

Impact of road alignment

In 2012/13, RMS identified five possible locations for a new river crossing which included an option for a western bypass, a bridge on the existing southbound bridge alignment, a new bridge immediately east or west of the existing crossing and a new bridge further downstream east of the existing crossing.

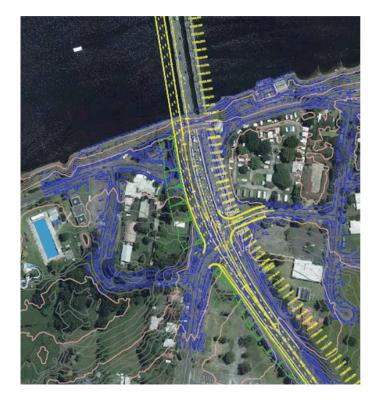


Each option was then assessed and ranked in order of their perceived value for money. This assessment, and the outcome of a community consultation process, resulted in the preference for a new river crossing immediately west of the existing bridges.

RMS stated in May 2015 that it has started working on concept designs for the bridge, and has started investigations into the intersections at Bolong, Illaroo and Bridge roads (the 'Northern Gateway' intersection).

RMS is also considering what should happen to the old Nowra Bridge once the new bridge is built, i.e. retain the bridge, remove it or relocate it.

A community consultation process, carried out in late 2014, strongly supported the retention and reuse of the bridge in its current location. Popular suggestions for the future use of the bridge included a shared path / cycleway, markets, pop-up cafes, or other entertainment uses such as festivals or fun runs.



















# **1** PRINCIPLES AND STRATEGIC DIRECTION

- Opportunities and constraints
- Riverfront precinct aerials
- Objectives
- Planning and design principles
- Recommended strategic direction
- Unknowns and questions still to be answered



#### Opportunities and constraints

## LEGEND Major barrier to east-west movement Indicative extent of proposed new bridge Indicative extent of proposed bridge embankment Opportunity to reuse historic Nowra bridge Pedestrian east-west connection (on-grade) Pedestrian east-west connection (underpass) Possible location for 'Northern Gateway' intersection Land in private ownership Low-lying land significantly affected by a 1% AEP Extent of land not affected by a 1% AEP Topographical highpoint Existing riverfront promenade Existing direct link to riverfront Opportunity for additional link (pedestrian and/or vehicular) Poor interface (rear of properties) to open space Existing heritage item г Heritage item destroyed in fire Existing civic facility (Council, SEC, Visitor Centre, Pool) $\Box$ Potential extension of study area to incorporate cemetary Public open space / public recreation Topography contours Nowra Riverfront Precinct study area

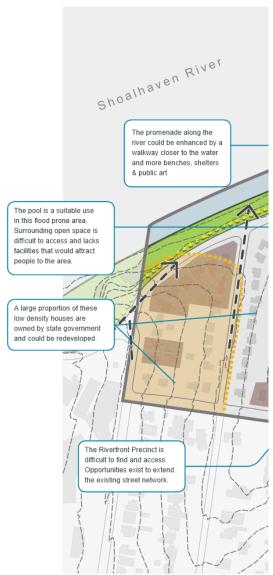
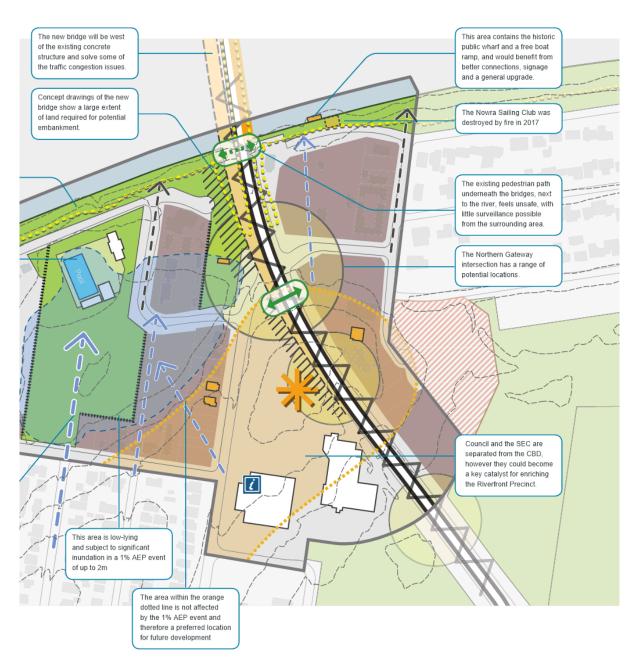


Figure 11 Opportunities and constraints diagram









# PRINCIPLES AND STRATEGIC DIRECTION

### Riverfront Precinct - Existing



Figure 12 Aerial artist impression of the Riverfront Precinct, looking south

## Riverfront Precinct - Potential bridge duplication



Figure 13 Aerial artist impression of the Riverfront Precinct showing the proposed bridge duplication to the west





# **OBJECTIVES**

### **INCREASE SAFETY**

so that it's a place that more people want to visit

### ENHANCE THE OPEN SPACE

so that it's a place where its easier to spend more time

#### **IMPROVE** CONNECTIONS

so that it's a place that's easier to find and easie to get around

### STRENGTHEN THE GATEWAY

to showcase the attractions & make it easier to access the place

### A CATALYST FOR RENEWAL

encourage investment & development to improve the quality of the place

# **ACTIONS AND DESIGN ELEMENTS**

- · Maximise the area of high quality public open space along the riverfront
- Increase the amount of level accessible open space with views of the river

Improve connectivity (pedestrian, bike and vehicle) along the riverfront

- Reduce number of dwellings that back onto areas of open space
- Increase the attractiveness of the existing open space
- Retain tall trees and indigenous landscape where possible
- Create a more connected access and movement network
- Improve routes from the CBD and Civic Precinct to the river
- Improve links (pedestrian and bike) across the river to the high school and town centre
- Ensure east-west connections across the highway
- Use land swaps/rezoning/developer contributions to improve the quality of the open space
- Maximise the value and activity created by existing nodes including the pool, the hospital, Shoalhaven Entertainment Centre, Council Administration Centre
- Improve visual and physical links to the rest of the CBD
- Provide direct, safe and convenient pedestrian routes from key destinations to the river front
- Create an attractive place through high quality landscape, built form, signage and public art

#### Outcome 1

Nowra CBD is connected to the riverfront

#### Outcome 2

Revitalisation of the riverfront

#### Outcome 3

An improved open space along the river





# PRINCIPLES AND STRATEGIC DIRECTION

### Planning and design principles



#### ◀ A permeable and connected network

Redevelopment of the area should create a more permeable access and movement network with improved links from the CBD and Civic Precinct to the river. Prioritise east-west connections across the highway, connectivity (pedestrian, bike and vehicle) and links across the river. Improve wayfinding by creating new routes to the river.



#### **◀** Local Activity Nodes

Leverage off the value and activity created by existing key nodes including the pool, the hospital, Shoalhaven Entertainment Centre (which now includes the relocated Visitor Information Centre), Council Administration Centre and the nearby CBD and large shopping centre.



#### ◀ A strong gateway into Nowra

Create a strong gateway into Nowra that showcases the attractions of the location through high quality landscape, built form, signage and public art. Make it easy to access the town and the key attractions of the northern precinct.





#### An effective pedestrian/cycle network

Ensure direct, safe and convenient pedestrian routes from key destinations such as the Entertainment Centre, the hospital and the Council Building to the river front. Link pedestrian and cycle routes across the river to safe convenient routes to the high school and town centre and the shared walkway along the river front.



#### A safe and well defined public domain

Maximise the size and quality of the public domain open space along the riverfront. Increase the amount of level and easily accessed open space that has views of the river. Reduce the number of areas which have lots backing onto the open space and increase the attractions and value of the existing open space. Retain tall trees and indigenous landscape where possible.



#### Catalyst for urban renewal

Leverage off a high quality public domain as a catalyst for urban renewal and use developer contributions to improve the quality and attractions of the open space.





# PRINCIPLES AND STRATEGIC DIRECTION





Figure 14 Strategic direction diagram



## Poor visibility into open space

## The Challenge

A key issue for the precinct is the high number of sites that back onto open space and the lack of views into the open space.







Figure 15 Strategic direction diagram



## Strategic Direction

It is recommended that council seek to build new roads within the open space in order to improve connections, enhance access to the open space, increase safety and act as a catalyst for renewal.



# PRINCIPLES AND STRATEGIC DIRECTION





Figure 16 Strategic direction diagram



Privately owned land



Council owned open space

## The Challenge

Council owns a small area of poorly located open space next to the Princes Highway.







Figure 17 Strategic direction diagram



Privately owned land



Council owned open space

## Strategic Direction

It is recommended that council explores the opportunity to negotiate a "land swap" with the owner of this property which will expand the size of the open space next to the river.





# PRINCIPLES AND STRATEGIC DIRECTION



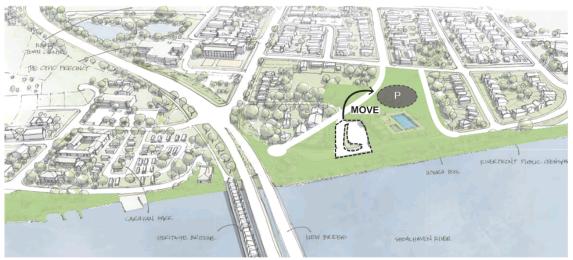
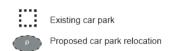


Figure 18 Strategic direction diagram



## The Challenge

The existing car park for the pool is located on level land with excellent views of the river.

### Strategic Direction

Over time, it would be preferable that council move car parks away from the waterfront and reallocate areas with views to riverfront open space.







Figure 19 Strategic direction diagram





### The Challenge

The current gateway at Bridge Road / Pleasant Way and Princes Highway does not create an attractive and legible entry into the precinct.

## Strategic Direction

With the new bridge crossing, council should seek to create a more legible urban structure and showcase key heritage items.



# PRINCIPLES AND STRATEGIC DIRECTION



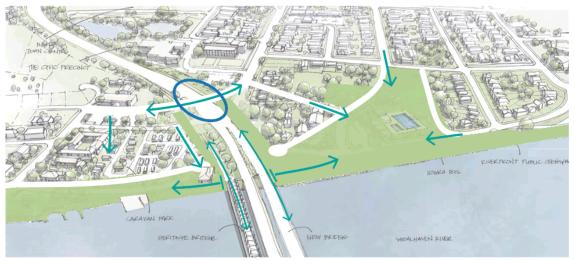


Figure 20 Strategic direction diagram



## The Challenge

People's ability to find their way to the riverfront, along the riverfront and up to the bridges in order to cross the river is currently not attractive or legible.

### Strategic Direction

The new bridge and gateway intersection should provide council with the opportunity to improve wayfinding and pedestrian and bicycle access to the precinct and around the precinct.







Figure 21 Strategic direction diagram

Potential riverfront open space

Developable land fronting open space

## The Challenge

With the proposed new road alignment, some land currently zoned open space will be poorly located.

## Strategic Direction

Poorly located land should be rezoned and sold to help fund the open space improvements.





# PRINCIPLES AND STRATEGIC DIRECTION

## Heights: as proposed in the Nowra CBD Height & FSR Study (2013)



Figure 22 Proposed heights from Nowra CBD Height and FSR study (2013) diagram

## Heights: current LEP (2014)

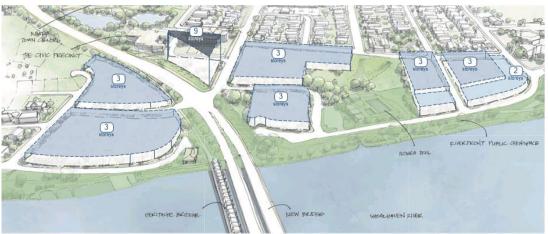


Figure 23 Proposed heights from current LEP (2014) diagram



## Heights: potential alternative



Potential alternative heights diagram (NB - road layout still to be confirmed)

Over the last few years a wide range of heights have been considered in this precinct. It is recommended that the areas that allow taller heights is extended but heights are generally kept around 5/6 storeys in height (but slightly lower in areas adjoining heritage items). This height should be sufficient to encourage growth and ensure an "urban edge" to the open space without dominating views across the wider landscape.

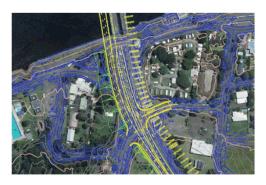
Some sites may be able to accommodate a slight increase in height of an additional 2 to 3 storeys but this should be assessed on a site by site by site basis and be linked to improvements to the public domain (possibly via a Voluntary Planning Agreement)





## PRINCIPLES AND STRATEGIC DIRECTION

### Unknowns and questions still to be answered



#### ∢ Impact of new bridge

The current bridge crossing options by RMS indicate a significant physical and visual impact on sites to the west of the highway. Sites to the east of the highway may benefit from removal of the current south bound lanes and pedestrian and cycle access to the old bridge. The impact on overland flows and opportunity for surface and/or piped stormwater under the highway is also unknown.



#### Access from/ to Princes Highway

The final location and design of the intersection of Pleasant Way and Bridge Road and the highway (ie grade separation/ signalised) could help to reconnect the two sides of the precinct or increase their separation. The final design may also change the location and design of the intersection of Bridge Road and Scenic Drive.



#### Availability of government land

Significant areas within the precinct are currently owned by local and state government. The availability for redevelopment and/or land swaps would provide additional opportunities to increase the accessibility through the area with new roads and better utilisation of developable/ higher land.





#### Heritage and amalgamation

Constraints on development of the precinct include the location of existing heritage items, the poor location and design of open space areas (backing onto lots). sites heavily impacted by flooding and overland flows. More efficient development parcels and use of land may be possible if sites can be amalgamated and/or heritage listing removed (subject to specalist heritage advice).



Source: Scenic Drive Hydraulic Assessment, WMA Water, 2008

#### Building in flood prone areas

The Nowra CBD Background Report by Arup recommended that the Shoalhaven River Flood Study (2000) be reviewed and updated before investigations began into concept and detailed design development options for specific sites, to confirm the existing flood levels and to provide a starting point for determining the likely impacts/viability of specific development options.



Source: Heights and FSR Study, Jackson Teece, 2013

#### Intensity of development

The currently proposed heights and FSRs in the Heights and FSR Study (2013) assume that development will need to step down next to existing heritage items and that significant development will be possible on land that is vulnerable to flooding. It is recommended that a more detailed development capacity is determined following confirmation of the new road alignment and the extent of development possible in flood prone areas.



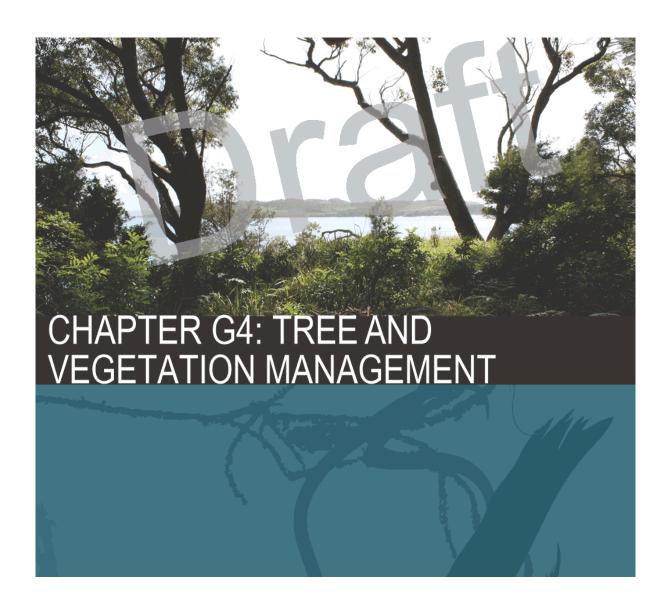








NOTE: This Chapter should not be read in isolation. You may need to consider other chapters of this DCP when preparing your application.





**DRAFT Chapter G4: Tree & Vegetation Management** 

#### Table of changes - Chapter G4: Tree and Vegetation Management

Amendment 2014.21 addresses the issues relating to Chapter G4 arising from the introduction of the suite of legislative change associated with the State government's biodiversity and land management reform.

The following changes are particularly relevant:

- The removal of Clause 5.9 from SLEP 2014.
- The introduction of the Vegetation SEPP.
- The commencement of the Biodiversity Conservation Act 2016 (the BC Act) and the amendment of the Local Land Services Act 2013 (the LLS Act).

Flow on amendments to the SDCP 2014 Dictionary and minor changes (typos, formatting, changes for document consistency and usability etc.) are also included in this review.

Section of DCP	Category	Recommended Change	Reason
1 Purpose	Update	Delete the existing wording and replace with:  The purpose of this Chapter is to declare trees and other vegetation under Part 3 of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (the Vegetation SEPP). Where a tree or other vegetation is declared in this Chapter a person must not clear vegetation without a permit granted by Council (Clause 10(1) of the Vegetation SEPP). This is referred to as 'removal or pruning' in this Chapter and includes:  Cutting down, felling, uprooting, killing, poisoning, ringbarking, burning or otherwise destroying the vegetation, or  Lopping or otherwise removing a substantial part of the vegetation.  Council can only issue a permit for the removal or pruning of native vegetation that is below the biodiversity offsets scheme threshold.  This Chapter also provides guidance on the process for obtaining a permit for	This section sets up the legislative basis for the chapter and currently refers to Clause 5.9 of SLEP 2014 which has been repealed. It has been updated to refer to the Vegetation SEPP and the new requirements under that SEPP e.g. that the DCP does not apply to land in the RU1 - RU4 zones, introduce term 'clear' vegetation and its definition, and the introduction of the biodiversity offsets scheme threshold.



Section of DCP	Category	Recommended Change	Reason
		the removal or pruning of trees and other vegetation on land in the Shoalhaven Local Government Area (LGA).	
		Advisory Note: In addition to the provisions outlined in this Chapter, you must refer to the Supporting Maps. The Supporting Maps provide further information about which sections of this Chapter apply to your development.	
2 Application	Update	Delete the existing wording and replace with:  This Chapter applies to removal or pruning of vegetation that is under the biodiversity offsets scheme threshold on all non-rural land (land in any zone other than RU1-RU4) within the Shoalhaven LGA.  Note: The proposed removal or pruning exceeds the biodiversity offsets scheme threshold if it is:  (a) the clearing of native vegetation of an area that exceeds the threshold (see Table below), or  (b) the clearing of native vegetation is on land mapped as 'Sensitive Values' on the Biodiversity Values Map prepared by the Office of Environment and Heritage (OEH) and located on their website.  If the proposed removal or pruning exceeds the biodiversity offsets scheme threshold, it requires an approval from the Native Vegetation Panel (refer to Part 4 of the Vegetation SEPP).  Table: Threshold by minimum lot sizes  Minimum lot size Area of clearing of land  Less than 1 0.25 hectare or hectare more  Less than 40 0.5 hectare or more hectares but not	This section sets up where this Chapter applies. It currently applies across the City but with the Vegetation SEPP replacing Clause 5.9 of SLEP 2014 and the SEPP not apply to RU1 – RU4 land, this will need to be amended to specify that the chapter applies to non-rural land only (anything other than land in zones RU1-RU4) and only to clearing that is under the newly introduced biodiversity offsets scheme threshold.



Section of DCP	Category	Recommended Change	Reason
		less than 1 hectare Less than 1,000 1 hectare or more hectares but not less than 40 hectares 1,000 hectares or 2 hectares or more more  The minimum lot size applicable to any land being cleared is as follows: (a) the minimum lot size as shown on the Shoalhaven LEP 2014 Lot Size Map, or (b) if the Lot Size Map does not map a minimum lot size for the land, the actual size of the allotment of land on which	
3 Context	Update	the proposed development is to be carried out.  In the note, delete the Native Vegetation Act 2013 and replace with the Local Land Services Act 2013.  Delete the National Parks and Wildlife Act 1974 and replace with Biodiversity Conservation Act 2016.	A range of legislation was repealed, amended, or commenced on 25 August 2017 in relation to the biodiversity reforms. References to relevant legislation need to be updated.
	Editorial	In the note, add (EP&A Act) after Environmental Planning and Assessment Act 1979.	To ensure that users of the Chapter know what the acronym stands for in later parts of the Chapter.
4 Objectives	Update	Replace objective i. and iv. with the following objectives:  i. Ensure land owners are aware when tree or vegetation removal or pruning requires a permit and when it can be carried out without a permit.  iv. Control inappropriate cutting down, felling, uprooting, killing, poisoning, ringbarking, burning or otherwise destroying of vegetation, or lopping or otherwise removing a substantial part of vegetation.	The objectives reference the need to obtain development consent (objective i.) and also includes the LEP definition of clearing (objective iv.). These need to be updated to reflect the Vegetation SEPP requirement for a permit and the new definition for clearing.



Chapter G4: Tree & Vegetation Management

Trees or Other Vegetation – Clause 5.9(2) of the SLEP 2014  5.1. Declared Trees or Other Vegetation – Part 3 of the Vegetation SEPP  This clause declares trees and other vegetation for the purposes of Part 3 of the Vegetation SEPP. In accordance with Clause 7(1) of the Vegetation SEPP included in the Vegetation SEPP	Section of DCP Cate	Recommended Change Reason
ringbark, burn or otherwise destroy the vegetation, or lop or otherwise remove a substantial part of the vegetation without a permit granted by Council. There are some exemptions to the requirement for a permit which are set out in Section 5.2.  The following trees or other vegetation located on an area mapped by this Chapter which includes:  a) Land which is mapped as a 'paper subdivision' in the Chapter G4 Supporting Maps; or  b) Trees or other vegetation that are:  i. less than 50 metres from the bank of a creek or water body deemed Category 1 (large creek/river) as defined by the SLEP 2014; or  iii. less than 30 metres from the bank of a creek or water body deemed Category 2 as defined by the SLEP 2014; or  iii. verified as supporting an endangered ecological community (EEC); or  iv. mapped as supporting rainforest	5.1 Prescribed Trees or Other Vegetation – Clause 5.9(2) of	Delete the existing wording and replace with:  5.1. Declared Trees or Other Vegetation — Part 3 of the Vegetation SEPP  This clause declares trees and other vegetation for the purposes of Part 3 of the Vegetation SEPP. In accordance with Clause 7(1) of the Vegetation SEPP, a person must not cut down, fell, uproot, kill, poison, ringbark, burn or otherwise remove a substantial part of the vegetation without a permit granted by Council. There are some exemptions to the requirement for a permit which are set out in Section 5.2.  The following trees or other vegetation located on an area mapped by this Chapter which includes:  a) Land which is mapped as a 'paper subdivision' in the Chapter G4 Supporting Maps; or  b) Trees or other vegetation that are:  i. less than 50 metres from the bank of a creek or water body deemed Category 1 (large creek/river) as defined by the SLEP 2014; or  iii. less than 30 metres from the bank of a creek or water body deemed Category 2 as defined by the SLEP 2014; or  iii. verified as supporting an endangered ecological community (EEC); or  iv. mapped as supporting rainforest



Section of DCP	Category	Recommended Change	Reason
		v. mapped on the Scenic Protection Area Map of SLEP 2014; or vi. within 30 metres from a non- urban road boundary. Note: The above areas are shown on the Supporting Maps for this Chapter.  2. All trees and other vegetation	and State government. Inclusion of the E zones will ensure that there is still a requirement for consent for removal and pruning of trees.
		located on publicly owned or managed land; or  3. Where the tree in question is a Toona australis (Red Cedar); or  4. Where the tree contains a hollow; or	
		<ul> <li>5. Where the tree or other vegetation is a heritage item or within a heritage conservation area under the SLEP 2014; or</li> <li>6. All trees in an urban area.</li> <li>7. All trees on land in zone E2, E3 or E4.</li> </ul>	
		Note: An urban area for the purposes of this Chapter is any mapped area with a residential, business, industrial, commercial, special use and RU5 Village zone.	
5.2 Exemptions	Update	Delete the existing wording and replace with:	This section specifies that the exemptions included in the chapter do not apply to
		5.2Exclusions from Exemptions – Environmental Heritage including Aboriginal Heritage	vegetation that is located on land that is heritage listed or in a heritage conservation area. The Vegetation SEPP includes Clause 10(3) which
		None of the exemptions listed in this Section apply to any trees or other vegetation located on a heritage item, Aboriginal object, Aboriginal place of heritage significance, or on land within a heritage conservation area.	states that Council cannot issue a permit for the clearing of vegetation that is, or forms part of, a heritage item or is within a heritage conservation area; or that is or forms part of an Aboriginal object or is within



Section of DCP	Category	Recommended Change	Reason
		Council can only grant a permit for the removal or pruning of vegetation on land that is, or forms part of a heritage item; or is within a heritage conservation area; or that is or forms part of an Aboriginal object; or is within an Aboriginal place of heritage significance, if it is:  • Of a minor nature; or • Is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance, or heritage conservation area, and would not adversely affect the heritage significance of the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance, or heritage conservation area.  Therefore, Council requires:  • A permit application for any removal or pruning of vegetation that is minor in nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance, or heritage conservation area, and  • A development application for any other removal or pruning of vegetation.  Clause 10(3) of the Vegetation SEPP and Clause 5.10 of the SLEP 2014 contain specific requirements for trees and other vegetation located on heritage items and heritage conservation areas and should be read in conjunction with this Chapter.	an Aboriginal place of heritage significance, unless it is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.
New 5.2.2	Editorial	Insert the following subclause:	Where there is a condition of consent or 88B Instrument that related to the retention of trees, the exemptions for



Section of DCP	Category	Recommended Change	Reason
		5.2.2 Exclusion from Exemptions – Consent Conditions and 88B Instruments  None of the exemptions listed in this Section apply to any trees or vegetation that are required to be retained by the conditions of a development consent or a Section 88B restriction to user instrument. The Vegetation SEPP, and subsequently this Chapter, do not affect authorisations under other Acts that are required to be obtained in connection with the clearing of vegetation.  Note: Applicants may choose to apply to Council for a variation to the conditions of consent (for dwelling and/or subdivision) or the 88B Instrument.	this chapter do not apply. However, the provision relating these is worded as an acceptable solution in Section 5.4.5 Other Important Vegetation which makes it appear that the exemptions can override the conditions of consent or 88B Instrument.  The Vegetation SEPP includes the following note in Section 6 Relationship to other planning instruments Note. This Policy does not affect authorisations under other Acts that are required to be obtained in connection with the clearing of vegetation.'
5.2.2 Exemptions (renumbered as 5.2.3)		Insert the following new exemptions and renumber the remaining exemptions:  a) Clearing trees and vegetation that is authorised under Section 60O of the Local Land Services Act 2013 (LLS Act). This sub-clause does not apply to clearing merely because it is a part of or ancillary to the carrying out of exempt development. b) Trees and vegetation that Council or the Native Vegetation Panel is satisfied is dying or dead and is not required as the habitat of native animals. c) Trees and vegetation that Council is satisfied are a risk to human life or property.	This section outlines situations and/or types of vegetation that does not require a permit for removal. The Vegetation SEPP has introduced additional exemptions where clearing does not require a permit (Clause 8) and these should be reflected in the DCP.
5.3 Approval Process	Editorial	Delete this section and renumber subsequent sections.	The information in this section is informative rather than providing controls for



Section of DCP	Category	Recommended Change	Reason
			development so should be moved to Section 6 Advisory Information with the exception of the first paragraph which can be retained under Section 5.4 Assessment Criteria for Tree Removal and Pruning.
5.4 Assessment Criteria for Tree Removal and Pruning. (renumbered as 5.3)	Editorial	Insert the following wording:  If the tree or other vegetation proposed for removal or pruning is declared under Section 5.1 of this Chapter for the purpose of Part 3 of the Vegetation SEPP, and is not exempt under Section 5.2.2 of this Chapter, then a permit application must be submitted to Council.	This information has been moved from 5.3 Approval process and relates to the development application (DA) process. It has been updated to reflect that it is now a permit rather than a DA and to make the wording more user friendly
	Editorial	Remove note containing definition of 'Arborist'.	This definition has been moved to the Dictionary. This is a consistent approach throughout the DCP that definitions are included in the Dictionary with defined terms being highlighted in green to indicate that they are defined terms.
5.4.1 Destabilisation of Foreshore, Water Courses and Agricultural Land (now renumbered 5.3.1)	Editorial	Update the wording of Objective i. as follows:  i. encourage the retention of trees and other vegetation along water courses, foreshores and steep land to provide for bank stability, prevent erosion, and maintain amenity.	The revised wording makes it clearer as to what is trying to be achieved in this section.
	Editorial	Update the wording of P1 for the first dot point as follows:  • Soil and bank stability.	The revised wording makes it clearer as to what is trying to be achieved in this section.
	Editorial	Amend A1.2 to replace the word 'endemic species' with 'local native species'.	The term endemic is quite a specialised term which may not be widely known by the



Section of DCP	Category	Recommended Change	Reason
			community. Replacing it with local native species makes the wording easier to interpret.
	Update	Remove the word 'Rural' from P2.	The reference to rural land has been removed given that the DCP can no longer relate to rural land.
	Editorial	Amend A2.2 to replace the words 'endemic species' with 'local native species'.	The term endemic is quite a specialised term which may not be widely known by the community. Replacing it with local native species makes the wording easier to interpret.
5.4.2 Character and Scenic Amenity of Rural Roads (now renumber 5.3.2)	Update	Amend the heading of the section, Objective i., P4, A4.1 and A4.2 to replace the word 'rural' with 'non- urban'.	As the DCP can no longer apply to rural zoned land, the term rural has been replaced with non-urban to prevent confusion over the term.
·	Editorial	Amend A4.2 to replace the words 'endemic species' with 'local native species'.	The term endemic is quite a specialised term which may not be widely known by the community. Replacing it with local native species makes the wording easier to interpret.
Considerations (renumbered as 5.3.3)	Editorial	Amend A5.1 to replace the word 'endemic' with 'native'.	The term endemic is quite a specialised term which may not be widely known by the community. Replacing it with local native species makes the wording easier to interpret.
	Editorial	Amend P6 replace the word 'encourage' with 'enable'.	Replacing 'encourage' with 'enable' making the wording more relevant as this section is not about encouraging solar power but enabling clearing to allow for its use.
	Editorial	Amend A7.1 to replace 'as' with 'is'.	This is a typographical change to ensure the



Section of DCP	Category	Recommended Change	Reason
			acceptable solution makes sense.
5.4.4 Heritage Considerations (renumbered as 5.3.4)	Update	Amend P9 to read P9.1 and insert the following provision directly under: P9.2 The indigenous heritage of Shoalhaven is respected through the retention of trees and vegetation associated with Aboriginal objects or Aboriginal places of heritage significance.	The Vegetation SEPP includes Aboriginal object and Aboriginal place of heritage significance as heritage considerations so it is appropriate to add a performance criteria relating to Aboriginal heritage to relate to the addition of Aboriginal objects and Aboriginal place of heritage significance to the acceptable solution.
	Update	Update the wording of A9.1 as follows: A9.1 Removal or pruning of trees or vegetation is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and will not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area; and	The Vegetation SEPP sets out (Clause 10(3)) that Council can only grant a permit for the clearing of vegetation on land that is, or forms part of, a heritage item; or is within a heritage conservation area; or that is or forms part of an Aboriginal object; or is within an Aboriginal place of heritage significance, if it is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and would not adversely affect the heritage item, Aboriginal object, Aboriginal place of the heritage significance or the heritage significance or heritage conservation area. This section of the DCP needs to be amended to make this clear and that all other tree and vegetation



Section of DCP	Category	Recommended Change	Reason
			removal will require a DA which is consistent with Clause 5.10 of SLEP 2014.
		Remove A9.3 and reword as a note as follows:  Note: Prior to any permit application being made under this chapter, the applicant must notify Council of the proposed tree and/or vegetation removal or pruning in accordance with Clause 5.10(3) of SLEP 2014. Council will then advise in writing if it is satisfied that consent under Clause 5.10 of SLEP 2014 is not required.	This change clarifies that notification under Clause 5.10(3) of SLEP 2014 is required before a permit can be issued.
5.4.5 Other Important Vegetation (renumbered as 5.3.5)	Editorial	Amend P11 to replace 'deemed' with 'mapped'.	The paper subdivisions are mapped on the Supporting Map so it is preferable to refer to mapped paper subdivisions rather than deemed paper subdivisions which could cause confusion
	Editorial	Reword A11.2 to read as follows: Removal of any trees in other paper subdivisions within Shoalhaven is limited to removal and pruning that is in conjunction with an approved development or use.	The second acceptable solution relating to paper estates (A11.2) is confusing making it unclear how to meet this acceptable solution. It has been reworded to make it clear only clearing associated with an approved use is acceptable.
	Editorial	Change reference in A13.1 from 'Scenic Preservation Overlay' to 'Scenic Protection Area Map'.	This is the correct name of the map in SLEP 2014.
	Editorial	Amend A13.2 to replace the word 'endemic' with 'native'.	The term endemic is quite a specialised term which may not be widely known by the community. Replacing it with local native species makes the wording easier to interpret.
	Editorial	Remove P14 and A14.1 (and associated note) from Section 5.4.5 and reword to form a subclause under	Where there is a condition of consent or 88B Instrument that related to the retention



Chapter G4: Tree & Vegetation Management

Section of DCP	Category	Recommended Change	Reason
		Section 5.2 Exemptions to make it clear that the exemptions do not can override conditions of consent or 88B Instrument. Renumber subsequent performance criterion and acceptable solution.	of trees, the exemptions for this chapter do not apply. However, the provision relating these is worded as an acceptable solution in Section 5.4.5 Other Important Vegetation which makes it appear that the exemptions can override the conditions of consent or 88B Instrument.
	Update	Change reference in A15.1 (renumbered as 14.1) from 7 part test to 5 part test.	The 7 part test under the now repealed Threatened Species Act 1995 (the TS Act) has become a 5 part test under the Biodiversity Conservation Act 2016.
6. Advisory Information	Editorial and update	Insert the following wording and renumber subsequent subclauses: 6.1 Approval Process Council is required to determine applications for permits within 28 days from the date of application.  Council may request further information about the proposed clearing if Council considers necessary for its proper consideration of the application. Any period between the applicant being requested to provide further information and the information being received by Council will not be counted in respect of Council's timeframe for determining an	This information has been moved from 5.4 Approval process and relates to the development application (DA) process. Additional information has been included about the introduction of a timeframe for the issue of permits, the ability for Council to 'stop the clock' and ask for more information, the ability to condition permits, and the ability for applicants to appeal the refusal of a permit.
		application.  Council will carry out public notification for any application for a permit for the removal or pruning of ten (10) or more trees.  An applicant for a permit may appeal to the Land and Environment Court against the refusal by Council to grant the permit. Any such appeal is to be made within 3 months after the date on	The requirement for the total area of proposed clearing to be shown on the Tree & Vegetation Plan has also been added to enable Council to assess the application against the newly introduced biodiversity offsets scheme threshold.



Section of DCP	Category	Recommended Change	Reason
		which the applicant is notified of the decision or within 3 months after Council is taken to have refused the application (whichever is the later).	
		6.1 Application Documents	
		All permit applications must be accompanied by a Tree & Vegetation Plan which is drawn to scale and illustrates:	
		<ul> <li>Property boundary, existing structures and access roads;</li> <li>Location of all trees and other vegetation on the lot and identification of those trees or vegetation proposed for removal or pruning with approximate heights and widths;</li> <li>The total area (in m2) of clearing being applied for, and total area (in m2) of previous clearing;</li> <li>A description of the trees or vegetation, including species name, proposed for removal or pruning;</li> <li>Distance of those trees or vegetation proposed for removal or pruning from the nearest boundary and/or structure;</li> <li>If relevant, placement of drainage and sewer mains, and overhead power lines;</li> <li>Location of any known watercourses on the property;</li> <li>Any proposed Exempt &amp; Complying (E&amp;C) development plans, for which the tree or vegetation removal is a pre-curser. This must include a plan showing the proposed development, the location of the trees that are exempt under the E&amp;C Code as well as those to be assessed i.e. subject of this</li> </ul>	
		application; and, A north arrow.	



Section of DCP	Category	Recommended Change	Reason
		The permit application must be signed by the owner(s) of the property on which the trees are growing and accompanied by the relevant fee (refer to Council's Fees and Charges).	
6.1 Other Legislation or policies you may need to check (renumbered as 6.3)	Update	Delete references to the following legislation that has been repealed or amended:  Native Vegetation Act 2003 and Regulation Threatened Species Conservation Act 1995 Illawarra Regional Environmental Plan No 1 National Parks and Wildlife Act 1974 (Schedules 12 and 13) — fauna habitat  Insert references to the following legislation that has been commenced or amended: Biodiversity Conservation Act 2016 and Regulation Local Land Services Act 2013 SEPP (Vegetation in Non-Rural Areas) 2017	A range of legislation was repealed, amended, or commenced on 25 August 2017 in relation to the biodiversity reforms.  The Illawarra Regional Environmental Plan No 1 has also been repealed.
Various	Editorial	Highlight all terms used in the Chapter that are defined in the LEP Dictionary in blue and terms used in the Chapter that are defined in the DCP Dictionary in green.	This is to ensure consistency across all chapters in the DCP and to make the DCP more user friendly.



**DRAFT Chapter G4: Tree & Vegetation Management** 

## Chapter G4: Tree & Vegetation Management

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Amendment his	story		
Version Number	Date Adopted by Council	Commencement Date	Amendment Type
1	14 October 2014	22 October 2014	New
2	23 June 2015	1 July 2015	Amendment
3	6 December 2016	21 December 2016	Amendment
4			Draft
		1	1



Chapter G4: Tree & Vegetation Management

#### 1 Purpose

The purpose of this Chapter is to declare trees and other vegetation under Part 3 of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (the Vegetation SEPP). Where a tree or other vegetation is declared in this Chapter a person must not clear vegetation without a permit granted by Council (Clause 10(1) of the Vegetation SEPP). This is referred to as 'removal or pruning' in this Chapter and includes:

- Cutting down, felling, uprooting, killing, poisoning, ringbarking, burning or otherwise destroying the vegetation, or
- Lopping or otherwise removing a substantial part of the vegetation.

Council can only issue a permit for the removal or pruning of native vegetation that is below the biodiversity offsets scheme threshold.

This Chapter also provides guidance on the process for obtaining a permit for the removal or pruning of trees and other vegetation on land in the Shoalhaven Local Government Area (LGA).

Advisory Note: In addition to the provisions outlined in this Chapter, you must refer to the Supporting Maps. The Supporting Maps provide further information about which sections of this Chapter apply to your development.

#### 2 Application

This Chapter applies to removal or pruning of vegetation that is under the biodiversity offsets scheme threshold on all non-rural land (land in any zone other than RU1-RU4) within the Shoalhaven LGA.

**Note:** The proposed removal or pruning exceeds the biodiversity offsets scheme threshold if it is:

- the clearing of native vegetation of an area that exceeds the threshold (see Table below), or
  - the clearing of native vegetation is on land mapped as 'Sensitive Values' on the Biodiversity Values Map prepared by the Office of Environment and Heritage (OEH) and located on their website.

If the proposed removal or pruning exceeds the biodiversity offsets scheme threshold, it requires an approval from the Native Vegetation Panel (refer to Part 4 of the Vegetation SEPP).

Table: Threshold by minimum lot sizes

Minimum lot size of land Area of clearing

Less than 1 hectare 0.25 hectare or more Less than 40 hectares but 0.5 hectare or more not less than 1 hectare

Less than 1,000 hectares 1 hectare or more

but not less than 40 hectares

1,000 hectares or more 2 hectares or more



#### **Chapter G4: Tree & Vegetation Management**

The minimum lot size applicable to any land being cleared is as follows:

- (a) the minimum lot size as shown on the Shoalhaven LEP 2014 Lot Size Map, or
- (b) if the Lot Size Map does not map a minimum lot size for the land, the actual size of the allotment of land on which the proposed development is to be carried out.

#### 3 Context

Appropriate management of trees and other vegetation on public, urban and non-urban land is essential to preserve the attractiveness and natural character of the City. Trees are part of the wider habitat that supports our native wildlife and birds. Controls also need to allow for the removal of unsafe or unsuitable trees and plan for their replacement to ensure the tree canopy is maintained into the future. Council embraces a whole of life approach to tree management in order to prevent exposure to unnecessary risk.

**Note:** There are significant penalties for the illegal removal or pruning of trees and other vegetation. People who remove or prune trees and other vegetation without approval can face significant fines under the *Environmental Planning & Assessment Act* 1979 (EP&A Act) and the *Local Land Services Act* 2013.

It is also an offence to harm or pick threatened species, populations or endangered ecological communities (EECs) under the *Biodiversity Conservation Act 2016* and *Environment Protection and Biodiversity Conservation Act 1999*. Prosecutions can result in significant penalties including fines and imprisonment.

### 4 Objectives

The objectives are to:

- i. Ensure land owners are aware when tree or vegetation removal or pruning requires a permit and when it can be carried out without a permit.
- ii. Provide a consistent framework to assess applications for the removal or pruning of trees and other vegetation.
- iii. Recognise trees and other vegetation as a highly valued asset to maintain the visual appeal and amenity of the local area.
- iv. Control inappropriate cutting down, felling, uprooting, killing, poisoning, ringbarking, burning or otherwise destroying of vegetation, or lopping or otherwise removing a substantial part of vegetation.
- v. Minimise the risk caused by destabilisation of foreshore, riparian or agricultural land.
- vi. Ensure that high value trees or other vegetation in environmentally sensitive locations are preserved.
- vii. Recognise the intrinsic value of trees and other vegetation to support native birds and wildlife.



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- viii. Facilitate the removal of undesirable exotics, noxious weeds, and any other inappropriate plantings, and to replace these with suitable local indigenous species which will positively contribute to visual and environmental amenity and ecological sustainability.
- ix. Avoid inappropriate removal of trees or other vegetation in paper subdivisions or areas where a tree preservation order has historically applied.

#### 5 Controls

#### 5.1 Declared Trees or Other Vegetation – Part 3 of the Vegetation SEPP

This clause declares trees and other vegetation for the purposes of Part 3 of the Vegetation SEPP. In accordance with Clause 7(1) of the Vegetation SEPP, a person must not cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or lop or otherwise remove a substantial part of the vegetation without a permit granted by Council. There are some exemptions to the requirement for a permit which are set out in Section 5.2.

The following trees or other vegetation are prescribed:

- 1. All trees and other vegetation located on an area mapped by this Chapter which includes:
  - a) Land which is mapped as a 'paper subdivision' in the Chapter G4 Supporting Maps;
     or
  - b) Trees or other vegetation that are:
    - less than 50 metres from the bank of a creek or water body deemed Category 1 (large creek/river) as defined by the SLEP 2014; or
    - less than 30 metres from the bank of a creek or water body deemed Category 2 as defined by the SLEP 2014; or
    - iii. verified as supporting an endangered ecological community (EEC); or
    - iv. mapped as supporting rainforest vegetation species; or
    - v. mapped on the Scenic Protection Area Map of SLEP 2014; or
    - vi. within 30 metres from a non-urban road boundary.

**Note:** The above areas are shown on the Supporting Maps for this Chapter.

- 2. All trees and other vegetation located on publicly owned or managed land; or
- 3. Where the tree in question is a Toona australis (Red Cedar); or
- 4. Where the tree contains a hollow; or
- 5. Where the tree or other vegetation is a heritage item or within a heritage conservation area under the SLEP 2014; or
- 6. All trees in an urban area.
- 7. All trees on land in zone E2, E3 or E4.

**Note:** An urban area for the purposes of this Chapter is any mapped area with a residential, business, industrial, commercial, special use and RU5 Village zone.



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#### 5.2 Exemptions

## 5.2.1 Exclusions from Exemptions – Environmental Heritage including Aboriginal Heritage

None of the exemptions listed in this Section apply to any trees or other vegetation located on a heritage item, Aboriginal object, Aboriginal place of heritage significance, or on land within a heritage conservation area.

Council can only grant a permit for the removal or pruning of vegetation on land that is, or forms part of a heritage item; or is within a heritage conservation area; or that is or forms part of an Aboriginal object; or is within an Aboriginal place of heritage significance, if it is:

- · Of a minor nature; or
- Is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance, or heritage conservation area, and would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance, or heritage conservation area.

#### Therefore, Council requires:

- A permit application for any removal or pruning of vegetation that is minor in nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance, or heritage conservation area, and
- A development application for any other removal or pruning of vegetation.

Clause 10(3) of the Vegetation SEPP and Clause 5.10 of the SLEP 2014 contain specific requirements for trees and other vegetation located on heritage items and heritage conservation areas and should be read in conjunction with this Chapter.

#### 5.2.2 Exclusion from Exemptions – Consent Conditions and 88B Instruments

None of the exemptions listed in this Section apply to any trees or vegetation that are required to be retained by the conditions of a development consent or a Section 88B restriction to user instrument. The Vegetation SEPP, and subsequently this Chapter, do not affect authorisations under other Acts that are required to be obtained in connection with the clearing of vegetation.

**Note:** Applicants may choose to apply to Council for a variation to the conditions of consent (for dwelling and/or subdivision) or the 88B Instrument.



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#### 5.2.3 Exemptions

The following trees or other vegetation are exempt from section 5.1:

- d) Clearing trees and vegetation that is authorised under Section 60O of the Local Land Services Act 2013 (LLS Act). This sub-clause does not apply to clearing merely because it is a part of or ancillary to the carrying out of exempt development.
- e) Trees and vegetation that Council or the Native Vegetation Panel is satisfied is dying or dead and is not required as the habitat of native animals.
- f) Trees and vegetation that Council is satisfied are a risk to human life or property.
- g) Where a tree is closer than its own height from an approved building (including a dwelling, garage or outbuilding). This means where any part of a tree is above a line 45 degrees from the vertical extension of the wall of any building measured from its base (as shown in Figure 1). Hollow bearing trees can only be removed without assessment under the 45 degree exemption if an animal handler is present.

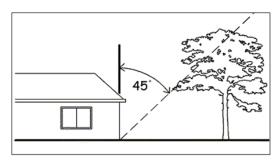


Figure 1: Example of the 45 degrees line from the vertical extension

h) The non-native/invasive tree species listed in Table 1, regardless of size.

Table 1: Non-native and/or Invasive Tree Species

Common Name	Botanical Name	
Cootamundra Wattle	Acacia baileyana	
Black Wattle	Acacia decurrens and Acacia mearnsii	
Cape Leeuwin Wattle	Albizia lophantha	
Evergreen Alder	Alnus jorullensis	
Free Lucerne	Chamaecytisus sp	
ndian Coral Tree	Erythrina x sykesii	
ilky Oak	Grevillea robusta	
rivet	Ligustrum species	
frican Olive	Olea africana	
Canary Island Date Palm	Phoenix canariensis	
Sweet Pittosporum	Pittosporum undulatum	



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Umbrella Trees	Schefflera species
Cocos or Queen Palm	Syagrus romanzoffianum
Rubber Trees	Ficus elastica
Willows	Salix species

i) The tree species in Table 2 if less than 10m tall.

Table 2: Non-native trees of amenity value

Common Name	Botanical Name
Camphor Laurel	Cinnamomum camphora
Liquidambar	Liquidambar styraciflua
Radiata Pine	Pinus radiata
Poplars	Populus species

Note: Council Owned & Managed Lands - Private landowners must obtain approval for the removal or pruning of trees and other vegetation on land owned or managed by Council including road reserves to which Council is the roads authority and crown reserves to which Council is the trust manager.

The only exception is where Council (or its agent) carries out the work after it has been assessed in accordance with the 'Tree Management Policy – Council Managed Lands'.

Works to trees on public land generally need to go through a review of environmental factors (under Part 5 of the EP&A Act) before any works are undertaken. There is a cost associated with this process.

# 5.3 Assessment Criteria for Tree Removal and Pruning

If the tree or other vegetation proposed for removal or pruning is declared under Section 5.1 of this Chapter for the purpose of Part 3 of the Vegetation SEPP, and is not exempt under Section 5.2.2 of this Chapter, then a permit application must be submitted to Council.



# Chapter G4: Tree & Vegetation Management

# 5.3.1 Destabilisation of Foreshore, Water Courses and Agricultural Land

The objective of this Section is to:

 encourage the retention of trees and other vegetation along water courses, foreshores and steep land to provide for bank stability, prevent erosion, and maintain amenity.

Per	rformance Criteria	Accept	able Solutions
P1	Trees and other vegetation are maintained to ensure the protection of:  Soil and bank stability.  Water quality by filtering sediments, nutrients and pollutants.  Terrestrial habitat.	A1.1	Removal or pruning of trees and other vegetation only occurs within 20 metres of a bank of a large (category 1) water course is minimised and erosion control measures have been considered; and
		A1.2	A program of replanting of local native species is proposed to maintain bank stability, water quality and terrestrial habitat. The program should be provided as a written plan with maintenance commitments to ensure long term survivability and
		A1.3	The application is supported by an Arborist Report prepared by a suitably qualified and practising Arborist to assess the health and condition of the tree/s.
P2	Land with steep slopes is maintained in a stable condition.	A2.1	Removal or pruning of trees and other vegetation on mapped land with a slope in excess of 20% is minimised and erosion control measures have been considered; and
		A2.2	A program of replanting of local native species is proposed to maintain slope stability.
		A2.3	Where required, the application is supported by an Arborist Report prepared by a suitably qualified and practising Arborist to assess the health and condition of the tree/s.
P3	Trees and vegetation associated with or adjacent to State Environmental Planning Policy No 14 - Coastal Wetlands (SEPP 14) wetland areas is retained to maintain the viability of the wetlands.		Tree and other vegetation removal or pruning only occurs:  a) In an artificial wetland; and b) 100 metres or more away from any natural wetland (including buffers).
		A3.2	Where required, the application is supported by an Arborist Report prepared by a suitably qualified and practising Arborist to assess the health and condition of the tree/s.



# **Chapter G4: Tree & Vegetation Management**

## 5.3.2 Character and Scenic Amenity of Non-Urban Roads

The objective of this Section is to:

 encourage the retention of vegetation along non-urban road corridors to ensure character and biodiversity value is maintained and enhanced.

Performance Criteria		Acceptable Solutions	
P4	Trees and other vegetation along non-urban road boundaries are retained for its	A4.1	Tree and other vegetation removal or pruning within 30 metres of a non-urban road boundary is minimised; and
	aesthetic, habitat and water quality value.	A4.2	A program of replanting local native or suitable plant species is proposed to maintain aesthetic, habitat and water quality values of the non-urban area.

# 5.3.3 Amenity Considerations

The objective of this Section is to:

i. ensure that the unique character and environmental integrity of towns and villages in the Shoalhaven LGA is retained through the appropriate management of trees and other vegetation.

Performance Criteria		Acceptable Solutions		
P5	Character of towns and villages is maintained and improved by the retention of mature trees.	A5.1	Where mature trees or other vegetation have been removed, they are replaced with trees native to the region in an appropriate location.	
			<b>Note:</b> An Arborist Report prepared by a suitably qualified and practicing Arborist to assess the health and condition of the tree/s may be required.	
P6	Enable residents to access solar power alternatives.	A6.1	Trees or other vegetation removed or pruned to facilitate solar access for the tree owner or their neighbours are kept to the minimum necessary to ensure solar efficiency.	
P7	Retain and value a healthy streetscape.	A7.1	Removal of a tree that is a poor specimen and is in a state of decline that is prolonged and irreversible is supported by an Arborist Report prepared by a suitably qualified and practising Arborist in relation to the health and condition of the tree/s.	
P8	Protect public and private assets from unnecessary damage.	A8.1	Removal of trees that have caused or are likely to cause significant structural damage and is supported by relevant evidence; and	
		A8.2	The application is supported by written expert advice and other reasonable alternatives are not available.	



# Chapter G4: Tree & Vegetation Management

# 5.3.4 Heritage Considerations

The objective of this Section is to:

 ensure that the heritage values and unique character of towns and villages in the Shoalhaven LGA are retained through the appropriate management of tree removal.

Performance Criteria		Acceptable Solutions	
P9.1	Heritage values and character of towns and villages is maintained and improved by the retention of heritage trees or trees within the curtilage of a heritage item or heritage conservation area	A9.1	Removal or pruning of trees or vegetation is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance, or heritage conservation area, and will not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance,
P9.2	The indigenous heritage of Shoalhaven is respected through the retention of trees and vegetation associated with Aboriginal objects or Aboriginal places of heritage significance.	A9.2	or heritage conservation area; and  A heritage management document prepared by a suitably qualified heritage consultant; and an Arborist Report prepared by a suitably qualified and practising Arborist to assess the health and condition of the tree/s is provided.
			<b>Note:</b> Prior to any permit application being made under this chapter, the applicant must notify Council of the proposed tree and/or vegetation removal or pruning in accordance with Clause 5.10(3) of <i>SLEP 2014</i> . Council will then advise in writing if it is satisfied that consent under Clause 5.10 of <i>SLEP 2014</i> is not required.

# 5.3.5 Other Important Vegetation

The objective of this Section is to:

i. ensure that sensitive areas of the Shoalhaven are protected.

Performance Criteria		Acceptable Solutions		
P10	Verified EECs are protected.	A10.1	The trees to be removed are not part of a listed EEC (mapped in this DCP) in accordance with an assessment by a suitably qualified person.	
P11	paper subdivisions is avoided or	A11.1	Removal of any trees in Jerberra Estate is in accordance with Chapter N20 Jerberra Estate.	
	minimised.	mapped A11.1 Removal of any trees in Jerb accordance with Chapter N20.  A11.2 Removal of any trees in other p within Shoalhaven is limited pruning that is in conjunction of development or use.  Note: An Arborist Report preparagualified and practicing Arborist to	Removal of any trees in other paper subdivisions within Shoalhaven is limited to removal and pruning that is in conjunction with an approved development or use.	
			<b>Note:</b> An Arborist Report prepared by a suitably qualified and practicing Arborist to assess the health and condition of the tree/s may be required.	



## **Chapter G4: Tree & Vegetation Management**

P12	Toona australis are protected.	A12.1	A report from a suitably qualified Arborist is provided and determines that the <i>Toona australis</i> is obviously severely damaged, decayed or causing structural damage.
P13	Areas recognised for their scenic value are preserved.	A13.1	Removal of trees on land covered by the Scenic Protection Area Map of <i>SLEP 2014</i> is minimised.
		A13.2	A program of replanting of local native species is proposed.
P14	Trees and other vegetation with environmental significance are appropriately managed.	A14.1	Submission of an assessment of significance (5 part test) by a suitably qualified person for any tree that contains a hollow, is a threatened species or is a component of an EEC.
		A14.2	All trees and other vegetation to be removed or pruned to be clearly marked on site for inspection purposes.
		A14.3	Animal handler to be present on site to rescue any animals, where there is proposed removal of a hollow bearing tree.

# 6 Advisory Information

## 6.1 Approval Process

Council is required to determine applications for permits within 28 days from the date of application.

Council may request further information about the proposed clearing if Council considers necessary for its proper consideration of the application. Any period between the applicant being requested to provide further information and the information being received by Council will not be counted in respect of Council's timeframe for determining an application.

Council will carry out public notification for any application for a permit for the removal or pruning of ten (10) or more trees.

An applicant for a permit may appeal to the Land and Environment Court against the refusal by Council to grant the permit. Any such appeal is to be made within 3 months after the date on which the applicant is notified of the decision or within 3 months after Council is taken to have refused the application (whichever is the later).

# 6.2 Application Documents

All permit applications must be accompanied by a Tree & Vegetation Plan which is drawn to scale and illustrates:

· Property boundary, existing structures and access roads;



## Chapter G4: Tree & Vegetation Management

- Location of all trees and other vegetation on the lot and identification of those trees or vegetation proposed for removal or pruning with approximate heights and widths;
- The total area (in m²) of clearing being applied for, and total area (in m²) of previous clearing;
- A description of the trees or vegetation, including species name, proposed for removal or pruning;
- Distance of those trees or vegetation proposed for removal or pruning from the nearest boundary and/or structure;
- If relevant, placement of drainage and sewer mains, and overhead power lines;
- Location of any known watercourses on the property;
- Any proposed Exempt & Complying (E&C) development plans, for which the tree or vegetation removal is a pre-curser. This must include a plan showing the proposed development, the location of the trees that are exempt under the E&C Code as well as those to be assessed i.e. subject of this application; and,
- A north arrow.

The permit application must be signed by the owner(s) of the property on which the trees are growing and accompanied by the relevant fee (refer to Council's Fees and Charges).

## 6.3 Other legislation or policies you may need to check

**Note:** This section is not exclusive and you may be required to consider other legislation, policies and other documents with your application

Exemption under this Chapter does not equal an exemption under other legislation controlling the removal or pruning of trees and other vegetation. Consideration should be given to the following legislation before carrying out any work:



# Chapter G4: Tree & Vegetation Management

Council Policies & Guidelines	Tree Management Policy – Council Managed Lands
External Policies & Guidelines	<ul> <li>Australian Standard Protection of trees on development sites: AS 4970-2009</li> </ul>
	<ul> <li>Australian Standard Pruning of amenity trees: AS 4373-2007</li> </ul>
	Rural Fire Service Planning for Bushfire Protection 2006
Legislation	<ul> <li>Biodiversity Conservation Act 2016 and Regulations</li> <li>Environmental Protection and Biodiversity Conservation Act 1999</li> <li>Fisheries Management Act 1994</li> <li>Forestry Act 1916</li> <li>Environmental Planning and Assessment Act 1979</li> <li>Heritage Act 1977 (Sections 129A and 139)</li> <li>Local Land Service Act 2013</li> <li>Noxious Weeds Act 1993</li> <li>Rivers and Foreshores Improvements Act 1948</li> <li>Rural Fires Act 1997</li> <li>SEPP (Vegetation in Non-Rural Areas) 2017</li> <li>SEPP (Exempt and Complying Development Codes) 2008</li> <li>State Environmental Planning Policy No 14 — Coastal Wetlands</li> <li>State Environmental Planning Policy No 26 - Littoral Rainforests</li> <li>State Environmental Planning Policy No 44 - Koala Habitat</li> <li>Water Management Act 2000 (Guidelines for Riparian Corridors and Waterfront Land)</li> </ul>



NOTE: This Chapter should not be read in isolation. You may need to consider other chapters of this DCP when preparing your application.







**Draft Dictionary - Amendment 21** 

## Table of changes - Dictionary

The Vegetation SEPP and associated reforms have introduced new definitions and amended definitions. The dictionary should be updated to include these new and amended definitions. Also any definitions in the Chapter should be moved to the Dictionary.

Insert the following terms in alphabetical order in the Dictionary.

**Arborist** means a person with training (minimum Australian Qualification Framework Level 3 in Arboriculture or equivalent) with relevant experience that enables the person to perform tasks required by Australia Standard 4373-2007.

**Biodiversity offsets scheme threshold** means the biodiversity offsets scheme threshold referred to in section 7.4 of the *Biodiversity Conservation Act 2016*.

**Biodiversity Values Map** means the map published, from time to time, on an appropriate Government website under clause 7.3 of the *Biodiversity Conservation Regulation 2017*.

Clear (or clearing) vegetation has the same meaning as in State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

Note. The term is defined as:

(a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or (b) lop or otherwise remove a substantial part of the vegetation.

**Native Vegetation Panel** means the Native Vegetation Panel established under section 60ZE of the *Local Land Services Act 2013*.

**Permit** means a permit issued by Council under *Chapter G4: Tree & Vegetation Management* for the removal or pruning of trees or other vegetation.

Removal or pruning (or remove or prune) has the same meaning as Clear (or clearing) vegetation.

## If Option B or C is selected for E zones

**Allowable activity** means the clearing of native vegetation associated with every-day agricultural land management activities, such as the construction and operation and maintenance of rural infrastructure, such as fence-lines, dams, sheds and tracks. Allowable activities need to minimise impacts on native vegetation and, where possible, to co-locate infrastructure to avoid impact.



Shoalhaven Development Control Plan 2014 **Dictionary** 

Amendment history					
Version Number	Date Adopted by Council	Commencement Date	Amendment Type		
1	14 October 2014	22 October 2014	New		
2	23 June 2015	1 July 2015	Amendment		
3	7 November 2016	30 November 2016	Amendment		
4			Draft		



**Dictionary** 

# **Dictionary**

#### Note:

This dictionary must be read in conjunction with the Shoalhaven Local Environmental Plan (SLEP) 2014. Terms excluded from the Shoalhaven Development Control Plan (DCP) Dictionary 2014 are as defined in SLEP 2014.

Where not identified in this document, definitions are based on the ordinary Australian dictionary meaning or other relevant legislation.

For information on the SLEP 2014 Dictionary, please view the SLEP 2014 document.

'A' board sign means any style of portable self-supporting/free-standing sign.

**Above awning sign** means any sign located on top of an awning or verandah where no part of the sign projects above the roof, parapet or ridge-line, or beyond the awning edge.

**Absorption** when used in reference to Chapter G8: Onsite Sewage Management means the uptake of effluent or sullage or both into the soil.

Acceptable solutions or controls you must comply with are provided as examples of what is considered acceptable to Council to enable the performance criteria to be achieved.

**Access street** means a street providing local residential access with shared traffic, pedestrian and recreation use with local traffic priority.

**Active shop front** means a frontage for retail or similar activity where the activity within is visible because the shop frontage is transparent or open, or where the window display occupies the full width of the shop frontage and provides visual interest to the street.

**Adaptable Housing Unit** is a housing unit which is designed and constructed to meet performance standards of the current Australian Standard for Adaptable Housing, or is capable of being modified easily in the future to become accessible to both occupants and visitors with various levels of mobility, disability or frailty as provided in this Australian Standard.

**Adult Shop** means: A shop or commercial premises used for the purposes of selling sexually explicit products in which:

- a) publications classified Categories 1 and/or 2 restricted or RC under the Classification (Publications, Films and Computer Games) Act 1995 of the Commonwealth are shown, exhibited, displayed, sold or otherwise rendered accessible or available to the public; or
- a business to which section 578E of the Crimes Act 1900 applies is conducted on the premises; or



#### Dictionary

c) a business is conducted, an object of which is the display or exhibition of any product (such as articles, compounds, preparations or devices, but not printed matter) within the meaning of that Act, that is primarily concerned with sexual behaviour.

Advertisement or sign has the same meaning as in the Act.

**Note.** The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

Advertising sign has the same meaning as Advertisement.

**AEP / Annual exceedance probability** means the chance of a flood of a given or larger size occurring in any one year, usually expressed as a percentage.

**Aerated waste treatment system (AWTS)** means a system that uses the processes of aeration, clarification and disinfection to treat effluent from septic tanks to a standard that complies with the requirements of the relevant regulatory authorities.

**Allotment** or **lot** means an area of topographical space shown on an approved plan of subdivision and on which it is intended to construct a dwelling or dwellings.

Amenities include staff and public toilets as well as staff rooms/rest areas.

**Amenity block** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas means a community building used as a shower block, toilet block or laundry block.

**Annexe** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

Note. The term is defined as a moveable dwelling that:

- a) is an attachment to a relocatable home or caravan, and
- b) is used as an extension of the habitable area of the relocatable home or caravan, and
- c) is capable of being erected or removed within 24 hours.

**Annual exceedance probability (AEP)** means the chance of a flood of a given or larger size occurring in any one year, usually expressed as a percentage.

# Appropriate engineer means:

- a) a suitably experienced and qualified professional including: someone with experience and qualifications leading to recognition as NPER in Civil or Structural Engineering (Institution of Engineers, Australia); or other professionals with good standing in the fields of flood risk management, flood studies and/or emergency management; and
- b) acting at all times within their experience and qualifications; and
- able to demonstrate to Council that they have the experience and qualifications to act
  as required. This normally means being able to provide documentation to Council
  indicating they have acted in the required capacity on at least three occasions in the



## Dictionary

last three years, and that the work was carried out to a high standard and was recognised by Council or another local council.

Arboreal means found dwelling within the crown of trees

**Arboriculture** means cultivating and managing trees as individuals and in small groups for amenity purposes.

**Arborist** means a person with training (minimum Australian Qualification Framework Level 3 in Arboriculture or equivalent) with relevant experience that enables the person to perform tasks required by Australia Standard 4373-2007.

**Articulation** or **building articulation** is the treatment of a façade of a building and how it is emphasised architecturally by using distinctive building elements such as:

- a) Balconies
- b) Verandahs
- c) Recessed terraces
- d) Bay windows and external shading devices
- e) Variations in setbacks
- f) Fenestration
- g) Materials and detailing
- h) Patterned and featured walls.

**Asset protection zone (APZ)** is an area between a bushfire hazard and a building, which is managed to minimise fuel loads, inhibit a fire path and reduce the effects of heat, flame, ember and smoke attack.

Associated structure when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government Act 1993.

Note. The term is defined as follows:

- a) a carport, garage, shed, pergola, verandah or other structure designed to enhance the amenity of a moveable dwelling and attached to or integrated with, or located on the same site as, the dwelling concerned, or
- b) a separating wall between 2 moveable dwellings.

Australian height datum (AHD) is a common national surface level datum corresponding approximately to mean sea level.

**Awning** means a permanent, roof-like structure attached to, and projecting from, the wall of a building and generally designed or constructed to provide pedestrians with protection against the weather.

**Awning face/fascia sign** means any sign painted on or attached to the front face of an awning that does

 a) not project above or below the fascia or return end of the awning to which it is attached



## **Dictionary**

- b) not extend more than 300 mm from the fascia or return end of the awning
- c) not extend or project beyond a point 600 mm within the vertical projection of the kerb line

**BAL-29** means a construction standard under "AS3959 – Construction of buildings in bushfire prone areas". 'BAL' stands for bushfire attack level and '29' means the building is designed to withstand ember attack and radiant heat of up to 29kW/m2.

**Bandit sign** means any sign displayed on or attached to a tree, post, utility pole, vehicle or structure located within or near any water, road or rail transportation corridor and includes fly posters.

**Bearing capacity** is defined in geotechnical engineering as the capacity of soil to support the loads applied to the ground, such as the loads from housing foundations for example

Bedrock means any rock shelf under a site that is low strength or harder.

**Billboard/bulletin board** may be on-building or free-standing, painted or comprise two or more poster panels.

**Biobanking agreement** when used in reference to *Chapter S1: Verons Estate, Sussex Inlet*, means a legally binding agreement between the landowner and the NSW Environment Minister that describes how the biodiversity values of a 'biobank site' will be conserved and protected. Biobanking is an offsetting program whereby the biobank site offsets development and environmental loss on another site.

**Biodiversity offsets scheme threshold** means the biodiversity offsets scheme threshold referred to in section 7.4 of the *Biodiversity Conservation Act 2016*.

**Biodiversity Values Map** means the map published, from time to time, on an appropriate Government website under clause 7.3 of the *Biodiversity Conservation Regulation 2017*.

**Biosolid waste application** means the application of sludge or other semi-solid products of human sewage treatment plants to land for the purpose of improving land productivity, that is undertaken in accordance with the NSW Environment Protection Authority's guidelines titled *Environmental Guidelines: Use and Disposal of Biosolids Products (EPA 1997)* and *Addendum to Environmental Guidelines: Use and Disposal of Biosolids Products (EPA 2000a)*.

Black water means soil (toilet) wastes mixed with water.

**Bonded asbestos** means any material that contains asbestos, other than friable asbestos materials.

**Note.** Bonded asbestos materials include asbestos-cement, vinyl-asbestos floor tiles, asbestos brake linings and asbestos roof felt, and other materials where the asbestos is generally 'locked' into the matrix of the material. (AS 4964-2004).

**Buffer distance** when used in reference to *Chapter G8: Onsite Sewage Management* means a distance measured in metres that represents the length of flow line between a wastewater disposal area and the high water mark of a waterbody or watercourse.



### Dictionary

**Building Code of Australia (BCA)** is as defined in the *Environmental Planning & Assessment Act 1979.* 

**Note.** This term means the document, published by or on behalf of the Australian Building Codes Board, that is prescribed for purposes of this definition by the regulations, together with:

- a) such amendments made by the Board, and
- b) such variations approved by the Board in relation to New South Wales, as are prescribed by the regulations.

**Building envelope** means a three dimensional zone determined by height, width, depth and setbacks that defines the buildable area on a site.

**Building height plane** means a plane projected at an angle of 45 degrees over the actual land to be built upon from a distance of 5 metres above ground level at the side boundaries of the site. Where the site is more than 20 metres in width or two or more lots are amalgamated or the common boundaries built over, Council shall determine the location of the Building Height Plane to that particular property.

**Building line** when used in reference to *Chapter S1: Verons Estate, Sussex Inlet*, means the line within which the dwelling and associated buildings should be located.

**Bulky goods** mean large goods that are, in the opinion of Council, of such a size and shape as to require:

- a) a large are for handling, storage or display; and
- b) easy and direct vehicular access to enable the goods to be collected by customers after the sale;

but does not include foodstuffs or clothing whether or not sold in association with any such goods.

**Bunting** means and includes decorative flags, pennants and streamers.

**Bushland** means land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and/or floristics of the natural vegetation.

**Bushland Conservation Area (BCA)** when used in reference to *Chapter N20: Jerberra Estate* means an area in which no development is allowed must be fenced and retained as native bushland. If the land is currently cleared, it must be allowed to regenerate and/or be rehabilitated.

**Bushland Management Area (BMA)** when used in reference to *Chapter N20: Jerberra Estate* has the same controls as BCA, except that driveways are allowed.

**Business owner** when used in reference to *Chapter G17: Business, Commercial and Retail Activities* means the operator or trader of the business conducted within a business or commercial premises. It may be different to the owner of the premises building.



#### Dictionary

**Bypass channels** redirect a portion of floodwater away from areas under threat from flooding, and so reduce flood levels along the channel downstream of the diversion.

Cambium/Cambial layer means the living part of a tree trunk that allows the movement of water and nutrients up and down the stem.

**Camp site** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

**Note.** This term is defined as an area of land within a camping ground on which a campervan or tent may be installed or, in the case of a primitive camping ground, on which a campervan, tent or caravan may be installed, and that is designated as a camp site by the approval for the camping ground.

**Canopy** means a roof-like structure without walls that may be free standing, affixed to a building and supported by one or more posts or cantilevered and includes a covered walkway; roof over a service station driveway and a tensioned tent-like roof designed to provide protection from the weather.

**Caravan** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

**Note.** This term is defined as a moveable dwelling that is designed so as to be registrable as a trailer under the *Road Transport (Vehicle Registration) Act 1997*, but does not include a camper trailer.

**Carport** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas means a covered car parking space with no walls other than the abutting walls of a moveable dwelling from which the structure projects, provided that no more than two sides of the carport are enclosed.

**Carriageway** or **roadway** means the area of street reserve that is provided for the movement or parking of vehicles and is determined by the invert of kerb and gutter and or concrete edge strip.

Cation exchange capacity means the ability of the soil to take up (or bond with) ions such as sodium and phosphorous.

CBD when used in reference to Chapter G21: Car Parking and Traffic means those areas:

- a) identified as a Contribution Area for a Car Park Project in Shoalhaven Contributions Plan 2010; and/or
- b) in the commercial centre of the town and within 400m walking distance to a public Council car park.

Clear (or clearing) vegetation has the same meaning as in State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

Note. The term is defined as:

- (a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or
- (b) lop or otherwise remove a substantial part of the vegetation.



## **Dictionary**

**Collection area** means the location where garbage or recyclable material is transferred from a building's storage containers to a collection vehicle for removal from the site.

**Collection point** means the usual (or agreed) point on the footpath/roadway, or on-site, where garbage and recyclables are loaded onto vehicles.

**Commercial use** when used in reference to *Chapter G17: Business, Commercial and Retail Activities* includes the display of goods, an advertising A-board or menu board, and alfresco dining within a defined public footpath area.

**Common effluent system** means a system in which septic tank effluent in a gravity reticulation system is piped from a number of residences to a central treatment and/or application system.

Community means a group of people living in the same locality or having common interests.

**Community building** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

**Note.** This term is defined as a building (such as a shower block, toilet block or laundry block) that is used or intended to be used in connection with a community amenity, and includes a building that is to be used as a manager's or caretaker's office or residence.

**Community map** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

Note. This term is defined as:

- a) in relation to a manufactured home estate means a scale map that accurately shows the road reserves, the community amenities and the dwelling sites within the manufactured home estate, and
- b) in relation to a caravan park or camping ground means a scale map that accurately shows:
  - i. the access roads, community amenities and community buildings within the caravan park or camping ground, and
  - ii. the number, size, location and dimensions of dwelling sites or camp sites within the caravan park or camping ground, and
  - iii. in relation to a dwelling site or camp site within the caravan park or camping ground, the particular off-site parking space or spaces (if any) designated for use by the occupier of the dwelling site or camp site.

**Community title subdivision** means a subdivision under the Community Land Development Act 1989.

**Companion animal** means companion animal as defined under the *Companion Animals Act 1998*.

Note. This term is defined as:

- a) a dog,
- b) a cat,



#### Dictionary

c) any other animal that is prescribed by the regulations as a companion animal.

**Note.** The fact that an animal is not strictly a "companion" does not prevent it being a companion animal for the purposes of this Act. All dogs are treated as companion animals, even working dogs on rural properties, guard dogs, police dogs and corrective services dogs.

**Complex** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas means a caravan park, camping ground or manufactured home estate.

**Compliance report** when used in reference to *Chapter G9 Development on Flood Prone Land* and *Chapter G10: Caravan Parks in Flood Prone Areas* is a document prepared by a suitably qualified engineer, detailing how a proposed development complies with the requirements of those chapters.

**Compostable material** means vegetative material capable of being converted to humus by a biological decay process e.g. compost.

**Composting toilet** means a 'waterless' effluent treatment system that treats toilet wastes by composting as a result of natural decomposer organisms in the composting chamber.

**Consent** means an approval granted by Council following the lodgement of a Development Application in accordance with Part 4 of the *EP&At Act 1979*.

**Conservation property vegetation plan (Conservation PVP)** when used in reference to Chapter S1: Verons Estate, Sussex Inlet is a voluntary, legally binding agreement between a landholder and the Local Land Services (LLS) that describes how vegetation on your land will be managed.

**Conveyance** or **flood conveyance** means a direct measure of the flow carrying capacity of a particular cross-section of a stream or stormwater channel. (For example, if the conveyance of a channel cross-section is reduced by half, then the flow carrying capacity of that channel cross section will also be halved).

**Council** means the Shoalhaven City Council or any officer authorised to act on behalf of the Shoalhaven City Council.

**Crown maintenance pruning** is as defined *in Australian Standard AS 4373, 1996 "Pruning of Amenity Trees"* and is considered to involve a reduction in tree foliage and branches by up to 10 percent in any one (1) year with no reduction in the height of the main trunk.

*Cul-de-sac* refers to a street, lane etc. closed at one end. The cul-de-sac head is the closed end and is designed to allow a turning area for vehicles.

**Demolition** means the complete or partial dismantling of a building by pre-planned and controlled methods, and including the removal of any whole or part of a building from a site.

**Design Solutions** mean solutions considered acceptable to Council to enable the objectives to be achieved.



# **Dictionary**

**Designated development** is development listed in Schedule 3 of the *EP&A Regulation* 2000 for which an environmental impact statement is required.

**Designated stock storage area** means an area within the internal faces of the walls of a building, which is purposely designed and constructed for storage only, physically separated from the retail floor area and out of sight of customers.

**Destroy** when used in reference to vegetation means any activity leading to the death, disfigurement or mutilation of a tree.

**Detached habitable room** means a room or suite of rooms which are used in association with the rooms of a dwelling as a single dwelling occupancy.

Development has the same meaning as in the EP&A Act 1979.

Note. The term is defined as follows:

- a) the use of land, and
- b) the subdivision of land, and
- c) the erection of a building, and
- d) the carrying out of a work, and
- e) the demolition of a building or work, and
- f) any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument,

but does not include any development of a class or description prescribed by the regulations for the purposes of this definition.

**Development control plan (DCP)** is a written document that supports the *SLEP 2014*. The DCP provides detailed planning controls and guidelines for certain types of development and/or localities.

**Dilapidation/defects report** when used in reference to *Chapter G6: Coastal Management Areas* means a report prepared by a "suitable qualified person" detailing the existing condition of a building and identifying building defects and non-compliances with current building requirements, including the Building Code of Australia and associated Australian Standards

**Disinfection** when used in reference to *Chapter G8: Onsite Sewage Management* means the process by reducing all pathogenic and other harmful organisms to safe levels in secondary treated effluent. Processed effluent is only suitable for non-potable purposes such as irrigation.

**Display** when used in reference to *Chapter G22: Advertising Signs and Structures* may include clothing racks, fences, merchandise on display/sale, moveable bollards, pot plants, planter boxes, screens, stands, stalls, tables, umbrellas, and any similar movable object (not including an 'A' board sign), associated with the advertising of commercial premises.

**Dog-proof fencing** means fencing provided around the perimeter of the APZ on each property, to prevent dogs from escaping.



#### Dictionary

**Double-sided sign** means two signs, back to back, on a single structure, where both sides of the sign are identical in sign face area, dimensions and content.

**Drainage** means any activity that intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

**Drying area** when used in reference to *Chapter G13: Dual Occupancy Development* means that part of the site which is principally used for the purpose of drying of clothing etc.

**Dwelling site** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

Note. The term is defined as follows:

- a) in relation to a manufactured home estate means an area of land within the manufactured home estate that is designated as a dwelling site by the approval for the manufactured home estate, and
- b) in relation to a caravan park means an area of land within the caravan park on which a moveable dwelling may be installed and that is designated as a dwelling site by the approval for the caravan park.

**Economic activity zones** in relation to *Chapter N1: Kangaroo Valley* include the defined retail core, tourist precinct and craft industry precinct as shown on the Map in Appendix 1 of that chapter.

Eddies mean small whirls caused by movement in a flowing stream of liquid.

**Effective warning time** when used in reference to flooding means the time available after receiving advice of an impending flood and before the floodwaters prevent appropriate flood response actions being undertaken. The effective warming time is typically used to move farm equipment, move stock, raise furniture, evacuate people and transport their possessions.

**Effluent** when used in reference to Chapter G8: Onsite Sewage Management means liquid discharge from a septic tank, sullage treatment farm or aerated wastewater treatment system.

**Effluent application area** means the area of land where it is intended to dispose of or apply effluent and any by-products of sewage from the management facility.

Effluent disposal absorption means the uptake of effluent or sullage or both into the soil.

**Employee** when used in reference to *Chapter G19: Home Based Business Activities* means a person that works on the premises but does not reside there, and may include relatives.



#### Dictionary

**Ensuite facility** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

**Note.** This term is defined, in relation to a dwelling site, means a building, part of a building or an associated structure that contains at least a shower, toilet and hand basin, is provided for the exclusive use of the occupiers of the site and is located on or adjacent to the site.

**Environmental planning instrument** has the same meaning as in the *EP&A Act 1979*. **Note.** The term is defined as an environmental planning instrument (including a SEPP or LEP but not including a DCP) made, or taken to have been made, under Part 3 and in force.

EP&A Act or the Act means the Environmental Planning and Assessment Act 1979.

**Epicormic bud** means dormant emergency buds located just beneath the bark that shoot when stimulated by a stress event such as pruning, burning, etc.

*Epidermis* when used in reference to vegetation means the outer layer of a plant (bark).

Epiphytic means a tree dwelling plant.

**Equivalent population** when used in reference to *Chapter G8: Onsite Sewage Management* means the number of persons deemed to be accommodated must be calculated in accordance with the requirements of Part D of the Building Code of Australia (BCA) in conjunction with design requirements from the Department of Public Works "Manual of Practise (Sewer Design)" (1987).

**Evacuation capability** when used in reference to *Chapter G10: Caravan Parks in Flood Prone Areas* means the ability of a park manager and staff to evacuate people and to remove all the towable on-site moveable dwellings and other assets identified to be relocated (e.g. tourists' vans, vehicles, boats) from the flood-prone area to a location above the PMF, having regard to the number of moveable dwellings and assets to be moved, the available resources with which to move them (caravan park staff and equipment, without recourse to the emergency services), the required time to move them, the capacity and suitability (e.g. in terms of impacts on traffic) of the evacuation route and intended storage location, and the effective warning time.

**Evapotranspiration** means the loss of moisture to the atmosphere by direct evaporation and also by transpiration through a plant's leaves.

**Exempt development** is development that may be carried out without the consent of Council, subject to compliance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and SLEP 2014.

**Existing sign** when used in reference to *Chapter G22: Advertising Signs and Structures* means any sign that was lawfully displayed on a building or site as at the date of adoption of this DCP, or any sign approved by Council at that date, but not yet displayed or erected.

Fence means a structure or posts, rails, palings, metal, wire, profiled fibrous cement, masonry or other materials enclosing or bounding land and includes any foundation,



#### Dictionary

foundation wall or retaining wall but does not include a wall which is part of a house or other building or structure.

Fence Sign means a sign painted on or otherwise affixed to a fence that is:

- a) designed and constructed to permanently delineate and identify a boundary alignment or enclosure.
- b) purpose built and designed as a backdrop to a display area (eg motor vehicle sales yard) and is not more than
  - i. 4 m in height; and
  - ii. not within 20 m of a front property boundary
- c) a temporary fence or hoarding to delineate and protect a construction site.

**Flexible annexe** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

**Note.** The term is defined as an annexe that (apart from any rigid support frame and any floor, or any door, window or other securable opening, constructed of non-flexible material) consists entirely of canvas or other flexible material.

**Flood** means a relatively high stream flow which overtops the natural or artificial banks in any part of a stream, river, estuary, lake or dam, and/or local overland flooding associated with major drainage before entering a watercourse, and/or coastal inundation resulting from super-elevated sea levels and/or waves overtopping coastline defences excluding tsunami (Floodplain Development Manual, 2005).

Flood affected means that a parcel of land is either fully or partly within the floodplain.

**Flood assessment report** is a document prepared by a suitably qualified hydraulic engineer, detailing existing flood risk for a catchment.

**Flood certificate** is a document providing flood information for a particular parcel of land - it can be obtained from Council.

**Flood compatible building components** means a combination of measures incorporated in the design and/or construction and alteration of individual buildings or structures subject to flooding, and the use of flood compatible materials for the reduction or elimination of flood damage.

**Note.** A list of typical flood compatible building components is provided in Schedule 4 of Chapter G9: Development on Flood Prone Land.

**Flood compatible materials** include those materials used in building that are resistant to damage when inundated. A list of flood compatible materials is contained in Schedule 4 of Chapter G9: Development on Flood Prone Land.

**Flood conveyance** is a direct measure of flow carrying capacity of a particular cross-section of a stream or stormwater channel.

**Flood fringe** is that part of the floodplain remaining after the floodway and flood storage areas have been defined.



Dictionary

**Flood marker post** is a structure erected in a prominent position which depicts the height of known significant floods of record and predicted floods.

**Flood planning area** is the area of land below the FPL and thus subject to flood related development controls. The concept of flood planning area generally superseded the "flood liable lands" concept in the 1986 Manual.

**Flood prone land** is the land susceptible to flooding by the PMF event. Flood prone land is synonymous with flood liable land.

**Flood proofing** means a combination of measures incorporated in the design, construction and alteration of individual buildings or structures subject to flooding, to reduce or eliminate flood damages.

**Flood storage areas** are those parts of the floodplain that are important for the temporary storage of floodwaters during the passage of a flood.

**Flood study** is a technical investigation of flood behaviour. It defines the nature of flood risk by establishing the extent, level and velocity of floodwaters. The study also provides information on the distribution of flood flows across various sections of the flood plain for the full range of flood events up to and including the PMF.

**Floodplain** means the area of land which is subject to inundation by floods up to and including the probable maximum flood event, that is, flood prone land.

**Floodplain risk management plan** is a plan developed in accordance with the principles and guidelines contained in the NSW Government Floodplain Management Manual. Usually includes both written and diagrammatic information describing how particular areas of flood prone land are to be used and managed to achieve defined objectives.

**Floodplain risk management study** is a study that identifies and compares various risk management options. This includes an assessment of their social, economic, ecological and cultural impacts, together with opportunities to maintain and enhance river and floodplain environments.

**Floodway** means those parts of the floodplain where a significant discharge of water occurs during floods. They are often aligned with natural defined channels. Floodways are areas that, even if only partially blocked, would cause a significant redistribution of flood flow, or a significant increase in flood levels (and/or velocities).

**Floor area** means, in relation to a room, the area of the room measured within the finished surfaces of the walls, and includes the area occupied by any cupboard or other built-in furniture, fixture or fitting.

**Floor area of a guestroom or tourist cabin** when used in reference to *Chapter G15: Tourist and Visitor Accommodation* means the area of a guestroom or tourist cabin, measured within the finished surfaces of the walls, and includes the area occupied by any cupboard or other built-in furniture, fixture or fitting and all decks and verandahs.



## **Dictionary**

**Fluvial geomorphology** is the branch of geology that examines the formation and structure of the features of the surface of the earth which is created by flowing rivers.

**Footpath** means the hardstand area between private property and the kerbline, whether the area is paved, grassed or concreted.

**Freeboard** is a factor of safety typically used in relation to the setting of floor levels, levee crest levels, etc. Freeboard is expressed as additional height on top of the flood level and provides a factor of safety to compensate for uncertainties in the estimation of flood levels across the floodplain. Freeboard is included in the flood planning level.

**Free-standing sign** means any sign not attached to a building or structure and includes any three-dimensional replica, object or shape.

*Friable asbestos materials (*AS 4964-2004) Any material that contains asbestos and is in the form of a powder or can be crumbled, pulverized or reduced to powder by hand pressure when dry.

Note. Friable asbestos materials include asbestos lagging and sprayed asbestos insulation.

**Garage** when used in reference to *Chapter G10: Caravan Parks in Flood Prone Areas* means an enclosed single storey structure capable of accommodating not more than two motor vehicles, which is either attached to a moveable dwelling or detached.

**Garage sale** means the sale from a residential, school, church or other community related premises of second hand items only that have been used by the person(s) or group organising the garage sale.

**Garbage** means refuse or waste material other than trade waste, effluent, compostable material, green waste or recyclable material.

**Garbage and recycling room** means a room where garbage and recycling receptacles are stored, awaiting reuse or removal from the premises.

**Garbage chute** means a duct in which deposited material descends from one level to another within the building, due to gravity.

**Granny flat** when used in reference to Chapter G12: Dwelling Houses, Rural Worker's Dwellings, Additions and Ancillary Structures is a room or suite of rooms for use by a family member(s) of the dwelling occupants in conjunction with the main dwelling house.

**Green waste** means vegetative matter including trees, branches, shrubs, cuttings, lawn clippings and untreated timber and wood products.

**Grey water** means sullage wastes (e.g. laundry, shower, kitchen, etc.) excluding toilet wastes.

**Gross leaseable floor area** means the sum of the areas at each floor of a building where the area of each floor is taken to be the area within the internal faces of the walls, excluding stairs, amenities, lifts, corridors, parking areas and designated stock storage areas.



# **Dictionary**

**Ground level (natural)** means the natural level of a site at any point before any filling, excavation or building work has commenced.

Ground water means water that exists under the surface and within the soil.

a) **Groundcover** means any type of herbaceous vegetation, but it is only to be regarded as native vegetation that occurs in an area where not less than 50% of the herbaceous vegetation covering the area comprises indigenous species. In determining that percentage, not less than 10% of the area concerned must be covered with herbaceous vegetation (whether dead or alive).

b)

c) **Group** when used in reference to *Chapter G15: Tourist and Visitor Accommodation* means a collection of two or more tourist cabins.

d)

e) **Guesthouse** means a building or buildings used for temporary visitor accommodation of up to twenty accommodation rooms in a domestic scale of architecture, where the building or buildings incorporate a common facility for the provision of meals either to people temporarily resident or to the general public, whether or not those facilities are licensed.

f)

g) **Guestroom** is a room or suite of rooms within a guesthouse used for tourist accommodation.

h)

i) **Habitable floor area** means the floor areas and rooms used within a dwelling for normal domestic use, including a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room and sunroom.

J)

Habitable room has the same meaning as in the Building Code of Australia.

**Note.** The term is defined as a room used for normal domestic activities, other than a bathroom, laundry, toilet, pantry, walk in wardrobe, hallway, lobby, clothes drying room or other space of a specialised nature that is not occupied frequently or for extended periods.

*Habitat* when used in reference to vegetation means vegetation that is capable of being used for the nectar feeding, roosting or nesting of birds, arboreal marsupials, micro-bats or vegetation which supports the growth of locally indigenous epiphytic plants such as orchids.

Hazard when used in reference to flooding, is a source of potential harm or a situation with the potential to cause loss. In relation to Chapter G9: Development on Flood Prone Land the hazard is flooding which has the potential to cause damage to the community. Hazard can be categorised as high hazard and low hazard. In high hazard areas there is a possible danger to personal safety, evacuation by trucks is difficult, able bodied adults would have difficulties wading to safety, and flooding can cause potential significant structural damage to buildings. In low hazard areas, trucks could evacuate people and their possessions and able bodied adults would have little difficulty in wading to safety.

k) Hazardous waste means any waste that, because of its physically, biologically or chemically damaging properties, is capable of causing a danger to the life or health of any living thing if it is released into the environment, and is, or contains, a substance specified in Schedule 1 of the Waste Minimisation and Management Regulation 1996.



#### Dictionary

**Height of building** means the vertical distance measured in metres from the top most point of the building, roof or parapet (including plant and lift overruns, but excluding architectural roof features and communication devices) to the natural surface area immediately below that point (architectural roof features are non-habitable, minor decorative features).

**Height of tree** means the distance measured vertically between the horizontal plane of the lowest point of the base of the tree which is immediately above ground and the horizontal plane of the uppermost point of the tree.

**Highly trafficked footpaths** mean those footpaths which receive a high flow of pedestrian traffic on any given day, including; the Princes Highway, Junction Street

**Holding** in relation to Chapter *V1: Lot Averaging Subdivision* means all adjoining and adjacent land within the areas shown on the accompanying maps in that chapter, and under the same ownership as at the 16 July 1999. See also Clause 6.2.1 of that chapter.

Holding tank when used in reference to Chapter G8: Onsite Sewage Management means a tank used for holding wastewater prior to pumping out, sometimes called a collection well.

**Holiday van** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

**Note**. The term is defined as a moveable dwelling (other than a tent) that is or usually is continuously located on a short-term site and used primarily by its owner for occasional occupancy for holiday purposes.

**Home activity** when used in reference to *Chapter G19: Home Based Business Activities* means any activity carried out by a resident for either paid or unpaid employment purposes:

- a) in a dwelling or dwelling house;
- b) from a building (or area) within the curtilage of a dwelling house;
- c) from an outbuilding (or area) on a property in a rural location; or
- d) on adjoining land in the same ownership; and
- e) the dominant use of the dwelling or land is for domestic purposes; and
- f) the activity does not involve the use of the property for the purposes of sexual services premises.

**Hydraulic impact assessment report** means a document prepared by a suitably qualified hydraulic engineer, detailing how a proposed development will change flood behaviour on and off the site as well as how the new development itself will be impacted by flooding.

*Hydraulics* means the study of water flow in waterways, in particular the evaluation of flow parameters such as water level and velocity.

**Illuminated sign** describes the method of presentation and means any sign that is illuminated either internally or externally by static or moving lights and includes floodlit signs, neon, flashing, chasing, or animated signs and colour changing fibre optic displays.

Important habitat trees when used in reference to Chapter N20: Jerberra Estate mean hollow-bearing trees (including Yellow-bellied Glider den trees and Gang-gang Cockatoo



#### Dictionary

nest trees), Glossy-Black Cockatoo feed trees (Allocasuarina littoralis) and Yellow-bellied Glider feed trees.

**Infill development** means urban development that takes place within existing urban zones on land that is currently or has most recently been used for urban land use purposes.

**Infiltration** when used in reference to *Chapter G8: Onsite Sewage Management* means the ability of the soil to accept effluent and rainfall at the surface.

*Inflatable* when used in reference to *Chapter G22: Advertising Signs and Structures* means any fixed or captive balloon, blimp, kite or cold air inflatable or the like and includes lighter than air devices used for short term promotional purposes.

Injury when used in reference to vegetation means damage to a tree and includes lopping and topping poisoning, including applying herbicides and other plant toxic chemicals to a tree or spilling (including washing off or directing water contaminated by) oil, petroleum, paint, cement, mortar and the like onto the root zone cutting, tearing, breaking or snapping of branches and roots that is not carried out in accordance with accepted arboricultural practices, or is done for invalid reasons, including vandalism ringbarking, scarring the bark when operating machinery, fixing objects (eg. signs) by nails, staples or wire, using tree climbing spikes in healthy trees marked for retention (except for access to an injured tree worker) or fastening materials that circle and significantly restrict the normal vascular function of the trunk or branches damaging a trees root zone by compaction or excavation, asphyxiation including unauthorised filling or stockpiling of materials, and/or underscrubbing, unless carried out by hand tools, such as brushcutters and the like.

**Installation** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

**Note.** The term is defined as:

- a) in relation to a manufactured home or a relocatable home— the process of connecting together the major sections of the manufactured home or relocatable home, and any associated structures forming part of the manufactured home or relocatable home, and attaching them to footings, or
- b) in relation to an associated structure—the process of constructing or assembling the components of the associated structure, and (if appropriate) attaching them to footings, and includes the connection of gas, electricity, telephone, water, sewerage and drainage services.

**Integrated development** is development that is described under Section 91 of the *EP&A Act 1979*.

**Integrated housing development** means a subdivision of land into five or more allotments and the simultaneous design and construction of a single dwelling-house or dwelling on each of the allotments created by that subdivision.

*Intent* means a general statement that describes the purpose for applying a particular development control measure.



Dictionary

Intermittent watercourse or stream means any stream, channel, canal or surface water drainage depression that forms a waterbody that flows during periods of rainfall or flooding.

Irrigation area when used in reference to Chapter G8: Onsite Sewage Management means an area of prepared soil and aggregate through which a network of either perforated pipes is laid or spray irrigators are provided. Effluent is either sprayed or permitted to percolate into the soil bed and is removed primarily by evaporation and transpiration by plants. The area outlined within these guidelines incorporates sufficient area of land to provide for the resting of effluent disposal areas through a rotational schedule.

**Land capacity study** means a study that examines the potential environmental impacts of on-site effluent disposal and includes detailed soil survey topographical analysis and drainage assessment.

**Land filling** means to place, or allow to fall, upon any land any ballast, rock, stone, shingle, gravel, sand, clay, earth, cinders, debris or any other matter or thing so as to alter the contours or levels of the land.

**Landscape plan** when used in reference to *Chapter G11: Subdivision of Land* means a plan outlining the extent, type and location of landscaping proposed for subdivision development generally within the street, and may include public reserves that are to be dedicated.

**Lawful** when used in reference to building development in Shoalhaven means that the building or structure has development consent and a construction certificate, complying development certificate or building approval; or was erected prior to 28 February 1964 [commencement of Interim Development Order (IDO) No. 1].

Licensed floor area means that area of a development which is licensed for the purposes of the Liquor Act 2007.

Lightweight materials mean structural and cladding materials incorporating timber, steel and the like, but do not include masonry such as bricks and concrete blocks.

**Likely habitat tree** means any tree which has developed hollows in the trunk or limbs suitable for nesting birds, or arboreal marsupials or mammals, or is supporting the growth of locally indigenous epiphytic plants such as orchids.

**Living area** means a living, dining, entertainment or other recreation area or room, but does not include bedrooms, studies, bathrooms or other amenities.

**Local development** means development, not being exempt development, complying development or State significant development, which is permissible with consent of Council under *SLEP 2014*.

**Local drainage** means small scale inundation in urban areas outside the definition of major drainage as defined in the Floodplain Development Manual. Local drainage problems invariably involve shallow depths (less than 0.3m) with generally little danger to personal safety.



Dictionary

**Local drainage management plan** means a plan that examines all elements of drainage including storm drainage water quality management and stormwater harvesting.

**Local overland flooding** means inundation by local runoff rather than overbank discharge from a stream, river, estuary, lake or dam.

Locality means an area so named and gazetted by the Geographical Names Board.

**Long term occupation** means the occupation of a dwelling site for more than one hundred and fifty (150) days in any twelve (12) month period.

**Long-term site** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

**Note.** The term is defined as a dwelling site that is specified in the approval for a caravan park as being a long-term site.

**Lopping** means the unacceptable practice of cutting between branch unions or at internodes on young trees.

Low and moderately trafficked footpaths mean those footpaths which receive a low to moderate flow of pedestrians on any given day, including; Wason, Kinghorne and Berry Streets.

**Main road frontage in relation to land** means the frontage of that land to a main or arterial road; or a road connecting with a main or arterial road, if the whole or any part of the frontage is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the main or arterial road.

Manufactured home is as defined by the Local Government Act 1993.

**Note.** The term is defined as a self-contained dwelling (that is, a dwelling that includes at least one kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling:

- a) that comprises one or more major sections, and
- b) that is not a registrable vehicle within the meaning of the Road Transport (Vehicle Registration) Act 1997, and includes any associated structures that form part of the dwelling.

**Manufactured home estate** is as defined by the *Local Government Act 1993.* **Note.** The term is defined as land on which manufactured homes are, or are to be, erected.

**Merit approach** when used in reference to flooding is an approach, the principles of which are embodied in the Floodplain Development Manual, which weighs social, economic, ecological and cultural impacts of land use options for different flood prone areas together with flood damage, hazard and behaviour implications, and environmental protection and well-being of the State's rivers and floodplains.



#### Dictionary

**Motor vehicle sign** means any sign fitted to, placed upon or beside a motor vehicle, caravan or trailer stopped on a public road or private property for the primary purpose of displaying such sign but does not include any sign on a motor vehicle which is able to be driven on public roads with the sign displayed.

Moveable dwelling is as defined by the Local Government Act 1993:

- a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- b) a manufactured home, or
- any conveyance, structure or thing of a class or description prescribed by the regulations for the purposes of this definition.

**Moving sign** means any sign, either illuminated or non-illuminated, including rotating, trivision, carousel, animated, computer controlled, moving display or message signs with a single or variable message.

**Named river** when used in reference to *Chapter G8: Onsite Sewage Management* means any waterbody that has been specifically identified by Sydney Water or Shoalhaven City Council as being an important resource within a drinking water catchment.

**Native Vegetation Panel** means the Native Vegetation Panel established under section 60ZE of the *Local Land Services Act 2013*.

# Normal business hours mean:

- Monday to Friday 8.00 am to 5.00 pm.
- Saturdays 8.00 am to 1.00 pm.
- No work on Sundays or Public Holidays.

**NSW Coastal Policy** means the publication titled NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast, published by the Government.

Objectives are a general statement of the overall intention of applying a design element.

Operational land has the same meaning as in the Local Government Act 1993.

**Orchid management area** when used in reference to *Chapter S1: Verons Estate, Sussex Inlet* means areas where the Leafless Tongue Orchid (Cryptostylis hunteriana) and/or the greenhood orchid species Pterostylis ventricosa occur (refer to supporting map of Chapter S1). Note that potential habitat for Pterostylis ventricosa in Swan Lake has not been surveyed.

**Orphan site** when used in reference to *Chapter S8: Ulladulla Town Centre* means a site in the retail area where maximum development in accordance with that chapter has occurred on at least two adjoining sites. Note. This control only relates to floor space ratio (see definition in *SLEP 2014*).



### Dictionary

**Other advertised development** means any development that is identified as advertised development in a local environmental plan or DCP.

Outbuilding means any of the following:

- a) Balcony, deck, patio, pergola, terrace or verandah, carport or garage that is attached or free-standing,
- b) Cabana, cubby house, fernery, garden shed, gazebo or greenhouse, shed or shade structure,
- c) Rainwater tank,
- d) Above ground swimming pool

**Outdoor eating area** means an approved sit down, un-enclosed, open-air (al-fresco) dining area with associated furniture located on either a public footpath or on private property. The area is defined by that area occupied by the furniture with sufficient room for diner manoeuvrability and any associated menu boards, pot plants, planter boxes and/or screens or crash barrier.

Owner is as defined in the Local Government Act 1993 No. 30.

Note. The term is defined as

- a) in relation to Crown land, means the Crown and includes:
  - i. a lessee of land from the Crown, and
  - a person to whom the Crown has lawfully contracted to sell the land but in respect of which the purchase price or other consideration for the sale has not been received by the Crown, and
- b) in relation to land other than Crown land, includes:
  - i. every person who jointly or severally, whether at law or in equity, is entitled to the land for any estate of freehold in possession, and
  - every such person who is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession, or otherwise, and
  - iii. in the case of land that is the subject of a strata scheme under the <u>Strata Schemes (Freehold Development) Act 1973</u> or the <u>Strata Schemes (Leasehold Development) Act 1986</u>, the owners corporation for that scheme constituted under the <u>Strata Schemes Management Act 1996</u>, and
  - iv. in the case of land that is a community, precinct or neighbourhood parcel within the meaning of the <u>Community Land Development Act 1989</u>, the association for the parcel, and
  - v. every person who by this Act is taken to be the owner, and
- in relation to land subject to a mining lease under the <u>Mining Act 1992</u>, includes the holder of the lease, and
- d) in Part 2 of Chapter 7, in relation to a building, means the owner of the building or the owner of the land on which the building is erected.

**Parallel development** when used in reference to Chapter G15: Tourist and Visitor Accommodation means development for Bed & Breakfast Accommodation and Tourist Cabins carried out on the same land.

Parapet means a low wall projecting from the edge of a platform, terrace or roof.



#### Dictionary

**Park van** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

**Note.** The term is defined as a moveable dwelling (other than a tent), whether or not capable of being registered under the *Road Transport (Vehicle Registration) Act 1997*, that:

- a) is or usually is continuously located on a short-term site, and
- b) is provided for hire, and
- c) is used by a site occupier other than the owner of the moveable dwelling primarily for holiday purposes.

**Parking space** means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park, which is separately defined in the *SLEP 2014*.

**Performance criteria** Is a general statement of the means of achieving the intent. They provide designers and developers an opportunity to work through a variety of design criteria. Not all performance criteria will be applicable to every development.

**Permeability** when used in reference to *Chapter G8: Onsite Sewage Management* means the ability of the soil to 'absorb' and transmit effluent through its profile.

**Permeable paving** means paving construction using impervious materials that are physically shaped and/or arranged to allow infiltration through gaps in the pavement material.

**Permit** means a permit issued by Council under *Chapter G4: Tree & Vegetation Management* for the removal or pruning of trees or other vegetation.

**pH** means the measure of acidity or alkalinity measured on a scale of 0 to 14 with 7 as a neutral point. From 0 to 7 is acid; from 7 to 14 is alkaline.

**Phosphorous sorption capacity** when used in reference to *Chapter G8: Onsite Sewage Management* means the ability of the soil to take up phosphorous from the effluent.

**Plan of survey** or **survey plan** means a plan prepared in accordance with survey practice and prepared by a registered surveyor.

**Pond-based aquaculture** means aquaculture undertaken in structures that are constructed by excavating and reshaping earth, which may be earthen or lined, and includes any part of the aquaculture undertaken in tanks, such as during the hatchery or pre-market conditioning phases, but does not include natural water-based aquaculture. Note. Typical pond-based aquaculture is the pond culture of prawns, yabbies or silver perch.

**Porous paving** permits water to pass through the paving material by virtue of the properties of that material.

**Potential building area** when used in reference to *Chapter N20: Jerberra Estate means* the area identified on Figure 11 of that chapter, where dwellings and associated structures should be located so that your property and neighbouring properties can be safely and appropriately developed. Some flexibility is provided within the bushfire asset protection



#### Dictionary

zones (APZs), however locating your dwelling and associated structures within the potential building area will make the development approval process more straightforward.

**Potential building area/line** when used in reference to *Chapter S1: Verons Estate, Sussex Inlet*, means the area or line identified on the supporting map in Chapter S1 within which dwellings and associated buildings should be located so that your property and neighbouring properties can be safely and appropriately developed.

**Potential development area** when used in reference to *Chapter S1: Verons Estate, Sussex Inlet*, encompasses the potential building area and bushfire asset protection zones (APZ) and on-site effluent treatment and application area.

**Prescribed waters** mean any waterbody that has been specifically identified by Sydney Water or Shoalhaven City Council as being an important resource within a drinking water catchment.

**Primary treatment** when used in reference to Chapter G8: Onsite Sewage Management means the separation of suspended material from wastewater by settlement and/or flotation in septic tanks, primary settling chamber, anaerobic process of treatment, prior to effluent discharge to either a secondary treatment process, or to a land-application system.

**Probability** when used in reference to flooding is a statistical measure of the expected chance of flooding (see AEP).

**Probable maximum flood (PMF)** is the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation. Generally, it is not physically or economically possible to provide complete protection against this event. The PMF defines the extent of flood prone land, that is, the floodplain.

**Probable maximum precipitation (PMP)** is the greatest depth of precipitation for a given duration meteorologically possible over a given size storm area at a particular location at a particular time of the year, with no allowance made for long-term climatic trends (World Meteorological Organisation, 1986). It is the primary input to the estimation of the probable maximum flood.

**Professional consulting rooms** means a room or a number of rooms forming either the whole of or part of, attached to or within the curtilage of a dwelling-house and used by not more than three legally qualified medical practitioners or by not more than three dentists within the meaning of the *Dentists Act 1934*, or by not more than three health care professionals, who practise therein the profession of medicine, dentistry or health care respectively, and if more than one, practise in partnership and who employ not more than three employees in connection with that practice.

## Professional engineer means a person:

- a) who is a registered professional engineer in the relevant discipline who has appropriate experience and competence in the relevant field; or
- b) who is
  - i. a Corporate Member of the Institute of Engineers, Australia; or
  - ii. eligible to become a Corporate Member of the Institute of Engineers, Australia, and has appropriate experience and competence in the relevant field.



Dictionary

Projecting wall sign means any sign attached to and projecting at right angles from a wall.

**Provisional hydraulic and hazard categories** are the categories used in place of hydraulic and hazard categories where no Floodplain Risk Management Plan has been prepared as yet and are based on velocity and depth considerations only.

**Prune** or **pruning** is defined as all other pruning which is not 'crown maintenance pruning' and includes 'crown modification' as defined in *Australian Standard AS 4373-1996*, "Pruning of Amenity Trees".

**Public dining area** means that area set aside for patrons to eat meals and excludes kitchen, bar and amenity areas but includes reception areas.

**Public open space** means land used or intended for use for recreational purposes by the public and includes parks, public gardens, riverside reserves, pedestrian and cyclist accesses, playgrounds and sports grounds.

Public road has the same meaning as in the Roads Act 1993.

Note. The term is defined as:

- a) any road that is opened or dedicated as a public road, whether under this or any other Act or law, and
- b) any road that is declared to be a public road for the purposes of this Act.

Public work means work carried out by the Council on Public Land.

**Pump-out effluent system** means a normal septic tank system, followed by a holding tank, used for the storage of effluent which is pumped out by a Council contractor at regular intervals with a specified number of services per year. This effluent is transferred to one of Council's sewage treatment works for further treatment and ultimate disposal.

**Pylon sign** means any freestanding elevated sign supported by one or more columns, pylons or poles where the display area may include separate removable and replaceable slats, panels or other components.

Recyclable means capable of being reprocessed into usable material or re-used.

**Regulation** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas means the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

**Reliable access** means the ability for people to safely evacuate an area subject to imminent flooding within effective warning time having regard to the depth and velocity of floodwaters, the suitability of the evacuation route, and without the need to travel through areas where the "water depth - velocity product" is greater than 0.3m<sup>2</sup>/s.

**Relocatable home** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

Note. The term is defined as:



## **Dictionary**

- a) a manufactured home, or
- b) any other moveable dwelling (whether or not self-contained) that comprises one or more major sections, including any associated structure that forms part of the dwelling, but does not include a tent, caravan or campervan or any moveable dwelling that is capable of being registered under the Road Transport (Vehicle Registration) Act 1997.

**Remnant tree or vegetation** means a native tree or any patch of native vegetation which remains in the landscape after removal of most or all of the native vegetation in the immediate vicinity.

Removal or pruning (or remove or prune) has the same meaning as Clear (or clearing) vegetation.

**Remove** when used in relation to vegetation means to cut down, take away or transplant a tree from its place of origin.

**Restricted development site** means land identified as a restricted development site on the Natural Resource Sensitivity Land map overlay in the *SLEP 2014*.

**Retailing** when used in reference to *Chapter G19: Home Based Business Activities* involves the display for sale of goods in small quantities to the public but does not include mail order, 'Just in time' retailing or 'E-commerce'.

**Rigid annexe** when used in reference to Chapter G10: Caravan Parks in Flood Prone Areas is as defined by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.

Note. The term is defined as an annexe that is not a flexible annexe.

**Risk** means the chance of something happening that will have an impact. It is measured in terms of consequences and probability (likelihood). In the context of *Chapter G9: Development on Flood Prone Land* and *Chapter G10: Caravan Parks in Flood Prone Areas*, it is the likelihood of consequences arising from the interaction of floods, communities and the environment.

**Roughness coefficients** describe the resistance of the bed of a channel to the flow of water within it. They are used in equations calculating energy loss due to roughness of a surface.

Rural Lifestyle Area when used in reference to Chapter V1: Lot Averaging Subdivision refers to localities 1-8 identified in Clause 4.2B of SLEP 2014.

**Scale** means relative dimensions to ground level, including height, bulk and number of storeys.

**Secondary treatment** when used in reference to *Chapter G8: Onsite Sewage Management* means anaerobic and aerobic biological processing and settling or filtering of effluent received from a primary treatment unit. Effluent quality following secondary treatment is expected to be equal to or better than 20 g/m3 five-day biochemical oxygen demand and 30g/m3 suspended solids.



Dictionary

**Septic tank** a tank used for the collection, primary settling and anaerobic treatment of household wastewater.

**Sewage** includes any effluent of the kind referred to in paragraph (a) of the definition of waste in the dictionary to the *Local Government Act 1993*.

## Sewage management system means

- a) a human waste storage facility; or
- b) a waste treatment device intended to process sewage, and includes a drain connected to such a facility or device.

**Short-term site** when used in reference to *Chapter G10: Caravan Parks in Flood Prone Areas* is as defined by the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.* 

**Note.** The term is defined as a dwelling site on which a moveable dwelling that is ordinarily used for holiday purposes may be installed and that is specified in the approval for a caravan park as being a short-term site

Sign face area means the area bounded by the framework of a manufactured panel, hoarding or illuminated sign case and is calculated by the sign face height and sign face width.

**Single storey** when used in reference to *Chapter N1: Kangaroo Valley* means a single storey construction with pitched roofs and being no greater than 5.5 metres in height as measured from any point on the natural surface below a structure.

Site specific flood warning system is where the following is provided:

- a) an alarm system which alerts occupants to the need to evacuate, sufficiently prior to likely inundation to allow for the safe evacuation of pedestrians and vehicles; and
- b) signage to identify the appropriate procedure and route to evacuate.

SLEP 1985 means the Shoalhaven Local Environmental Plan 1985.

SLEP 2014 means the Shoalhaven Local Environmental Plan 2014.

**Slow point** or **local area traffic management device (LATM)** when used in reference to Chapter G11: Subdivision of Land means sections of a street which have geometric features which limit the travel speed of vehicles. These include bends, constrictions to carriageway width etc.

**Sodicity** means the level or presence of exchangeable sodium salts in the soil. Effluent contains high levels of sodium that may act to disperse clay particles, resulting in a significant reduction in the permeability of the soil.

Soil profile means the different layers (horizons) of different soil types with depth.

**Special waste** means a waste that posed or is likely to pose an immediate or long-term risk to human health or the environment. This includes hazardous waste, clinical waste and



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contaminated waste. Special arrangements need to be made for the management of these wastes.

**Split systems** when used in reference to *Chapter G8: Onsite Sewage Management* means where black and grey water are split into separate waste streams at the source. Full on-site split systems dispose of both streams on-site but into separate disposal systems. Partial on-site split systems dispose of grey water on-site and rely on a cart-away system for the black water stream.

**Stability analysis report** or **geotechnical report** means a report that examines the geological profile of the site and includes the soil and moisture condition and watertable and bedrock characteristics.

**State significant development** is development that is declared to be State significant development by a State Environmental Planning Policy, Regional Environmental Plan, Local Environmental Plan or the Minister as the case may be in a range of particular circumstances.

**Structurally independent** when used in reference to *Chapter G6: Coastal Management Areas* means in relation to parts of a building located in Precinct 2 (of beach erosion/oceanic inundation hazard area), does not provide structural support to any portion of the building located in Precinct 3, and should the portion of the building be removed on the future (by either natural or man-made processes), will not result in significant structural damage or collapse of any part of the building located in Precinct 3.

**Stormwater infiltration trench** or **bioretention system** means a purpose built absorption trench designed to store and filter stormwater runoff from dwelling and associated structures.

**Structure** (not including an 'advertising structure') means a construction, not necessarily roofed, which performs a function or functions requiring rigidity and includes a fence.

**Sufficient time/access** means the ability to safely evacuate to an area above the PMF prior to the onset of flooding, within the effective warning time, having regard to the suitability of the route and the possible prevailing environmental conditions including the depth and velocity of floodwaters, and without reliance on a private flood warning facility.

**Suitably qualified hydraulic engineer** means an experienced and qualified professional engineer, recognised as a chartered professional engineer by the Institution of Engineers Australia in the field of civil engineering, flood risk management, emergency management, structural engineering or similar, acting at all times within their experience and qualifications, and able to demonstrate to Council that they have the experience and qualifications to act as required.

Suitably qualified person means any of the following:

- a) Professional engineer as defined above,
- b) Licenced builder,
- c) Level 1 or 2 Accredited Certifier Building Surveying,
- d) Registered Architect



## **Dictionary**

Temporary sign means an advertisement for short term promotional purposes that:

- a) announces any local event of a religious, educational, cultural, social or recreational character or relates to any matter in connection with such an event; and
- b) the event is organised by a charitable organisation, sporting association or public authority; and
- does not include advertising of a commercial nature (except for the name(s) of an event's sponsor(s)).

**Tertiary treatment** means the process by which disinfection and additional Biological Oxygen Demand (BOD) removal are achieved upon secondary treated wastewater. Disinfection should reduce all pathogenic and other harmful organisms to safe levels. Processed effluent is only suitable for non-potable purposes such as irrigation.

**Top of bank** means the point closest to the boundary of the active floodplain of a stream where a break in the slope of the land occurs such that the grade beyond the break is flatter than 3:1 at any point for a minimum distance of 15 metres measure perpendicularly from the break

**Topping** means cutting away part, or all, of the tree canopy leaving a trunk and stubbed main branches.

**Tourist accommodation unit** means a dwelling used, designed, constructed or adapted to be used for the provision of holiday accommodation, not permanent occupation, being one of a group of similar dwellings forming part of a tourist facility.

**Tourist cabin** means a freestanding building used to provide short-term self-contained holiday accommodation.

**Note**: Tourist cabin is a type of tourist and visitor accommodation as defined in Shoalhaven Local Environmental Plan 2014.

**Tourist and camping site** when used in reference to *Chapter G10: Caravan Parks in Flood Prone Areas* means a short-term or camping site in a caravan park or a camping site in a camping ground that is available for hire by tourists and does not have or usually have a moveable dwelling continuously located on site.

**Tourist resort** means a building or buildings containing more than twenty (20) accommodation units providing for short term visitor accommodation and recreation, which building or buildings may include a refreshment room and space capable of being used for functions such as receptions, conventions and may provide other recreational facilities incidental to such accommodation.

**Towable on-site moveable dwelling** when used in reference to *Chapter G10: Caravan Parks in Flood Prone Areas* means a moveable dwelling (including a caravan or annexe) that is or usually is continuously located on site and is designed, installed and maintained in a manner so as to be removed from the flood-prone area within the effective warning time (e.g. quick-release tie-down, draw-bar and wheels attached and serviceable, services readily detachable, not attached to non-towable moveable dwellings or associated structures). Experience indicates that moveable dwellings located on long-term sites tend to lose their mobile status and so would not generally qualify as towable on-site moveable



#### **Dictionary**

dwellings. Similarly, holiday vans tend to lose their mobile status, and their removal could place unreasonable burdens on the park manager and emergency services, so these also would not generally qualify as towable on-site moveable dwellings.

**Town activity node** means concentration of a high level of human activity and social interaction at a particular point in the town, or at that point where human activity is concentrated in the town.

**Trade waste** means refuse or waste material arising from any trade or industry but excludes liquid waste, demolition waste, building waste, special waste, contaminated waste, green waste or recyclable waste.

**Traffic generating development** means development that requires in excess of three offstreet car parking spaces and/or frequent vehicle access by a large rigid truck or bus containing over twelve seats.

Tree means a perennial plant with at least one self-supporting woody or fibrous stem, being:

- a) more than 5m tall, or
- b) more than 5m wide across the foliage crown or
- c) having a trunk circumference of more than 500mm measured 1m above ground level.

*Tree dripline or zone* means the area defined, under a tree, by the outer edge of the tree canopy projected to ground level.

**Two storey** when used in reference to Chapter N1: Kangaroo Valley mans a two storey construction with pitched roofs and being no greater than eight metres in height as measured from any point on the natural surface.

Under awning sign means a sign suspended from underneath an awning or verandah.

**Undesirable species** means plants that have characteristics which may lead to poisoning, weed infestation, brittle and dangerous wood, excessive spread of roots or bushland invasion.

Urban area means any land zoned Residential, Commercial or Industrial under SLEP 2014.

**Urban design master plan** means a comprehensive Plan for an area of renewal where particular attention must be paid to design and layout principles required in the Plan and for consultation with the local community.

**Variation statement** means a written statement accompanying a development application demonstrating how the objectives and relevant performance criteria will be achieved if an alternative to the 'acceptable solutions' is proposed.

Vegetation means all native plant communities other than trees as defined in this plan.

**Vegetation management plan** means a structured program adopted by the Council for the protection, maintenance, restoration and replacement of trees and native vegetation.



#### Dictionary

Vicinity of a heritage item or conservation area means the extent of land, natural environment and/or built environment which has a physical or visual relationship to the heritage item or conservation area. The objective of control of development in the "vicinity" of heritage items and conservation areas is to ensure new development does not adversely impact upon the heritage significance of other sites.

View means what is seen from a particular point.

**View Corridor** means a cone of vision extending from a selected point towards the valued view.

*Village Centre* in relation to Chapter N1: Kangaroo Valley is generally the built-up area of the town between the school and the showground.

*Village Retail Core* in relation to Chapter N1: Kangaroo Valley is the area shown on the map and bounded to the west by the Anglican Church and the School, to the east by the Police Station and Heritage Precinct, to the north by the proposed cycle path and to the south by existing premises having frontage to Moss Vale Road (lot depth of 25-30 metres).

Vista means an enclosed view usually long and narrow.

**Visual impact statement** when used in reference to *Chapter N1: Kangaroo Valley* means a report that examines the effects of development on the scenic values of Kangaroo Valley and recommends ways to neutralise any adverse impacts.

**Volume reduction equipment** means devices, which reduce the volume of waste or recyclable material including compressing devices such as compactors and balers, and shredding, pulverising or crushing devices.

**Voluntary conservation agreement (VCA)** when used in reference to *Chapter S1: Verons Estate, Sussex Inlet*, a VCA is a voluntary, legally binding agreement between a landholder and the NSW Environment Minister. Conservation agreements are used to permanently protect land which has special environmental features.

Wall or courtyard wall means a wall, screen or fence, screening part or portion of an allotment of land for privacy, security or safety reasons.

**Waste** has the same meaning as in the *Protection of the Environment Operations Act 1997*. **Note.** This term is defined as follows:

- a) any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment, or
- b) any discarded, rejected, unwanted, surplus or abandoned substance, or
- any otherwise discarded, rejected, unwanted, surplus or abandoned substance intended for sale or for recycling, processing, recovery or purification by a separate operation from that which produced the substance, or
- d) any processed, recycled, re-used or recovered substance produced wholly or partly from waste that is applied to land, or used as fuel, but only in the circumstances prescribed by the regulations, or
- e) any substance prescribed by the regulations to be waste.



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A substance is not precluded from being waste for the purposes of this Act merely because it is or may be processed, recycled, re-used or recovered.

**Waste cupboard** means a storage area within each dwelling (usually in the kitchen) of a size sufficient to enable source separation of a single days work into garbage, recyclables and compostable material.

**Waste minimisation and management plan** means a table showing the volume and type of waste to be generated, stored and treated on site, how the residual is to be disposed of and, if required, how ongoing management will operate.

Waste storage and recycling area means a designated area or a combination of designated areas upon the site of a building for the housing of approved containers to store all waste material (including recyclable material) likely to be generated by the building's occupants.

**Waterfront** means the sea, bays, rivers and lakes (as defined by the 1:25,000 Topographic Map series as prepared by the NSW Land and Property Information).

## Water cycle management study means a study examining:

- a) the existing volumes of water and pollutant levels leaving the site and predict any changes which might result from the development. This information must be provided for both wet and dry weather conditions;
- b) how the development will maintain or improve existing water quality;
- how the management systems which used to control impact on water quality will be able to operate properly over the life of the development;
- d) how the development will achieve any water quality objectives for rivers and streams;
- e) the effect of the development on the waterbodies to which it discharges;
- f) the outline management strategies and practices to control those affects;
- g) how the performance of water quality control systems will be monitored over time.

Water sensitive urban design (WSUD) is the integration of urban town planning and development with the management, protection and conservation of the water cycle as a whole.

## Waterbody means:

- a) a natural waterbody including
  - i. a lake or lagoon either naturally formed or artificially modified; or
  - a river or stream, whether perennial or intermittent, flowing in a natural channel or bed or in a natural channel artificially modifying the course of the stream; or
  - iii. tidal waters including any bay, estuary or inlet; or
- an artificial waterbody, including any constructed waterway, canal, inlet, bay, channel, dam, pond or lake, but does not include a detention basin or other construction that is only intended to hold water intermittently.

**Wholesale supplies** mean a building or place used for the display, sale or hire of goods or materials by wholesale only to businesses that have an Australian Business Number registered under the A New Tax System (Australian Business Number) Act 1999 of the Commonwealth.



## **Dictionary**

**Wildlife friendly fencing** when used in reference to *Chapter N20: Jerberra Estate and S1: Verons Estate, Sussex Inlet* means fencing provided in the bushland conservation area (BCA) or bushland management area (BMA) to limit disturbance whilst not impeding the movement of wildlife, comprising posts and plain wires.

**Window** includes a roof skylight, glass panel, glass brick, glass louvre, glazed sash, glazed door, translucent sheeting or other device which transmits natural light directly from outside a building to the room concerned.

**Zero lot line** means a dwelling with no side boundary setback on one side of the lot - i.e. the dwelling is built to the boundary. The wall of the dwelling on the lot line has no windows and is constructed in accordance with the Building Code of Australia.



No.	Planning Report
	S79C Environmental Planning & Assessment Act 1979

DA Number	DA16/2070
Property	Lot B DP 359526 – 7 Beach St, HUSKISSON
Applicant(s)	JACA Property Group Pty Ltd
Owner(s)	JACA Property Group Pty Ltd

## 1. Detailed Proposal

Demolition of existing dwelling and ancillary outbuilding, and Construction of a residential flat building

The residential flat building is to be four (4) storeys, containing twelve (12) dwelling units, with basement parking included.

There are 2 x two (2) bedroom and 10 x three (3) bedroom dwelling units proposed.

The basement car park contains 22 spaces, with two (2) spaces also provided at ground level adjacent to Winnima Lane.

Vehicular access is proposed from Winnima Lane only.

## 2. Subject Site and Surrounds

- The subject site contains an existing two (2) storey dwelling house and ancillary outbuilding.
- The subject site is zoned B4 Mixed Use and 1,011.71sqm in area.
- The subject site is identified as being part bush fire prone land.
- The subject site has existing access from Beach Street. The rear boundary of the site adjoins Winnima Lane.
- The subject site adjoins land zoned B4 Mixed Use and RE1 Public Recreation.





# 3. Consultation and Referrals

Internal Referrals			
Referral	Required	Recommendation	Comment
Development Engineer		No objections, subject to recommended conditions of consent (dated 15/11/2016).	Conditions to be imposed with the following amendments after consultation with Development Engineer on 25/08/2017:  Minimum 1.5m wide concrete footpath required; Kerb and gutter alignment to match the existing and generally as shown on the submitted concept plan; 'Structural Design' required prior to the issue of a Construction Certificate; Stormwater drainage to be generally as shown on the submitted concept plans; The internal driveway and car parking is to be designed for light vehicular loading; Earthworks condition not required as considered to be covered by the Construction Management Plan (Traffic & Parking) requirement and WMMP.
Assets & Works		No objections as there is no impact on Council's infrastructure and no upgrades necessary, unless noted by Development Services (dated 27/09/2016).	Noted.
Building Surveyor		No objections, subject to recommended conditions of consent (dated 08/11/2016).	Conditions to be imposed with the following amendments:  Section 68 conditions not required as approval not sought with this application; Demolition conditions requiring removal of all demolition waste and within three (3) months from commencement deleted and site maintenance condition



		amended to "In the event that construction works are not immediately undertaken post demolition, the site must be kept in a clean and tidy condition at all times."
Waste	No objections, subject to recommended condition of consent (dated 12/12/2016).  The management of waste onsite must be through a commercial contract. The Council kerbside collection is not available.	Conditions to be imposed.
Shoalhaven Water	Notice provided (dated 28/11/2016) and subject to recommended conditions of consent.	Conditions to be imposed.
Landscape Architect	No objections, subject to street trees and pedestrian pathway at minimum 1.5m wide being provided along Beach Street (dated 17/10/2016).	Conditions to be imposed.
GIS	Property addressing subject to recommended numbering (dated 28/09/2016).	Condition to be imposed.
Urban Design – Studio Zanardo (SZ)	Design subject to recommended amendments (dated 21/06/2017).	Addressed by applicant.

External Referrals							
Agency	Agency Recommendation		Comment				
Dept. of Defence		No response provided.	Noted.				
Rural Fire Service		No objections, subject to recommended conditions of consent in accordance with Section 79BA of the EP&A Act 1979 (dated 08/11/2016).	Conditions to be imposed.				
Endeavour Energy	×	No objections, subject to recommendations and comments (email dated 14/10/2016).	Advisory note to be imposed.				



# 4. Other Approvals

Not applicable.

# 5. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning instruments and policies in accordance with Section 79C (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

Instrument	Relevant	Instrument	Relevant
Shoalhaven LEP 2014		State Environmental Planning Policy (Rural Lands) 2008	
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011		State Environmental Planning Policy No 55 - Remediation of Land	$\boxtimes$
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	$\boxtimes$	Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment	
Sydney Regional Environmental Plan No 9 Extractive Industries (No 2 - 1995)		State Environmental Planning Policy No 64 - Advertising and Signage	
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004		State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development	
State Environmental Planning Policy No 21 - Caravan Parks		State Environmental Planning Policy (State Significant Precincts)2005	
State Environmental Planning Policy No 30 - Intensive Agriculture		State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007	
State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land)		State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	
State Environmental Planning Policy No 33 - Hazardous and Offensive Development		State Environmental Planning Policy (Infrastructure) 2007	$\boxtimes$
State Environmental Planning Policy No 36 – Manufactured Home Estates		State Environmental Planning Policy No 70 - Affordable Housing (Revised Schemes)	
State Environmental Planning Policy No 44 - Koala Habitat Protection		State Environmental Planning Policy 71 – Coastal Protection	
State Environmental Planning Policy No 50 - Canal Estate Development		State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.	
State Environmental Planning Policy No 62 – Sustainable Aquaculture		State Environmental Planning Policy (Affordable Rental Housing) 2009	
State Environmental Planning Policy (State and	Regi	onal Development) 2011	

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 6 (Statement of Compliance/Assessment) of this report.



## 6. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 79C of the EP&A Act.

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

# i) Environmental planning instrument

# SEPP (Infrastructure) 2007

<u>Comments:</u> Clause 45(1)(b)(iii) is applicable and the application referred to the *electricity supply authority for the area* (Endeavour Energy) on 23/09/2016 as required for comment. Comments were received and have been considered (as detailed under the 'Referrals' section of this report).

## SEPP BASIX

Question	Answer
Are the street address, postcode and LGA correct on the BASIX certificate?	YES
Are the dwelling type and the number of bedrooms correct?	YES
Is the site area on the certificate correct?	YES
Is the roof area correct?	YES
Are the conditioned and unconditioned floor areas on the certificate correct?	YES
Are the landscaping/lawn areas correct on the certificate?	YES

Comment: Certificate No. 715773M\_03.

# SEPP 55 Remediation of Land

Question		YES		NO	
I. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?		Proceed to Question 3	X	Proceed to Question 2	
2. Does the proposal result in a change of use (that is the establishment of a new use)?	Х	Proceed to Question 3		Assessment under SEPP 55 and DCP not required.	
3. Does the application proposed a new:  Child care facility  Educational use  Recreational use  Health care use  Place of public worship  Residential use in a commercial or industrial zone	X	Proceed to Question 5		Proceed to Question 4	
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?		Proceed to Question 5		Proposal satisfactory under SEPP 55 and DCP.	



Question	YES	NO	
5. Is the proposed land use likely to have	Request	X	Proposal satisfactory
any exposure path to contaminants that	contaminated		under SEPP 55 and
might be present in soil or groundwater?	site assessment		DCP.

<u>Comments:</u> The site was inspected on 19 December 2016, with there being no evidence that the site has been used for a listed purpose or contaminated. It is considered that the proposal is satisfactory under SEPP No. 55 and SDCP 2014.

## SEPP 65 Design Quality of Residential Flat Development

<u>Comments:</u> This Policy applies to the proposal as it involves the erection of a new building, which is at least three (3) or more storeys above ground level and contains at least four (4) or more dwellings.

It is noted that there is no relevant design review panel. No referral is therefore required. However, Council appointed Studio Zanardo (SZ) on 1 June 2017 to undertake an urban design review of the proposal.

The design quality of the development when evaluated in accordance with the design quality principles and the ADG have been considered, in accordance with the provisions of Clause 28.

Clause 6A confirms that with respect to the objectives, design criteria and design guidance set out in Parts 3 and 4 of the ADG, development control plans cannot be inconsistent with this guide in respect of the following:

- "(a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.'

Further, subclause 6A(2) clarifies that "if a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect", whilst subclause 6A(3) clarifies that "this clause applies regardless of when the development control plan was made".

The ADG confirms that "the design criteria set a clear measurable benchmark for how the objective can be practically achieved. If it is not possible to satisfy the design criteria, applications must demonstrate what other design responses are used to achieve the objective and the design guidance can be used to assist in this".

The ADG Compliance Table (Appendix A) demonstrates whether the proposed development complies with the Design Criteria contained in Section 3 (Siting the Development – Visual Privacy) and Section 4 (Amenity) of the ADG.

This Table has been updated with comments from SZ, received by Council on 21 June 2017. SZ advised that generally all issues are resolvable (as discussed below in relation to objectives) and that "the proposal is considered, in many respects, to be of good quality from an urban design perspective."

The main area of concern is non-compliance with Design criteria (1) of Section 3F – Visual Privacy. The separation distances from habitable rooms and balconies to the side and rear boundaries are



less than that required. It is noted that in this regard, the provisions of A1.2 of Control 5.5.2, Chapter N19, Shoalhaven Development Control Plan 2014 (SDCP 2014) are of no effect, in accordance with Clause 6A(1) and (2).

It is also evident that solar access to neighbouring sites will be reduced by this proposal. Design guidance of Section 3B – Orientation suggests that if a proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in Section 3F. Consideration also needs to be given to solar and daylight access to areas (i.e. living areas, private open space etc.) within the proposed building.

The following non-compliances remain with Design criteria (1):

 Habitable rooms and balconies of dwelling unit 1C, 1D, 2C and 2D are less than the required 6m from the rear boundary to Winnima Lane, at a minimum of 1.8m.

This results in a maximum 70% variation.

 Habitable rooms of each dwelling unit are approximately 2.5m-4m from the side boundaries shared with Lot CP SP 23115 (9 Winnima Lane) and Lot A DP 359526 (9 Beach Street).

This results in an approximate 33-58% variation.

 Habitable rooms and balconies of dwelling unit 3A and 3B are approximately 3m-4m from the side boundaries shared with Lot CP SP 23115 (9 Winnima Lane) and Lot A DP 359526 (9 Beach Street).

This results in an approximate 33-50% variation.

It is noted that the ADG states that "if it is not possible to satisfy the design criteria, applications must demonstrate what other design responses are used to achieve the objective and the design guidance can be used to assist in this."

The applicant has amended the proposal to address these non-compliances and comments made by SZ, in particular the following objectives due to design criteria and guidance not being met:

Objective 3F-1: "Consideration should be given to adjusting the noncompliant habitable windows such that windows do not face directly towards the boundary. 'Pop-out' windows, or similar, can effectively present a solid wall to the boundary for privacy whilst diverting views to run along the side boundary setbacks towards more desirable outlooks."

Side windows facing north or south have been redesigned with splayed walls to face east or west, and not directly towards the boundary. All splayed walls are a minimum 3m from the boundary.

 Objective 3F-2: "Consider introducing privacy louvres, to match those used on balconies, along the southern side of the entry path. Ensure that the planters in front of the windows provide a positive outlook from the habitable rooms."

Privacy louvres have been added to the southern side of the entry path, with planters in place to provide a positive outlook.

 Objective 3J-1: "It is noted that the number of car spaces provided exceeds the minimum required under GTTGD and could be reduced." Council's position in relation to this is that it supports the numeric provision of spaces; however, the usability of the on-grade spaces is questioned (see later comments).

No change to the number of parking spaces.



Objective 3J-2: "No parking has been provided for motorbikes or scooters. Motorcycle and scooter parking could be provided in the space at the basement level adjacent to the car park ramp (A1000)."

Parking for motorcycles and scooters has been included in the basement.

Objective 3J-3: "A safe, direct and accessible path has not been provided from the on-grade car parking spaces to the lobby. This could occur through the space where the airconditioning units are currently located and with a small adjustment to the corner of the hydraulic pump room to allow an adequate path."

A safe, direct and accessible path has been included from the on-grade car parking spaces to the lobby.

Objective 4A-1: "The sunlight received to habitable rooms has not been optimised. However, it is presumed that 3 hours solar access is required outside of the Sydney Metropolitan Area, Newcastle or Wollongong because of an assumption about lower density buildings and/or context. The density and built form envisaged through the controls for this site are equivalent to those in denser areas. Therefore, it may be reasonable...that the 2 hours provided in the proposal is a satisfactory level of amenity. Only 8 of 12 units (67%) of units receive 2 hours direct sunlight between 9am and 3pm in midwinter. Unit GA could be included by bringing forward the glass line of the living room (A8210). This would bring the total to 9 of 12 units (75%)."

The glass line of Unit GA living room has been brought forward to increase the solar access. This brings the total to 9 of 12 units (75%).

Objective 4E-3: "Private open space and balcony design does not contribute to the overall architectural form. Full width full height glass balustrades are used for all east facing balconies and will not screen clothes drying. It is suggested that a small portion of the balustrade be made solid (like the west facing balconies), to assist with visual privacy from the street and conceal the contents of the balcony including clothes drying. The balustrade in front of the bedrooms may be the most suitable."

Solid balustrades have been added to all east facing balconies.

Objective 4F-1: "Common circulation spaces do not receive good amenity. No window providing daylight or natural ventilation is provided to common circulation spaces on levels 1, 2 and 3. A window should be provided to each of these corridor spaces by adjusting an adjacent unit."

A window has been provided to each lobby. The window will be frosted louvred glass to allow ventilation and maintain boundary privacy.

Objective 4H-1: "The siting of buildings and building layout does not minimise noise transfer. Consideration should be given to adjusting the noncompliant habitable windows such that windows do not face directly towards the boundary (see 3F-1). The southern side of the entry path could include a relatively solid screen to reduce noise transfer (see also 3F-2). Ensure that the planters in front of the windows provide a positive outlook from the habitable rooms."

Windows have been modified to face east/west, privacy louvres have been added to the southern side of the entry path to reduce noise transfer and landscaping will be implemented to maintain a positive outlook.



Recommended, subject to a condition of any consent, that written verification and confirmation by an appropriately qualified acoustic consultant be provided, that proposed external mechanical plant will not cause offensive noise.

Objective 4H-2: "Noise impacts are not mitigated within apartments through layout and acoustic treatments. The southern side of the entry path could include a relatively solid screen to reduce noise transfer (see also 3F-2). Ensure that the planters in front of the windows provide a positive outlook from the habitable rooms."

As above (4H-1).

 Objective 4N-3: "The roof design does not incorporate sustainability features. The opportunity exists for skylights to units 3A and 3B."

Sky domes have been included for units 3A and 3B.

Objective 4Q-1: "Universal design features are not included in apartment design. 3 units are required to be silver level universal design. It is suggested that typical unit A or B is adjusted to meet the requirements. It is also noted that not all spaces for use in common by the residents are accessible as required by BCA/ NCC Table D3.1, including the storage room, garbage room and the car wash (A1001)."

Units GB, 1B and 2B are all designed in accordance with requirements of an adaptable dwelling to silver level universal design. This is demonstrated on drawing A8300.

Access to the storage room, garbage room and the car wash has been modified to be compliant with BCA/NCC Table D3.1.

Objective 4U-1: "Passive environmental design through well located, screened outdoor areas have not been provided for clothes drying It is suggested that a small portion of the balustrade be made solid (like the west facing balconies), to conceal clothes drying. The balustrade in front of the bedrooms may be the most suitable (see 4E-3)."

As above (4E-3).

 Objective 4U-3: "Inadequate natural ventilation will require mechanical ventilation. Adequate natural ventilation is not provided to the common circulation spaces on levels 1, 2 and 3. A window should be provided to each of these corridor spaces by adjusting an adjacent unit (see 4F-1)."

As above (4F-1).

 Objective 4W-1: "Waste storage facilities do not minimise the impact on the amenity of residents. The waste and recycling storage area should be ventilated. A temporary storage space for large bulk items should be provided."

Waste and recycling areas will be mechanically ventilated. A temporary bulky good storage area has been provided in the basement below the entry ramp.

The applicant has also provided a shadow study confirming that a similar development on the property to the south (being Lot A DP 359526, 9 Beach Street) will be able to receive a minimum of 2 hours direct sunlight between 9am and 3pm at midwinter to living rooms and private open spaces of at least 70% of apartments within.

Therefore, the proposed design responses are acceptable.



## SEPP 71 Coastal Protection

<u>Comments:</u> This SEPP is intended to protect the unique attributes of the NSW coast and is a means by which the State's Coastal Policy is to be implemented.

The provisions of Clause 8 have been considered, particularly the cumulative impacts of the proposal on the environment and measures to ensure water and energy usage efficiency.

Relevant provisions are satisfied or able to be satisfied by conditions of consent. The proposal retains public access to and along the coastal foreshore, with some improvement through installation of a public footpath along Beach Street. The proposal also does not have any detrimental impact on the amenity of the coastal foreshore and is consistent with the nominated aims of the Policy.

## Shoalhaven LEP 2014

## Land Zoning

The land is zoned B4 Mixed Use under the SLEP 2014.

## **Characterisation and Permissibility**

The proposal is best characterised as a residential flat building under the SLEP 2014.

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

The proposal is permitted within the zone with the consent of Council.

## Zone objectives

Objective	Comment
To provide a mixture of compatible land uses.	Satisfies the nominated objective.
To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	,

## SLEP 2014 Clauses

Clause	Relevant	Comments	Complies/ Consistent
Part 2 Per	mitted or p	rohibited development	
2.7		Consent sought for demolition works.	Yes
Part 4 Pri	ncipal deve	lopment standards	
4.3		The maximum height of building requirement is 13m.	No
		Part of the proposed building (lift overrun) exceeds the maximum height by 574mm, being approximately 4.4%.	



	Other sections of the roof also make minor encroachments to the height limit – eastern section being approximately 208mm (1.6%) and western section being approximately 239mm (1.8%).  The applicant has requested the provisions of Clause 4.6 be applied.	
	''	
4.4	The maximum floor space ratio requirement is 1.4:1. This equates to 1,416.4sqm for this site.	No
	The proposed floor space ratio is 1.428:1, being 1,445sqm. It is noted that the applicant miscalculated the ratio to be 1.427:1, being 1,444sqm. The proposed building exceeds the maximum floor space ratio by 28.6sqm, being approximately 2.01%.	
	The applicant has requested the provisions of Clause 4.6 be applied.	
4.6	(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.  Comment: Satisfied. The applicant provided advice in relation to this clause, entitled 'Council Response Report' and subsequently updated by advice in relation to the contravention to the floor space ratio.  (4) Development consent must not be granted for development that contravenes a development standard	Yes
	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	



		r lanning Report - Development Applicatio	
		(b) the concurrence of the Secretary has been obtained.	
		<u>Comment:</u> The non-compliances are relatively minor. The applicant request adequately addresses subclause 3 and the proposal will be in the public interest as it is consistent with the objectives of the relevant standards (particularly noting the desired future character of the locality) and not inconsistent with the objectives of the B4 Mixed Use zone.	
		In relation to clause 4.3, the contraventions are minor and negligible in terms of the overall design of the proposed building and still ensure that the proposed building is compatible with the height, bulk and scale of the desired future character of the locality.	
		In relation to clause 4.4, again the contravention is minor and negligible in terms of the overall design of the proposed building. Compliance with the standard would only result in internal design amendments and would not alter the bulk and scale of the building in relation to the desired future character of the locality. The reduction of floor space (28.6sqm) over the whole building would not result in substantial changes to the setbacks, bulk, scale or overall appearance.	
Part 5 Mis	cellaneous	provisions	
5.5		Development within the coastal zone	Yes
		The provisions of subclause (2) are satisfied.  The proposal will not impede or diminish public access to or along the coastal foreshore, will ensure stormwater is contained within the boundaries of the subject site, will not be significantly affected by coastal hazards or have a significant impact on these hazards; and will not increase risk of these hazards in relation to any other land.	
5.6		The building elements exceeding the height limitation are not architectural roof features.	N/A
5.9		Minimal vegetation clearing is required.	Yes
5.9AA	×	Minimal vegetation clearing is required.	Yes
5.10	$\boxtimes$	The subject site is in the vicinity of land on which a heritage item is located – being Item No. 201, Tapalla Point	Yes
		geological rock platform, at Lot 7044 DP 1117433 (Beach Street).  However, the proposed development will not affect the heritage significance of this item and a heritage management document is not required.	
5.11	×	Street).  However, the proposed development will not affect the heritage significance of this item and a heritage	Yes



Part 7 Additional local provision			
7.1	×	Acid sulfate soils management plan not required.	N/A
7.2		The provisions of subclause (3) are satisfied.  The proposed earthworks will have no detrimental effect on use of the subject site or the existing and likely amenity of adjoining properties.	Yes
7.9		Satisfied that the proposed development will not penetrate the Limitation or Operations Surface.  Department of Defence has been consulted and raised no objections.	Yes
7.11		Services are available.	Yes
7.20	⊠	The proposal satisfies the objectives of this clause.  The natural and cultural values of the Jervis Bay region are protected.  The siting of the <i>Tapalla Point geological rock platform</i> , at Lot 7044 DP 1117433 (Beach Street), is not in the vicinity of the subject site.	Yes

# ii) Draft Environmental Planning Instrument

Draft State Environmental Planning Policy (Coastal Management) 2016 is relevant to the development proposal. The proposed development is consistent with the nominated aims of this Policy.

State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016 is also relevant to the development proposal. However, the proposed development appears not to be impacted by the amendments to the Policy.

# iii) Any Development Control Plan

# Shoalhaven DCP 2014

Generic Chapters	Relevant
G1: Site Analysis, Sustainable Design and Building Materials in Rural and Coastal Areas	
5.1 Site Analysis	
A1.1 A site analysis is provided with a development application that shows the constraints and opportunities:	e following
Constraints (including but not limited to):	
<ul> <li>Location of services such as power, sewer, water and drainage lines.</li> <li>Existing vegetation within and adjacent to the land being developed.</li> </ul>	



Natural hazards which are likely to impact upon the development such as bushfire prone land, coastal hazard areas or flood prone land, particularly in regard to solar access and existing mature vegetation.

Comment: Satisfied. Submitted plans are acceptable.

A1.2 For development other than for a single dwelling house and associated structures, your development application should show:

- Topographical features such as slope, existing natural vegetation and opportunities for the creation of views and vistas.
- Opportunities to orientate buildings and private open spaces having regard to solar access, winds and views.
- The character of the surrounding development, particularly to setbacks and subdivision layout
- The likely impact on surrounding development, particularly with regard to overshadowing, privacy and obstruction of views.
- The extent to which driveways and/or parking areas are likely to dominate the appearance of the development.
- The visibility, width and design speed of proposed roads and/or driveways.
- Bush fire, flooding and drainage constraints, easements for services and extent of contaminated land.
- The character of any adjacent public land/reserves, particularly the location of mature trees in relation to the proposed development.

Comment: Satisfied.

5.2 Energy Efficiency & Solar Access

A2.1 The dwelling complies with the NSW Building Sustainability Index (see <a href="https://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>).

Comment: Satisfied.

A3.1 Your dwelling design should be based on the NSW Land & Environment Court Planning Principle 'Impact on Solar Access of Neighbours' from Parsonage v Ku-ring-gai [2004] NSWLEC 347.

Comment: Noted.

A4.1 50% of the area of the windows or glazed doors of north facing living areas and principal open space of adjoining dwellings do not have their sunlight reduced to less than three hours of sun between the hours of 9am and 3pm on the 21st June (winter solstice).

Comment: Satisfied.

A4.2 Where there are solar hot water collectors and/or photovoltaic cells on an adjoining property that may be impacted by the development structures, the application demonstrates there be no impact on the collectors and cells.

Comment: None identified.



#### G2: Sustainable Stormwater Management and Erosion/Sediment Control

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## 5.1 Stormwater

## 5.1.1 Minor and Major Systems Design

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended. Detailed design to be provided with engineering plans.

#### 5.1.2 Climate Change Controls

Comment: Noted. No concerns raised by Council's Development Engineer.

5.1.3 Onsite Stormwater Detention (OSD)

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended.

#### 5.3.1 Erosion and Sediment Control

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended.

## 5.3.2 Stormwater Retention - General

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended.

5.3.3 Small/medium scale development - Site Discharge Index

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended.

Although the proposed development appears to be large scale as it proposes a total impervious area exceeding 1,000sqm, the supporting *Sustainable Stormwater Technical Guidelines* confirm that the development is small/medium scale.

## G3: Landscaping Design Guidelines

×

# 5 Controls

A1.1 Existing trees and landscape elements which make a positive contribution to the character of the area should be retained and integrated into the redevelopment of the land. Proposals to remove existing trees and landscape elements must propose suitable landscaping to retain streetscape character.

Comment: Satisfied. Suitable landscaping is proposed.

A2.1 For development other than a new dwelling house, alterations and additions to a dwelling house or a dual occupancy, landscaping must be in accordance with an approved landscape plan for the site, prepared by a qualified landscape architect or designer. The plans should meet the performance criteria and show:

- The street reserve, carriageway, parking bays, footpaths, cycleway systems, street lighting and driveways:
- Existing vegetation and proposed general character of tree planting and landscape treatment (including proposed species);



- Existing trees and significant vegetation on the site and identify those to be retained and those proposed to be removed;
- General arrangement of hard landscaping elements and major earth cuts, fills and mounding;
- Indicative treatment of any floodway and drainage lines; and
- General information on fencing, access points furniture, pavement materials and on-going maintenance requirements.

<u>Comment:</u> The submitted plan is satisfactory, subject to recommended conditions of consent.

A3.1 A landscape plan must be submitted with the development application illustrating the following landscape principles:

- The location, height and species of all existing and proposed vegetation;
- Methods employed to minimise soil erosion; and
- Cross section through entire site indicating major level changes, existing retained and proposed landscaping that demonstrates the proposed finished landscape (hard and soft).

Comment: The submitted plan is satisfactory. There are no major level changes.

## G4: Removal and Amenity of Trees

 $\boxtimes$ 

5.1 Prescribed Trees or Other Vegetation - Clause 5.9(2) of the SLEP 2014

The proposed development does not involve removal of prescribed trees.

- 5.4.3 Amenity Considerations
- A5.1 Where mature trees or other vegetation have been removed, they are replaced with trees endemic to the region in an appropriate location.

Comment: Not applicable.

## G6: Coastal Management Areas

 $\boxtimes$ 

- 5.2 Residential Development in Foreshore Areas
- 5.2.1 Site Planning and Layout
- A4.1 A detailed site development plan should be prepared that addresses the issues outlined within this Chapter and reflects your site analysis.

Comment: Satisfied.

- 5.2.3 Site Setbacks
- A6.1 The building is to be sited to provide one minimum side setback equivalent to 10% of the width of the allotment, and up to a maximum of 3.5m in any case.

Comment: Satisfied.

A6.2 In cases where allotments are irregular in shape and the width varies, the width of the allotment for the purposes of calculating the side setback is the average width of the allotment over the length of the building.

Comment: Not applicable.



A6.3 Where possible, side setbacks should be provided along a side boundary with an adjoining dwelling which has a similar corresponding side setback, so as to maximise the view corridor. This side setback is not to be built out with any structure.

Comment: Noted.

#### 5.2.4 Building Materials

A7.1 Details of the intended materials and colours to be used for a proposed development will be submitted with the development application.

Comment: Satisfied.

#### **G7:** Waste Minimisation and Management Controls

 $\boxtimes$ 

#### 5 Controls

A.1.1 A waste minimisation and management plan is submitted with the development application in accordance with Council's Waste Minimisation and Management Guidelines 2009.

Comment: A waste minimisation and management plan has been submitted for ongoing waste.

Management of waste onsite is to be through a commercial contract only, as required by Council's Waste Services (detailed under the 'Referrals' section of this report).

Demolition and construction waste subject to recommended conditions of consent. A plan is required prior to the commencement of any works.

## G14: Other Residential Accommodation

 $\boxtimes$ 

5.1.1 Security, Site Facilities and Services

A1.1 Shared entries to buildings should serve a maximum of twelve dwellings.

Comment: Satisfied.

A1.2 A garbage pick-up area capable of accommodating one garbage bin per dwelling (wheelable type) should be provided at the public road frontage.

<u>Comment:</u> The proposal requires a commercial contract for management of waste onsite. The Council contracted kerbside collection is not available, as advised by Council's Waste Services Section.

A1.3 If the garbage pick-up area is to be a bin storage area, it should be:

- Designed to conceal its contents from the view of public places and adjacent properties.
- Provided with a water tap for wash down purposes and drained to connect to the main sewer.
- Roofed to comply with Council's requirements.
- Located to be readily accessible from within the site and serviceable from the adjoining roadway.

Comment: Satisfied.



A1.4 External clothes drying facilities are to be provided at a rate of 7.5 metres of line per dwelling, unless clothes drying facilities are provided within units.

Comment: Clothes drying facilities to be provided.

A1.5 Individual mailboxes should be located close to each ground floor dwelling entry, or a mailbox structure located close to the major pedestrian entry to the site and complying with the requirements of Australia Post.

Comment: Satisfied, one (1) mailbox structure proposed.

A1.6 Individual water meters will be required to assist the individual billing of dwelling units.

Comment: Subject to Shoalhaven Water recommended conditions within Notice.

A1.7 You should ensure that services and utilities including electricity, gas, water, sewer, roads and drainage are available for the initial development and ongoing development needs.

Comment: Essential services are available.

- 5.3 Residential Flat Buildings and Shop Top Housing
- 5.3.1 Useable Open Space

A17.1 The proposal is to include a balcony or roof top area conveniently accessible from a main living area.

Comment: Satisfied.

A17.2 Private open space is to comply with the provisions of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.

Comment: Satisfied.

5.3.2 Site Facilities

A18.1 Only one telecommunications/TV antenna will be permitted for each residential flat building. Where possible, common antennas should be utilised.

Comment: Noted.

# G21: Car Parking and Traffic

 $\boxtimes$ 

5.1 Car Parking Schedule

## RESIDENTIAL

## Residential Flat Buildings

- 1 space per small dwelling (under 55m2)
- 1.5 spaces per medium dwelling (56-85m2)
- 2 spaces per dwelling of 86m2 or greater

The above parking rate includes visitor spaces.



At least one space per unit should be provided for the sole benefit of each unit.

Any parking provided on site, exceeding the minimum requirements above, should be provided as visitor spaces.

<u>Comment:</u> Satisfied. Two (2) proposed dwelling units are 82sqm and each require 1.5 onsite car parking spaces. The other ten (10) proposed dwelling units are greater than 86sqm and each require 2 spaces. Twenty-four (24) onsite car parking spaces are proposed.

At least one (1) space is provided per unit for their sole benefit.

No discount is available.

5.2 Traffic

Comment: No traffic study or statement required.

5.3 Parking Layout and Dimensions

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended.

5.4 Access

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended.

The applicant has amended the entry holding bay in order to reduce confusion and potential for conflict between entering and exiting vehicles.

5.5 Manoeuvrability

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended.

5.6 Service Areas

Comment: Not applicable.

5.7 Landscape Design

A9.1 The application must include detailed landscape plans indicating dimensions, levels and drainage, existing vegetation as well as location, type and character of proposed plantings.

Comment: Satisfied. Plans included.

A10.1 Perimeter planting to screen the proposed car park is to be defined in your landscape plan. The minimum width of perimeter planting is 3m and 1m for driveways.

Note: Council may consider a reduction in the minimum width of perimeter planting around car parks on smaller sites from 3m to 1m where it can be justified by the applicant that the reduction in landscaping will not create any adverse impacts on surrounding development/amenity.

Comment: Design is satisfactory.



A10.2 Internal plantings of car parking areas are to be of a nature to shade cars and soften the impact of hard paved surfaces without obscuring visibility.

<u>Comment:</u> Further detail on plantings required, subject to recommended condition of consent.

A10.3 Consideration should also be given to the types of trees planted within car parks. Plants which have a short life, tend to drop branches, gum or fruit or plants which interfere with underground pipes are not suitable for car parks.

Comment: Noted.

A10.4 Car parks should be located to complement existing streetscape qualities. Consideration should be given to the streetscape qualities of the locality and the possibility of locating a car park to the rear of a site, or the provision of suitable landscaping to minimise any visual intrusion.

Comment: Satisfied.

A10.5 Consideration should be given to incorporating stormwater control measures in the design of landscaped areas, to control and reduce the level of stormwater which enters Council's stormwater drainage systems.

<u>Comment:</u> Stormwater control measures are proposed to be incorporated.

A11.1 Planting is to be designed appropriately so as not to impact upon minimum sight distance requirements (at access points, intersections, and around curves), clearance requirements (horizontal and vertical), and clear zone requirements.

Comment: Satisfied.

5.8 Drivers with a disability

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended.

5.9 Construction Requirements

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended

5.10 Design of Driveways

<u>Comment:</u> Subject to Council's Development Engineer recommended conditions of consent, as amended.

Area Specific Chapters			
Relevant	DCP Chapter	Relevant	DCP Chapter
	N1: Kangaroo Valley		N20: Jerberra Estate
	N2: Berry Town Centre		N21: Basin View
	N3: Berry Residential Subdivision		N22: Sanctuary Point Local Centre
	N4: Shoalhaven Heads Village Centre		N23: St Georges Basin, Village Centre
	N5: Bomaderry Town Centre		N24: HMAS Albatross Military Airfield Buffer
	North Nowra		S1: Verons Estate, Sussex Inlet



Nowra Hotel Site and Civic Precinct	S2: Badgee Urban Release Area
N8: Nowra CBD Urban Fringe	S3: Sussex Inlet Town Centre
N9: Bulky Goods Precinct - East Street, Nowra	S5: Yatte Yattah - Piggery Buffer
N10: Worrigee Residential Area	S6: Town of Milton
N11: Nowra Hill - Cabbage Tree Lane	S7: Development Guidelines for Certain Residential Land in Milton and Ulladulla
N12: Culburra Beach - The Marina Area	S8: Ulladulla Town Centre
N13: Culburra Beach Expansion Area	S9: South Harbour Precinct, Ulladulla
N14: Culburra Beach Village Centre	S10: South Ulladulla
N15: Vincentia Coastal Village and District Centre	V1: Lot Averaging Subdivision
N16: Falls Creek, Woollamia Rural Residential Areas	V2: Chapter V2 - Building Lines provides building line provisions for certain site within Shoalhaven. The controls in this Chapter have been transferred from Shoalhaven LEP 1985 and POL12/112 and POL12/314.
N17: Woollamia Farmlets - Large Lot Residential Subdivision	V3: Miscellaneous Site Specific Issues
N18: Huskisson Town Centre	NB1: Mundamia Urban Release Area
N19: Huskisson Mixed Use Zones	NB2: Worrigee Urban Release Area

# Chapter N19: Huskisson Mixed Use Zones

## 5.1 Design of Development

A1.1 Your development complies with the Design Guide.

Comment: Satisfied.

# 5.2 Lot Amalgamation

A1.1 Your development does not have a length of an unbroken building elevation of more than 10m facing a public place. Building articulation of a minimum 3m width and 2m depth is required for wider buildings (greater than 10m).

You may have circulation areas (stairwells) occupying this articulated space if it is setback from the building's elevation by at least 2m.

A1.2 Your development has a maximum overall building length of 20m after which a minimum 3m landscaped separation is required between buildings.

Comment: Satisfied. Lot amalgamation is not proposed.

# 5.3 Density

A1.1 Your development complies with the maximum FSR as shown on the Floor Space Ratio Map in Shoalhaven LEP 2014.

Comment: Non-compliance.



The maximum floor space ratio requirement is 1.4:1. This equates to 1,416.394sqm for this site.

The proposed floor space ratio is 1.428:1, being 1,445sqm. It is noted that the applicant miscalculated the ratio to be 1.427:1, being 1,444sqm. The proposed building exceeds the maximum floor space ratio by 28.6sqm, being approximately 2.01%.

The applicant has requested the provisions of Clause 4.6 of SLEP 2014 be applied.

SZ commented on this: "It is noted that ground floor the garbage room has been excluded from the gross floor area calculation."

This is considered a relatively minor variation relative to the building and noting in particular that a high level of amenity is proposed. Occupants also stand to benefit from nearby reserves and beaches, which are close by which are important with respect to higher density living which by having no traditional yard areas should be ideally located to facilities and high amenity locations.

### 5.4 Streetscape

A1.1 Your development complies with front setback provisions.

Comment: Design is satisfactory.

A1.2 Your development locates entries so that they relate to the existing street and subdivision pattern, street tree planting and pedestrian footpath.

Comment: Satisfied.

A1.3 70% of the internal space of units facing the street on ground level of the building are to be no more than +/- 250mm above finished ground level.

Comment: Satisfied.

A1.4 Ground level living rooms have direct connection with outdoor living areas.

Comment: Satisfied.

A1.5 Ground level dwelling with a street frontage have an entry from the street.

Comment: Satisfied.

A1.6 You must provide main building entries that are accessible, legible, safe and well-lit.

Comment: Satisfied.

5.5 Orientation and Separation

A1.1 You must orient buildings to the front and the rear of the lot rather than the side boundaries.

Comment: Satisfied.

A1.2 You must provide separate distances in accordance with the table below. Distances are measured between residential windows facing one another.



Separation distance	Minimum distance
Between non-habitable room windows (can be measured diagonally).	3m
Between all other windows except primary windows of living areas/external edge of balconies and terraces.	6m
Between primary windows of living areas/external edge of balconies and terraces and all other windows except between primary windows of living areas/external edge of balconies and terraces.	9m
Between primary windows of living areas/external living areas and primary windows of living areas/external edge of balconies and terraces for buildings up to and including four storeys.	12m

Comment: The applicant believes this is satisfied.

As already detailed under the 'State Environmental Planning Policy No 65' section of this report, the applicant has designed this proposal in relation to future development on neighbouring sites rather than that existing. It is noted that the existing development on the neighbouring sites are no longer permissible in the prescribed land use zone and only reliant on existing use rights. The provisions of SLEP 2014 and SDCP 2014 intend for the redevelopment of these sites.

The proposed design responses are acceptable and the applicant considers that the current design is fully compliant with this solution.

Whilst numerical compliance is not achieved at present with existing development on neighbouring sites, the provisions of Chapter N19, SDCP 2014 have been formed and designed for future development. Therefore, the proposed building is capable of complying.

It is also noted that clause 6A of State Environmental Planning Policy No 65 confirms that with respect to the objectives, design criteria and design guidance set out in Parts 3 and 4 of the ADG, development control plans cannot be inconsistent with this guide in respect of the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

Further, subclause 6A(2) clarifies that "if a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect", whilst subclause 6A(3) clarifies that "this clause applies regardless of when the development control plan was made".

The provisions of Chapter N19 in relation to this matter are inconsistent with State Environmental Planning Policy No 65 and therefore are of no effect. The separation distances should be to the site



boundaries (in accordance with Design criteria (1) of Section 3F – Visual Privacy) and not to the windows of buildings on neighbouring sites.

However, the ADG is, as the title suggests, a guide but states that:

"The design criteria set a clear measurable benchmark for how the objective can be practically achieved. If it is not possible to satisfy the design criteria, applications must demonstrate what other design responses are used to achieve the objective and the design guidance can be used to assist in this."

As mentioned previously, the applicant has made modifications to the design in response to the urban design review undertaken by SZ. The objectives of the ADG have been achieved.

A1.3 If your lot has a frontage (including where amalgamated) greater than 30m, no individual building may be wider than 20m and there must be at least 3m separation between buildings.

Comment: Not applicable.

5.6 Energy Conservation

A1.1 You must provide windows to living areas of individual units that receive at least 2 hours of sun between 8am and 4pm on June 21.

Comment: Satisfied.

A1.2 You must select building materials and insulation to assist thermal performance and maintain internal comfort levels.

Comment: Satisfied.

A1.3 You must use materials of high thermal mass for living areas and locate living areas to receive direct sun during cooler months.

Comment: Satisfied.

A1.4 You must use the building layout and section to increase the potential for natural ventilation.

Comment: Satisfied.

A1.5 You must provide doors, windows and other openings that have adequate draught control.

Comment: Satisfied.

5.7 Landscaping and Deep Soil Area

A1.1 Where practical, you must retain existing trees and shrubs. You should consider locating and designing the building footprint to enable their retention.

Comment: Noted.

A1.2 You are to provide two main deep soil areas. You are to locate one to the rear or centre of the lot and one to the front of the lot.

<u>Comment:</u> Design is satisfactory. Substantive planting is proposed for the street elevation. This includes medium and small trees which are considered appropriate for the scale and nature of the development. Planting is proposed adjacent to the northern and southern boundaries 'on natural



ground'. Observing that there is a basement structure under the building, this is considered reasonable and important with respect to adjoining existing and future development.

A1.3 You are to use at least 50% indigenous tree and shrub species in your landscaping.

Comment: Satisfied.

A1.4 Deep soil areas cannot be covered by any impervious ground surface. Deep soil areas cannot be located on structures such as basement car parks or in planter boxes.

Comment: Noted.

A1.5 You are to include deep soil areas in the total permeable area for the allotment.

Comment: Noted.

5.8 Fences and Walls

A1.1 You must provide low and open fences continuously along all street boundaries.

Comment: Satisfied.

A1.2 You are to provide front and side boundary fences that reflect the design character of the dwelling.

Comment: Satisfied, subject to recommended condition of consent to ensure suitable fencing.

A1.3 You may construct front fences to a maximum height of 1.2m as long as the fence is an open fence of with an openness ratio of at least 60%. The fence may have a solid base not higher than 300mm the remainder of the fence shall have an openness of the fence shall have an openness ratio of 60%.

Comment: Satisfied, subject to recommended condition of consent to ensure suitable fencing.

A1.4 You are to construct side boundary fences (for at least 5m from the front boundary) in the same materials and design as the front fence.

Comment: Design is satisfactory.

A1.5 You may construct side boundary fences, from behind the building line to the rear boundary, with a maximum fence height of 1.8m.

<u>Comment:</u> Design is satisfactory, conditions are recommended. Colourbond fencing is not considered sympathetic and in this record a condition could be included to prevent the use of this material. See below.

A1.6 You must construct retaining walls so that they are no higher than 400mm.

<u>Comment:</u> Noted. Observing that the basement is effectively a retaining wall, this control is noted but not considered relevant in the circumstance.

A1.7 You must not use Colorbond fencing for front, side or return boundary fences within the 5m front setback.

Comment: Satisfied.



A1.8 You must construct fences and walls so that they do not impede the natural flow of stormwater runoff.

Comment: Satisfied.

A1.9 Controls for front fences and walls also apply to secondary street frontages on corner lots measured for the length of the dwelling.

Comment: Satisfied.

A1.10 Where you are providing fences along laneways they are to be visually permeable.

Comment: Noted.

## 7 Precinct 2

7.2 Land Use

A1.1 Development addresses and demonstrates adherence to the precinct's urban design principles.

Comment: Design is satisfactory.

A1.2 Development could include apartments, serviced apartments, boutique hotels, residential flat buildings, small resort, conference/function centre, café, restaurants and the like.

Comment: Noted.

7.3 Building Height

A1.1 The maximum height of buildings is as shown on the Height of Buildings Map in Shoalhaven LEP 2014.

Comment: Non-compliance. Variation requested.

The maximum height of building requirement is 13m.

Part of the proposed building (lift overrun) exceeds the maximum height by 574mm, being approximately 4.4%.

Other sections of the roof also make minor encroachments to the height limit – eastern section being approximately 208mm (1.6%) and western section being approximately 239mm (1.8%).

The applicant has requested the provisions of Clause 4.6 of SLEP 2014 be applied.

A1.2 Maximum building form shall be 3 storeys with a 4th level setback.

Comment: SZ commented on this: "The objectives are not achieved as the acceptable solutions are not met. The building is modulated backwards and forwards from the front and rear boundaries, however it is not modulated side to side (perspectives). The lack of a fourth level setback at the leading front corners of the building to Beach Street gives a clear fourth storey reading which contributes to bulk and scale. The height of the development is not compatible with the desired future character which is for the fourth level to be set back.

The fourth level of the building does not entirely setback on the north and south facades."



The applicant has amended the design to address this. The front leading corners of the development have been set back significantly. The fourth level is now setback along the northern, eastern, southern and western sides. The applicant considers that the building appears as a 3 storey building from the east and west.

Design is satisfactory as a result of the modified design. The objectives of this control have been achieved.

### 7.4 Setbacks and Alignments

A1.1 The residential component along Beach Street shall have a minimum front setback of 5m and that along Nowra Street shall have a minimum of 4m from their primary street frontages.

Comment: Design is satisfactory.

A1.2 Minimum 70% of the buildings street elevation is to be parallel with the street boundary.

#### Comment: Satisfied.

A1.3 Along Beach and Nowra Streets (except for the commercial component of buildings), minimum 60% of the buildings street elevation shall be located on the front setback line and the remainder shall be located behind the front setback line.

## Comment: Non-compliance.

The design provides 46% of the street elevation on the 5m setback line. The balance of the building is setback further. The setbacks are considered appropriate observing that they will allow for landscaping which will enhance the building.

The applicant considers there will be no adverse impacts and that the objectives are met, given:

- "the building has been designed to reduce the overall bulk and increase soft landscaping by reducing the overall footprint. The frontage has been maximised along the 5m setback line taking into consideration of design excellence, internal apartment layout and streetscape;
- the majority of the building façade is setback between 7m-9m, which is a favourable result in terms of bulk and solar access to neighbouring properties."

Design is satisfactory (as referred to under A1.5 below).

A1.4 The frontage of the commercial component of a building shall be built 100% to the street boundary or where there is an existing commercial premise, then the frontage is to be built to this existing alignment instead.

## Comment: Not applicable.

A1.5 The 3rd and 4th level shall have a maximum footprint of 70% of the level below and shall be setback 4m from the level below along Beach and Nowra Streets.

# Comment: Non-compliance.

The second level (third storey) of the proposed building is to have a maximum 70% footprint of the floor below (second storey) and the third level (fourth storey) is to have a 70% footprint of the floor below; and be set back 4m from the level below along the street frontage. This control effectively



results in development being 'tiered' with a smaller footprint for each level as the building increases in height.

The second and third levels do not achieve a maximum footprint of 70% of the level below and the levels are not fully compliant with the 4m setback from the level below. The second level has the same footprint as the first level.

The applicant has only applied this provision to the third level and indicated that this level is 66% of the lower level and contains a dwelling unit with the building line set back only 2m from the level below

The applicant considers a variation is required "as the building footprint has been reduced from the maximum allowable to reduce building bulk, which restricts achievement of the required ratios." The second level (third storey) is 81% of the allowable maximum floor area with no façade setback and third level (fourth storey) is 66% of the level below with façade setback. The applicant also considers there will be no adverse impacts and that the objectives are met, given:

"the proposed development provides a building that reduces the floor plate from the maximum allowable to increase deep soil planting and setbacks."

SZ commented on this: "The objectives are not achieved as the acceptable solutions are not met. Less than 60% of the street elevation is located on the front setback, however the built form in this respect is considered to be acceptable in defining the street (perspectives). The development does not setback and get smaller as the building gets taller as the controls indicate."

The applicant has made no change to the 5m building line, however, it is appropriate to consider a departure from this solution, noting the source document *Urban Design Strategy Nowra and Beach Street North Huskisson* (prepared by Ruker Urban Design, dated 29 August 2008) states:

"Maximum building form of 3 storeys with a  $4^{th}$  level in the roof. The  $4^{th}$  level can have a maximum footprint of 70% of the level below and is to be setback 4m from the level below along streets."

This does not suggest tiered solution.

A1.6 Buildings shall be built to the laneway boundary where deep soil zones are being provided to the centre of the lot. Where buildings other than garages are not built to the laneway boundary, they shall provide 5m setback and achieve rear deep soil planting and separation distances.

Comment: Not applicable.

A1.7 Rear boundaries without a laneway (Winnima Lane) are to be treated as side boundaries.

Comment: Noted.

A1.8 1.5m minimum side boundary setback are allowed but buildings shall achieve the required separation distances i.e. Clause 5.9.

Comment: Noted.

A1.9 The commercial component of buildings shall have a zero setback along the street for at least 10m back from the laneway boundary.

Comment: Not applicable.



7.5 Car Parking, Vehicle Access and Vehicle Movement

A1.1 A maximum of only 1 driveway entry/exit to any street frontage is permitted.

Comment: Satisfied.

A1.2 Car parking numbers, design and layout of parking is in accordance with the car parking section of this DCP.

Comment: Satisfied.

A1.3 Winnima Lane is used as the main vehicle access to development.

Comment: Satisfied.

A1.4 Vehicle access for development shall not occur from Beach or Nowra Streets.

Comment: Satisfied.

A1.5 Where there is no laneway frontage, lots may have 1 car entry from the street of a maximum of 4m width which cannot be located closer than 5m from a street corner.

Comment: Not applicable.

A1.6 At grade car manoeuvring areas or parking may be allowed if setback a minimum distance of 3m from the front boundary.

Comment: Satisfied.

A1.7 Any basement car parking may be raised to a maximum height of 1m above natural ground level and appropriate ventilation is installed within the raised height.

Comment: Not applicable.

A1.8 Where basement car parking is raised, the overall height of the building shall still be contained within the defined building envelope. This visual impact from any public place of any unrelieved basement wall shall be mitigated through the use of design elements and/or landscaping.

Comment: Satisfied.

A1.9 Basement garages are to be setback a minimum of 1.5m from the side boundaries but preferably in line with the building above.

Comment: Non-compliance.

The basement setback is 1.3m on the southern side and varies from 1.03m-1.7m on the northern side. The addition of 200mm, which would be below ground, is considered insignificant.

The applicant considers a variation is required "to maximise basement parking", there will be no adverse impacts and that the objectives are met "by providing adequate and convenient parking that minimises visual impact" and "the setback is offset by exceeding the minimum for the majority of the northern side so the basement complies with the minimum deep soil requirements."

The departure is relatively minor and negligible in terms of the overall design of the proposed building and considered to satisfy the objectives of this control. The basement design allows for an adequate number of car parking spaces, does not visually affect either streetscape, integrating at grade spaces



"without compromising street character, landscape quality or pedestrian amenity and safety." Services are also integrated into the building in a "sensitive manner."

A1.10 Garage doors are to be provided to all basement car park entries. Garage doors are to be in line with the buildings elevation and be compatible in colour and material with the buildings elevations.

Comment: Satisfied.

A1.11 Garage doors and entries to basement car parks along the street cannot be more than 7m wide or 50% of the width of the lot whichever is the lesser.

Comment: Satisfied.

A1.12 Rubbish collection is to occur along Winnima Lane and is not permitted along Beach or Nowra Streets. As an interim measure until such time that Winnima Lane and its turning point is constructed, rubbish collection may occur from the street.

Comment: Satisfied.

A1.13 Turning area shall be at the southern end of Winnima Lane to allow for service vehicles.

Comment: Satisfied.

A1.14 Rubbish truck manoeuvring area is not permitted on private properties.

Comment: Not proposed.

A1.15 Landscape planting at the shared boundary of the property and the laneway shall not overhang or impede access or the ability to provide waste services.

Comment: Design is satisfactory.

7.6 Permeable Site Area

A1.1 For lots less than 750m2, permeable site areas shall be a minimum of 25% of site area.

Comment: Not applicable.

A1.2 For lots larger than 750m2, permeable site areas shall be a minimum of 30% of site area.

Comment: Satisfied.

iiia) Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

Nil

iv) Environmental Planning and Assessment Regulation 2000

	Clause	Comment	
92 W	hat additional matters must a consent authori	ty take into consideration in	
deter	determining a development application?		
1.	For the purposes of section 79C (1) (a) (iv) of		
	the Act, the following matters are prescribed as		
	-		



	matters to be taken into consideration by a consent authority in determining a development application:  (a) in the case of a development application for the carrying out of development:  (i) in a local government area referred to in the Table to this clause, and	(a) Considered.
	<ul> <li>(ii) on land to which the Government Coastal Policy applies, the provisions of that Policy,</li> <li>(b) in the case of a development application for the demolition of a building, the provisions of AS 2601,</li> </ul>	(b) Considered.
	(c) in the case of a development application for the carrying out of development on land that is subject to a subdivision order made under Schedule 5 to the Act, the provisions of that order and of any development plan prepared for the land by a relevant authority under that Schedule.	(c) Not applicable.
2.	In this clause:	Noted.
	AS 2601 means the document entitled Australian Standard AS 2601—1991: The Demolition of Structures, published by Standards Australia, and as in force at 1 July 1993.	
	Government Coastal Policy means the publication entitled NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast, as published by the Government (and including any maps accompanying that publication and any amendments to those maps that are publicly notified), a copy of which may be inspected during ordinary office hours:	
	(a) at any of the offices of the Department, or	
	(b) at the offices of any of the councils of the local government areas listed in the Table to this clause	
97A	Fulfilment of BASIX commitments	
1.	<ul> <li>This clause applies to the following development:</li> <li>(a) BASIX affected development,</li> <li>(b) any BASIX optional development in relation to which a person has made a development application that has been accompanied by a BASIX certificate or BASIX certificates (despite there being no obligation under clause 2A of Schedule 1 for it to be so accompanied).</li> </ul>	Applicable.



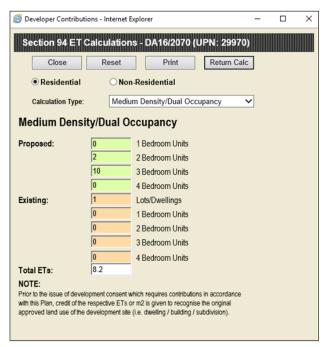
	2.	For the purposes of section 80A (11) of the Act,	Noted. Subject to
		fulfilment of the commitments listed in each	recommended condition of
		relevant BASIX certificate for development to which	consent.
		this clause applies is a prescribed condition of any	
		development consent for the development.	
L			

## v) Any coastal zone management plan

Nil

## Shoalhaven Contribution Plan 2010

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2010 (the Plan). The development is most aptly characterised as a Medium Density/Dual Occupancy development for the purpose of calculating contributions under the Plan.



Project	Description	Rate	Qty	Total	GST	GST Incl
03AREC2004	Planning Area 3 active recreation facility upgrades	\$761.33	8.2	\$6,242.91	\$0.00	\$6,242.91
03AREC3003	Bay and Basin Leisure Centre	\$398.12	8.2	\$3,264.58	\$0.00	\$3,264.58
03CFAC3001	Bay and Basin District Community Centre and Branch Library (Bay & Basin urban precinct)	\$1,182.74	8.2	\$9,698.47	\$0.00	\$9,698.47
03ROAD0055	Northern Section of Currambene Street	\$1,067.09	8.2	\$8,750.14	\$0.00	\$8,750.14
03ROAD0061	Winnima Lane	\$8,068.46	8.2	\$66,161.37	\$0.00	\$66,161.37
03ROAD0115	Sydney / Bowen Streets, Huskisson	\$399.95	8.2	\$3,279.59	\$0.00	\$3,279.59
CWAREC2004	Synthetic Hockey Field Facility	\$80.29	8.2	\$658.38	\$0.00	\$658.38
CWCFAC0003	Shoalhaven City Arts Centre	\$36.13	8.2	\$296.27	\$0.00	\$296.27
CWCFAC0004	Shoalhaven Mobile Childrens Services	\$11.96	8.2	\$98.07	\$0.00	\$98.07
CWCFAC0005	Shoalhaven Multimedia & Music Centre	\$11.88	8.2	\$97.42	\$0.00	\$97.42



CWCFAC0006	Shoalhaven City Library Extensions	\$314.93	8.2	\$2,582.43	\$0.00	\$2,582.43
CWCFAC2002	Shoalhaven Multi Purpose Cultural &	\$953.87	8.2	\$7,821.73	\$0.00	\$7,821.73
	Convention Centre					
CWFIRE2001	Citywide Fire & Emergency services	\$130.93	8.2	\$1,073.63	\$0.00	\$1,073.63
CWFIRE2002	Shoalhaven Fire Control Centre	\$191.55	8.2	\$1,570.71	\$0.00	\$1,570.71
CWMGMT3001	Contributions Management & Administration	\$544.47	8.2	\$4,464.65	\$0.00	\$4,464.65
CWOREC2001	Embellishment of Icon and District Parks	\$233.98	8.2	\$1,918.64	\$0.00	\$1,918.64
	and Walking Tracks					
MACFAC2002	Northern Shoalhaven Community Transport	\$7.37	8.2	\$60.43	\$0.00	\$60.43
	and Family Support Services					
MACFAC4001	Northern Shoalhaven Integrated Children's	\$44.68	8.2	\$366.38	\$0.00	\$366.38
	Services					

Sub Total: \$118,405.78 GST Total: \$0.00 Estimate Total: \$118,405.78

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

Head of Consideration	Comment
Natural Environment	Subject to recommended conditions of consent as detailed in this report, it is considered that there will be no adverse impacts upon the natural environment.
Built Environment	Subject to recommended conditions of consent as detailed in this report, it is considered that there will be no adverse impacts upon the built environment.
Social Impacts	It is considered that there will be no adverse social impacts.
Economic Impacts	It is considered that there will be no adverse economic impacts.

## (c) Suitability of the site for the development

Subject to recommended conditions of consent, it is considered that the site will be suitable for the development.

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

Was the application notified and were submissions received?

<u>Form of Exhibition:</u> Advertised in the South Coast Register and Nowra News; and Neighbour Notified within buffer of 120m radius, in accordance with Council's Community Consultation Policy – 23/09/2016 until 10/10/2016

Submissions Received: Five (5)

Summary of Public Submissions					
Objection Raised	Comment				
Size of the development is not reasonable.	The development is satisfactory with regard to bulk and height controls. The departures are relatively insignificant, being approximately 1.6-4.4% for height and 2.01% for floor space ratio.				



		In this regard the "size" of the development is considered reasonable as detailed in this report. The impact of design response amendments on the solar access to the proposed dwelling units and future development on neighbouring sites has been addressed.
•	Concerns with building appearance. Out of character with amenity of the locality.	Building appearance is satisfactory, noting the desired future character of the locality.
•	Insufficient onsite car parking, including visitor parking.	<ul> <li>Proposed onsite car parking satisfies the requirements of SDCP 2014.</li> </ul>
•	Shadow plans. Appear to be out-of-date (i.e. prepared in 2014).	Further detail has been provided with respect to solar impacts.
•	20m setback requirement from Winnima Lane boundary for bush fire purposes.	<ul> <li>Considered by NSW Rural Fire Service.</li> <li>No objections to the proposal raised, subject to recommended conditions of consent in accordance with Section 79BA of the EP&amp;A Act 1979 (dated 08/11/2016).</li> </ul>
•	Ingress and egress of site traffic via Winnima Lane.	<ul> <li>Considered by Council's Assets &amp; Works Section and Development Engineer.</li> <li>No objections raised.</li> </ul>
•	Very minimal separation between the proposed development and shared boundary of No. 9 Beach Street, in clear breach of the NSW Apartment Design Guide (ADG), Section 3F.  This states that the minimum separation to the boundary for a 4 storey building should be 6m from habitable rooms and 3m from non-habitable rooms. The proposal has separations of about 2.3-3m from both habitable and non-habitable rooms to the boundary.	<ul> <li>The applicant has designed this proposal in relation to future development on neighbouring sites rather than that existing. It is noted that the existing development on the neighbouring sites are no longer 'permissible' in the prescribed land use zone and are reliant on existing use rights. The provisions of SLEP 2014 and SDCP 2014 intend for the redevelopment of these sites.</li> <li>The proposed design responses (i.e. reduction in the extent of balconies, installation of additional privacy screens etc.) and window design are acceptable.</li> </ul>
•	Proposal should be amended to ensure the minimum 6m separation is maintained from habitable rooms to the shared boundaries (as per Objective 3F). This minimum separation should be increased along the shared boundary to minimise the overshadowing impact (as per Objective 3B-2). A wider separation and deep soil zone along this boundary would reduce both the privacy and overshadowing significantly.	The information provided by the applicant confirms the impact of these amendments on the solar access to the dwelling units within the proposed development and future development on neighbouring sites.  The applicant has addressed SZ comments on the proposal.
•	Objective 3B-2 of the ADG gives additional guidance as to how a property may be designed so as to minimise the	Addressed, as above.



overshadowing to neighbours, such as increasing the boundary separation, increasing setbacks on the top level and the building alignment.

None of this guidance has been followed.

- Proposal should be amended to ensure there is an increased setback on the top storey along the south side to minimise the overshadowing impact (as per Objective 3B-2). Section 3F seems to suggest that any part of the building over 12m in height should be at least 9m from the boundary.
- Instead of trying to minimise the impact to adjoining properties, the plan actually exceeds the limits in many areas:
  - building height exceeds the 13m maximum;
  - ii. FSR exceeds the maximum by 29sqm;
  - iii. 6m boundary separations not maintained;
  - iv. the top level setback less than minimum allowed;
  - does not appear to provide sufficient deep soil zone at rear/centre of property; and
  - vi. the basement is not set back the sufficient distance from the side boundary.

Addressed, as detailed in this report.

### (e) The public interest

The proposed development generally complies with the provisions of SLEP 2014 and is broadly consistent with SDCP 2014. Subject to conditions of consent, the development is not expected to have any negative impacts on the environment or the amenity of the locality as detailed in this report.

## 7. Recommendation

This application has been assessed having regard for Section 79C (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA16/2070 be approved subject to appropriate conditions of consent.





Appendix A - Apartment Design Guide Compliance Summary

Design Criteria or Guidance	Applicant Comment	Council Comment
Part 3B - Orientation		
Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1)	The proposal adopts the primary street setback line. It is oriented east/west to capture views of the beach and bush. It avoids views north and south into adjacent properties.	Complies. Building defines Beach Street with direct pedestrian access.
Where the street frontage is to the east or west, rear buildings should be orientated to the north		Not applicable. Only one (1) building proposed.
Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2)		Not applicable. Street frontage is to the east/west.
Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access	This Objective refers to 3D and 4A for guidance. The applicable Design Guidance of those Objectives when read with the neighbouring site to the south (9 Beach Street) as the subject are:	Studio Zanardo (SZ) advised "The objective is achieved by meeting the design guidance. However, solar access is not achieved to units (see 4A-1). However, privacy impacts are created (see 3F-1)."
	3D-1 asks for: - 25 % of the site to be communal open space, and; - a minimum of 50% direct sunlight to the principal usable part of the	The applicant has amended the design to address SZ comments:  • The glass line of Unit GA living room has been brought forward to
Solar access to living rooms, balconies and private open spaces of neighbours should be considered	communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)  The site area of 9 Beach Street is assumed to be 1020sqm	increase the solar access. This brings the total to 9 of 12 units (75%).  Side windows facing north or south have been redesigned with splayed walls to face east or west, and not directly towards the
Where an adjoining property does not currently receive the required hours solar access, the proposed building ensures solar access to neighbourin properties is not reduced by more than 20%	- 1020 x 25% x 50% = 127sqm of open space to receive 2 hours of light mid winter - Refer to Drawing 8201 (appended below). It indicates that at least that amount of open space receives direct light for most of the day	boundary. All splayed walls are a minimum 3m from the boundary.
If the proposal will significantly reduce the solar access of neighbours,	4A stipulates: (2). In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct	
building separation should be increased beyond minimums contained in section 3F Visual privacy	sunlight between 9 am and 3 pm at mid winter  The objective accepts there will be 15% of apartments that get NO light in mid winter.	
Overshadowing should be minimised to the south or downhill by increased upper level setbacks	If the 8am – 11am range in the DCP is cited, the Living Room and deck on the main house on the property adjoining directly to the south of the	
It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are	subject land will receive the minimum solar exposure as specified by the ADG.	
higher than the adjoining development	In relation to the detached granny flat located on the same adjoining property, it is accepted that during winter, this structure will receive little direct sunlight. In response to this, the following is noted:	
A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings	1) The site and all adjoining lots are zoned B4 mixed use business. 2) The Council has, through the adoption of statutory building height and FSR controls, and a site specific DCP, outlined its vision for the future desired character of the area. 3) The subject granny flat is not the main dwelling on the property. The main dwelling and associated outdoor recreation area will receive adequate sunlight as per the ADG. 4) Existing and minor developments on adjoining lots (i.e. granny flats),	
	which are now not permissible within the B4 zone and only lawfully exist due to existing use rights allowances, must be viewed in a broad context and in accordance with the well documented future desired character of the area.	



Part 3C – Public Domain Interface		
Terraces, balconies and courtyard apartments should have direct street entry,	Both Ground floor apartments have direct access to the footpath to	Complies. Direct entry to Beach Street.
where appropriate	encourage a strong connection to ground floor dwellings from the public	*
Changes in level between private terraces, front gardens and dwelling entries	realm.	Complies.
above the street level provide surveillance and improve visual privacy for	The primary building entry point is consumed with a negative transfer	
ground level dwellings (see figure 3C.1)  Upper level balconies and windows should overlook the public domain	The primary building entry point is announced with a pergola structure.  It houses the mailboxes.	Complies.
Opper level balconies and windows should overlook the public domain	it houses the mailboxes.	Compiles.
Front fences and walls along street frontages should use visually permeable	The Beach Street frontage has a 1m wide strip of planting to subtly	Complies.
materials and treatments. The height of solid fences or walls should be limited	separate the public and private spaces and dress the presentation of	•
to 1m	the building of the street.	
Length of solid walls should be limited along street frontages		Complies.
Opportunities should be provided for casual interaction between residents		Complies.
and the public domain. Design solutions may include seating at building		
entries, near letter boxes and in private courtyards adjacent to streets		
In developments with multiple buildings and/or entries, pedestrian entries and		Not applicable.
spaces associated with individual buildings/entries should be		
differentiated to improve legibility for residents, using a number of the		
following design solutions:  • architectural detailing,		
changes in materials,		
• plant species, and		
• colours.		
Opportunities for people to be concealed should be minimised		Complies.
Planting softens the edges of any raised terraces to the street, for example	The principles have been adopted	Complies.
above sub-basement car parking	The principles have been adopted.	Compiles.
Mail boxes should be located in lobbies, perpendicular to the street alignment		Complies.
or integrated into front fences where individual street entries are provided The visual prominence of underground car park vents should be minimised		Complies.
and located at a low level where possible		Compiles:
Substations, pump rooms, garbage storage areas and other service		Complies.
requirements should be located in basement car parks or out of view		
Ramping for accessibility should be minimised by building entry location and		Complies.
setting ground floor levels in relation to footpath levels  Durable, graffiti resistant and easily cleanable materials should be used		Appears to comply.
Durable, graniti resistant and easily cleanable materials should be used		Appears to compry.
Where development adjoins public parks, open space or bushland, the design		Across the street from a public reserve.
positively addresses this interface and uses a number of the following design		
solutions:		
• street access, pedestrian paths and building entries which are clearly defined.		
• paths, low fences and planting that clearly delineate between		
communal/private open space and the adjoining public open space, and		
minimal use of blank walls, fences and ground level parking.		
On sloping sites protrusion of car parking above ground level should be		Not applicable.
minimised by using split levels to step underground car parking		
Part 3D – Communal & Public Open Space	<u> </u>	
Communal open space has a minimum area equal to 25% of the site (see	The subject land is located directly across the road from a public reserve	SZ advised "The proposal does not meet the design criteria, however the
figure 3D.3)	and is within one of the Shoalhaven's most amenable locations.	design guidance has been used to vary the design criteria to achieve the
Developments achieve a minimum of 50% direct sunlight to the principal		objective. The proposal does not provide any communal open space,
usable part of the communal open space for a minimum of 2 hours between	The adjoining public reserve will be directly accessible for all occupants	however larger than minimum balconies and courtyards have been
9 am and 3 pm on 21 June (mid winter)	and it will serve development well with respect to outdoor recreation	provided and the site is within good proximity to public open space of
Communal open space should be consolidated into a well-designed, easily identified and usable area	opportunities.	Tapalla Point and Moona Moona Beach."
Communal open space should have a minimum dimension of 3m, and larger	The adjoining public reserve, open space and beach area add to the	
developments should consider greater dimensions	value of the site and will be a great asset for future occupants of the	

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Communal open space should be co-located with deep soil areas	development. This therefore removes the need for any dedicated	
Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies	communal open space to form part of the development. It is simply not required.	
Where communal open space cannot be provided at ground level, it should be provided on a podium or roof Where developments are unable to achieve the design criteria, such as on	The ground level open space has been dedicated to the ground level apartments as good quality private open space with deep soil planting.	
small lots, sites within business zones, or in a dense urban area, they should:	It is considered that the occupancy and maintenance will more likely be higher as private open space.	
<ul> <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, and</li> </ul>	We reiterate that this strategy is justified by the extensive public landscaped space and beach immediately across the road. There are ample areas with a variety of size, shade and shelter.	
demonstrate good proximity to public open space and facilities and/or provide contributions to public open space.	Immediately across the lane to the west, there is a creek and clearing presenting useable space.	
	All residents have convenient access to a variety of spaces to support a range of recreational uses.	
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:  • seating for individuals or groups.  • barbecue areas,  • play equipment or play areas, and	Refer to 3D-1	Not applicable.
swimming pools, gyms, tennis courts or common rooms.		
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.		Not applicable.
Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks		Not applicable.
Communal open space and the public domain should be readily visible from	There is limited surveillance from private open space balconies and	Design is satisfactory.
habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include:  • bay windows, • corner windows, and • balconies.	some windows. The entry lobby and basement carpark will have secure access for resident safety.	Public open space is available in the public reserve across the street, as outlined above. This space will be visible from the units facing Beach Street.
Communal open space should be well lit		Not applicable.
Where communal open space/facilities are provided for children and young people they are safe and contained		Not applicable.
The public open space should be well connected with public streets along at least one edge	The proposal maintains the current public access condition.	Not applicable.
The public open space should be connected with nearby parks and other landscape elements	The building addresses both street frontages and access to the primary entry can be gained from either frontage.	Not applicable.
Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid	only can ac games non cancer nonlage.	Not applicable.
Solar access should be provided year round along with protection from strong winds		Not applicable.
Winds Opportunities for a range of recreational activities should be provided for people of all ages		Not applicable.
A positive address and active frontages should be provided adjacent to public open space		Not applicable.
Sparies should be clearly defined between public open space and private areas		Not applicable.



#### Part 3E - Deep Soil Zones Deep soil zones are to meet the following minimum requirements: - 7% (70sqm) of the site area is required to be deep soil. Complies Minimum dimension: 6m Percentage of site area: 7% - Refer to Drawing A1500 (appended here) On some sites it may be possible to provide larger deep soil zones, depending Complies. The private open space gardens to dwellings GA and GB total 90sqm. on the site area and context: 10% of the site as deep soil on sites with an area of 650m2 - 1,500m2 The requirement is satisfied. • 15% of the site as deep soil on sites greater than 1,500m2 - Also, a total of 320sqm of soft landscaping and permeable paving are Design is satisfactory. Complies. Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and | proposed to satisfy the DCP requirement. stability for mature trees. Design solutions may include: · basement and sub-basement car park design that is consolidated beneath building footprints · use of increased front and side setbacks · adequate clearance around trees to ensure long term health · co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil Achieving the design criteria may not be possible on some sites including Not applicable. Design criteria has been achieved. • the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas or in centres) • there is 100% site coverage or non-residential uses at ground floor level. Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure. Part 3F - Visual Privacy Separation between windows and balconies is provided to ensure visual | Shoalhaven City Council has adopted a site specific DCP for various B4 | Non-compliance. The provisions of Clause 6A, SEPP No 65 apply privacy is achieved. Minimum required separation distances from buildings to zoned precincts throughout Huskission. The area specific DCP the side and rear boundaries are as follows (for building heights up to 12m): nominates suitable building separation distances. The separation The provisions of A1.2 of Control 5.5.2, Chapter N19, SDCP 2014 are in Habitable rooms and balconies: 6m distances specified within the area specific DCP in our view are the this regard set aside with the SEPP and associated ADGs prevailing. Non-habitable rooms: 3m appropriate design guidance tool for building separation. Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a The separation distances foreshadowed by the ADG in this regard 'ziggurat' appearance For residential buildings next to commercial buildings, separation distances The Shoalhaven site specific DCP building separation distances were should be measured as follows: · for retail, office spaces and commercial balconies use the habitable room formulated as a result of an independent and area specific urban design distances

solutions include: · site layout and building orientation to minimise privacy impacts (see also

· for service and plant areas use the non-habitable room distances

between buildings on site and for neighbouring buildings. Design

section 3B Orientation) · on sloping sites, apartments on different levels have appropriate visual

New development should be located and oriented to maximise visual privacy

separation distances (see figure 3F.4) Apartment buildings should have an increased separation distance of 3m (in

addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)

Direct lines of sight should be avoided for windows and balconies across

No separation is required between blank walls

study commissioned by the Council. The urban design study took into account such matters as existing subdivision pattern, existing allotment size and future desired character. The study was subject to extensive public consultations and it directly informed the content of the DCP applicable to the land today.

The distance between the proposed building and the existing residence to the south is 12m which is in full compliance with Council's adopted localised controls which are outlined in the Shoalhaven DCP 2014.

The controls within Council's DCP anticipate a higher density of development and specifies between 6 and 9m separation between windows of adjoining buildings.

Sliding privacy screens have been added to bedroom windows to permit the residents to achieve privacy without drawing a curtain and limiting access to light and ventilation.

Should a similar building be designed for 9 Beach Street, the DCP objectives can be satisfied.

SZ advised "The objective is not achieved because the design criteria and the design guidance is not met. A reasonable level of privacy will not be achieved due to inadequate building separation distances. Privacy screens to windows are not considered to be an acceptable solution to ameliorate privacy impacts. Outlook from habitable room windows will also be compromised by inadequate separation distances. Consideration should be given to adjusting the noncompliant habitable windows such that windows do not face directly towards the boundary. 'Pop-out' windows, or similar, can effectively present a solid wall to the boundary for privacy whilst diverting views to run along the side boundary setbacks towards more desirable outlooks

The applicant has amended the design to address SZ comments:

Side windows facing north or south have been redesigned with splayed walls to face east or west, and not directly towards the boundary. All splayed walls are a minimum 3m from the boundary.

visitors and residents (see figure 4T.3)

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Communal open space, common areas and access paths should be Privacy screens are provided to the north facing ground floor private | SZ advised "The objective is not achieved because the design guidance is separated from private open space and windows to apartments, particularly open spaces to screen them from the communal entry path. not met. The privacy and outlook of habitable room windows to unit GA are habitable room windows. Design solutions may include: compromised. Privacy screens to windows are not considered to be an acceptable solution to ameliorate privacy impacts. Consider introducing setbacks solid or partially solid balustrades to balconies at lower levels privacy louvres, to match those used on balconies, along the southern side · fencing and/or trees and vegetation to separate spaces of the entry path. Ensure that the planters in front of the windows provide screening devices a positive outlook from the habitable rooms. · bay windows or pop out windows to provide privacy in one direction and The applicant has amended the design to address SZ comments: · raising apartments/private open space above the public domain or Privacy louvres have been added to the southern side of the entry communal open space · planter boxes incorporated into walls and balustrades to increase visual path, with planters in place to provide a positive outlook. separation · pergolas or shading devices to limit overlooking of lower apartments or private open space · on constrained sites where it can be demonstrated that building layout opportunities are limited, fixed louvres or screen panels to windows and/or balconies Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas Balconies and private terraces should be located in front of living rooms to increase internal privacy Windows should be offset from the windows of adjacent buildings Recessed balconies and/or vertical fins should be used between adjacent halconies Part 3G - Pedestrian Access and Entries Multiple entries (including communal building entries and individual ground | 1. The project has 3 entry points from the primary frontage to Beach | Complies. floor entries) should be provided to activate the street edge Street. Two are gates that directly access the private gardens of apartments GA and GB. Entry locations relate to the street and subdivision pattern and the existing Complies. The third and primary site entry point is adjacent and marked by a Complies. Building entries should be clearly identifiable and communal entries should pergola structure and path leading to the entry door. The mailboxes are be clearly distinguishable from private entries Where street frontage is limited and multiple buildings are located on the site. incorporated into the entry pergola to further signify its role as the Not applicable. a primary street address should be provided with clear sight lines and primary, public, pedestrian entry point. pathways to secondary building entries The path leading from that threshold is in direct line of sight to another canopy providing shelter at the entry door to the building. 2. A new paved footpath is proposed for the Beach Street frontage and anticipates a more defined pedestrian edge to this side of the street. The new path connects to the proposed entry points to reinforce the prominence of the entry points 3. As noted above, the communal entry is signified by a pergola structure, mailboxes and street numbering. Building access areas including lift lobbies, stairwells and hallways should be 1. Barrier free access is proposed from the site boundary to and within Complies. clearly visible from the public domain and communal spaces the building entry lobby. There is lift to provide disabled access to each apartment entry door. This is in line with statutory requirements and all Complies. The design of ground floors and underground car parks minimise level necessary sign and tactile assistance will be provided. changes along pathways and entries Steps and ramps should be integrated into the overall building and landscape Not applicable. 2. The basement carpark has provision for accessible carparking and barrier free access to the basement lift that leads to all residential floors. Not applicable. For large developments 'way finding' maps should be provided to assist



For large developments electronic access and audio/video intercom should be provided to manage access  Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport  Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain	Pedestrian steps and ramps have been eliminated.     N/A      N/A  N/A	Not applicable.  Not applicable.  Not applicable.
active uses, where appropriate		
Part 3H – Vehicle Access		
Car park access should be integrated with the building's overall facade. Design solutions may include: • the materials and colour palette to minimise visibility from the street • security doors or gates at entries that minimise voids in the facade • where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed	Vehicle entry is from Winnima Lane and this is common for most properties in the street. The ramp is located in the undercroft with the service and garbage rooms. Visitor parking is on the surface and accessed from the lane.  There is no existing footpath on Winnima Lane.	Complies.
Car park entries should be located behind the building line		Design is satisfactory.
Vehicle entries should be located at the lowest point of the site minimising	There is no vehicle access from the Beach Street frontage which facilitates the majority of pedestrian traffic past the site.	Complies.
ramp lengths, excavation and impacts on the building form and layout	racilitates the majority of pedestrian traffic past the site.	Compiles.
Car park entry and access should be located on secondary streets or lanes where available	Vehicle and pedestrian movement conflicts have been avoided.	Complies.
Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided	The basement ramp is single lane width to minimise the impact on the building form. The façade finishes are continued into the alcove that	Design is satisfactory.
Access point locations should avoid headlight glare to habitable rooms	surrounds the ramp. The roller shutter is at the base of the ramp to reduce its presentation to the street.	Complies.
Adequate separation distances should be provided between vehicle entries and street intersections	A sizeable planter box bounds the driveway to the Lane boundary. The	Complies.
The width and number of vehicle access points should be limited to the minimum	planting will reduce the visibility of the vehicle entry ramp.	Complies.
Visual impact of long driveways should be minimised through changing alignments and screen planting		Complies.
The need for large vehicles to enter or turn around within the site should be avoided		Complies.
Garbage collection, loading and servicing areas are screened		Complies. Garbage collection will be by commercial contract only.
Clear sight lines should be provided at pedestrian and vehicle crossings		Complies.
Traffic calming devices such as changes in paving material or textures should be used where appropriate		Not applicable.
Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include:		Complies.
3J Bicycle and car parking		
For development in the following locations:  • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or  • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre	The DCP requires 2 carspaces per dwelling including visitors. They are all provided off street.	Complies, car parking provided in accordance with DCP. The basement carpark provides parking for 22 vehicles, with 2 spaces provided at ground level.  SZ advised "The objective is achieved by meeting the design criteria and the design guidance. It is noted that the number of car spaces provided exceeds the minimum required under CTTGD and could be reduced."
The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement		



	Council's position in relation to this is that it supports the numeric provision of spaces. The reason for this is that the Shoalhaven is heavily vehicle dependent with minimal public and accessible transport found in more urbanised environments.
	Not applicable.
	Not applicable.
Car and bicycle parking are the most common modes of transport in the area and secure parking has been provided.  Visitor bicycle parking is provided adjacent the visitor parking space accessed from Winnima Lane.  The resident storage cages on ground floor will be sized to be able to accommodate bicycles in a secure room.  Each apartment has two basement carspaces. An owner has the choice of combination of car, motorbike, scooter etc in a secure location.	SZ advised "The objective is not achieved because the design guidance is not met. No parking has been provided for motorbikes or scooters. Motorcycle and scooter parking could be provided in the space at the basement level adjacent to the car park ramp (A1000)."  The applicant has amended the design to address SZ comments:  Parking for motorcycles and scooters has been included in the basement.  "An electric vehicle charging station can be retrofitted if desirable."  Whilst no details were provided, power could be made available and the development could comply.
Safety provisions of AS2890.1 have been considered and implemented.  Service rooms are accessed via separate access pathways and do not cross parking or driveway spaces  The basement has lift access. There is adequate clearance in front of the door for pedestrians to wait for the lift and be out of the driveway aisle.	SZ advised "The objective is not achieved because the design guidance is not met. A safe, direct and accessible path has not been provided from the on-grade car parking spaces to the lobby. This could occur through the space where the airconditioning units are currently located and with a small adjustment to the corner of the hydraulic pump room to allow an adequate path."  The applicant has amended the design to address SZ comments:  A safe, direct and accessible path has been included from the ongrade car parking spaces to the lobby.  Condition able to be imposed regarding lighting if required.
The layout of the carpark is efficient with a double loaded central aisle to minimise excavation footprint.	Complies.
Centralised lift and stairs minimize duplicated circulation paths.	Complies. The car parking area has been designed with a logical layout.
In order to maximise single level, continuous landscape, and minimize level changes, the basement has been located almost entirely underground. Outside air will be admitted by the perforated roller shutter and a centralised mechanical exhaust will be available if activated by the CO meter.	Complies.
and do motion.	Not applicable.
Two carspaces are located directly off Winnima Lane. They are partly in	SZ advised "The objective is achieved by meeting the design guidance.
the undercroft under the Level 1 apartments. They are bounded on one side by a substantial planter that includes a significant tree.  Given that the space is predominantly above the basement carpark and	However, a safe and direct access to building entry points has not been provided from on-grade parking (see 3J-3)."  The applicant has amended the design to address SZ comments:
	area and secure parking has been provided.  Visitor bicycle parking is provided adjacent the visitor parking space accessed from Winnima Lane.  The resident storage cages on ground floor will be sized to be able to accommodate bicycles in a secure room.  Each apartment has two basement carspaces. An owner has the choice of combination of car, motorbike, scooter etc in a secure location.  Safety provisions of AS2890.1 have been considered and implemented.  Service rooms are accessed via separate access pathways and do not cross parking or driveway spaces  The basement has lift access. There is adequate clearance in front of the door for pedestrians to wait for the lift and be out of the driveway aisle.  The layout of the carpark is efficient with a double loaded central aisle to minimise excavation footprint.  Centralised lift and stairs minimize duplicated circulation paths.  In order to maximise single level, continuous landscape, and minimize level changes, the basement has been located almost entirely underground. Outside air will be admitted by the perforated coller shutter and a centralised mechanical exhaust will be available if activated by the CO meter.

parking is incorporated into the landscape design of the site, by extending planting and materials into the car park space stormwater run-off is managed appropriately from car parking surfaces bio-swales, rain gardens or on site detention tanks are provided, where appropriate light coloured paving materials or permeable paving systems are used and shade trees are planted between every 4-5 parking spaces to reduce increased surface temperatures from large areas of paving Exposed parking should not be located along primary street frontages  Screening, landscaping and other design elements including public art should be used to integrate the above ground car parking with the facade. Design solutions may include:  car parking that is concealed behind the facade, with windows integrated into the overall facade design (approach should be limited to developments where a larger floor plate podium is suitable at lower levels) car parking that is 'wrapped' with other uses, such as retail, commercial or two storey Small Office/Home Office (SOHO) units along the street frontage (see figure 3J.9)	The 9sqm of rainwater catchment on the paving will drain to the new kerb and gutter.  N/A	Complies. Exposed parking is located only along Winnima Lane.  Not applicable.
Positive street address and active frontages should be provided at ground level		Complies.
Part 4A – Solar and Daylight Access		
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.  In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter.  A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	All apartments achieve direct mid winter sun to Living Rooms and private open space.  Refer to Drawing 8210 (appended here).  All apartments achieve the 2 hours between 8am and 4pm mid winter as required by A1.1 of clause 5.6 Energy Conservation of the Shoalhaven Development Control Plan 2014.  75% of apartments receive 3 hours 9am and 3pm. 100% of dwellings will receive some mid winter light.  There are no single aspect apartments.  Internal Living areas are located on the east and western ends primarily to take advantage of the beach or bush outlook. Attached balconies are accessed directly off the Living areas and also provide shelter from	SZ advised "The objective is not achieved because the design criteria is not met. The sunlight received to habitable rooms has not been optimised. However, it is presumed that 3 hours solar access is required outside of the Sydney Metropolitan Area, Newcastle or Wollongong because of an assumption about lower density buildings and/or context. The density and built form envisaged through the controls for this site are equivalent to those in denser areas. Therefore, it may be reasonablethat the 2 hours provided in the proposal is a satisfactory level of amenity. Only 8 of 12 units (67%) of units receive 2 hours direct sunlight between 9am and 3pm in midwinter. Unit GA could be included by bringing forward the glass line of the living room (A8210). This would bring the total to 9 of 12 units (75%)."  The applicant has amended the design to address SZ comments:  The glass line of Unit GA living room has been brought forward to increase the solar access. This brings the total to 9 of 12 units (75%).
The design maximises north aspect and the number of single aspect south facing apartments is minimised.	summer solar gain to the Living rooms underneath.  The 'A' and 'D' stacks of apartments feature windows on the north face	Complies.
Single aspect, single storey apartments should have a northerly or easterly aspect.	to admit controlled winter light deeper into the rooms for most of the day.	Complies.
Living areas are best located to the north and service areas to the south and west of apartments.		Complies.
To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used:  - dual aspect apartments - shallow apartment layouts - two storey and mezzanine level apartments - bay windows  To maximise the benefit to residents of direct sunlight within living rooms and		Complies.
private open spaces, a minimum of 1m2 of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes.  Achieving the design criteria may not be possible on some sites. This		Not applicable.
includes:		ivot applicable.

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where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source on south facing sloping sites where significant views are oriented away from the desired aspect for direct sunlight  Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective  Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms.  Where courtyards are used:  use is restricted to kitchens, bathrooms and service areas building services are concealed with appropriate detailing and materials to visible walls courtyards are fully open to the sky access is provided to the light well from a communal area for cleaning and maintenance acoustic privacy, fire safety and minimum privacy separation distances (see section 3F Visual privacy) are achieved.  Opportunities for reflected light into apartments are optimised through: reflective exterior surfaces on buildings opposite south facing windows positioning windows to face other buildings or surfaces (on neighbouring sites or within the site) that will reflect light integrating light shelves into the design light coloured internal finishes  A number of the following design features are used: balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas shading devices such as eaves, awnings, balconies, pergolas, external louvres and planting horizontal shading to north facing windows vertical shading to east and particularly west facing windows vertical shading to low adjustment and choice high performance glass that minimises external glare off windows, with	There are no internal courtyards or light wells. All windows are on the external perimeter.  Balconies, pergolas and vertical sliding screens are all used for solar and visual privacy.	Complies.  Not applicable.  Not applicable.  Complies.
below 20% (reflective films are avoided).		
Part 4B – Natural Ventilation	I	
The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms.	Drawing A8200 indicates through/cross ventilation paths with green dotted lines that occur in ALL dwellings given they are all corner	Complies.
Depths of habitable rooms support natural ventilation.	apartments. That equates to 100% natural ventilation.	Complies.
The area of unobstructed window openings should be equal to at least 5% of the floor area served.		Complies.
Light wells are not the primary air source for habitable rooms.		Complies.
Doors and openable windows maximise natural ventilation opportunities by using the following design solutions:  • adjustable windows with large effective openable areas  • a variety of window types that provide safety and flexibility such as awnings and louvres  • windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors.		Complies.
Apartment depths are limited to maximise ventilation and airflow (see also figure 4D.3).	There are no single aspect apartments.	Complies.
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Natural ventilation to single aspect apartments is achieved with the following design solutions:  • primary windows are augmented with plenums and light wells (generally not suitable for cross ventilation)  • stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas or rooms such as bathrooms and laundries  • courtyards or building indentations have a width to depth ratio of 2:1 or 3:1 to ensure effective air circulation and avoid trapped smells.  At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels.	Drawing A8200 indicates through/cross ventilation paths with green dotted lines that occur in ALL dwellings given they are all corner apartments. That equates to 100% natural ventilation.	Not applicable.  Complies.
allows adequate natural ventilation and cannot be fully enclosed.		
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	All through ventilation paths are less than 18m in length.	Not applicable.
The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths.	All apartments have corner locations permitting a variety of open/shut window configurations to maximise access to available breezes.	Complies. Mix of apartment types proposed.
In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment (outlet side) (see figure 4B.4).		Not applicable.
Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow		Complies.
Apartment depths, combined with appropriate ceiling heights, maximise cross ventilation and airflow		Complies.
Part 4C – Ceiling Heights		
Minimum ceiling heights are: Habitable rooms: 2.7m Non-habitable: 2.4m 2 Storey apartments: 2.7m for min living room floor, 2.4m for second floor (where its areas does not exceed 50% of the apartment area) Attic spaces: 1.8m at the edge of the room with 30 degree minimum ceiling slope If located in mixed use areas: 3.3m for ground and first floors.	The 3040mm floor to floor dimension less the 200mm concrete slab permits a suspended plasterboard ceiling at 2700 to Living and Bedrooms. Kitchens and Bathrooms will achieve 2400 ceilings in order to conceal ventilation and plumbing services.  The ceiling height criteria are satisfied except 2.7m is provided on the ground floor. It is not envisaged the Ground floor will be converted to nonresidential use.	Complies.
Ceiling height can accommodate use of ceiling fans for cooling and heat distribution.		Complies.
A number of the following design solutions can be used:  • the hierarchy of rooms in an apartment is defined using changes in ceiling heights and alternatives such as raked or curved ceilings, or double height spaces  • well proportioned rooms are provided, for example, smaller rooms feel larger and more spacious with higher ceilings  • ceiling heights are maximised in habitable rooms by ensuring that bulkheads do not intrude. The stacking of service rooms from floor to floor and coordination of bulkhead location above non-habitable areas, such as robes or storage, can assist.	The ceiling height criteria are satisfied.	Complies.
Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses (see figure 4C.1).	The ceiling height criteria are satisfied except 2.7m is provided on the ground floor. It is not envisaged the Ground floor will be converted to nonresidential use.	Not applicable.
Part 4D – Apartment size and layout		
Apartments are required to have the following minimum internal areas: Studio: 35m2 1 Bedroom: 50m2 2 Bedroom: 70m2 3 Bedroom: 90m2 The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each. A fourth bedroom and	The criteria are satisfied.  Nett internal apartment areas: APT NO. / Occupancy / AREA GA / 3BED /110 m2 GB / 3BED /114 m2 1A / 3BED /110 m2	Complies.

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further additional bedrooms increase the minimum internal area by 12m2 each.	1B / 3BED /114m2 1C / 2BED /84 m2	
Every habitable room must have a window in an external wall with a total	1D / 3BED /100 m2	Complies.
minimum glass area of not less than 10% of the floor area of the room.	2A / 3BED /110m2	
Daylight and air may not be borrowed from other rooms.	2B / 3BED /114m2	
Kitchens should not be located as part of the main circulation space in larger	2C / 2BED /84m2	Complies.
apartments (such as hallway or entry space).	2D / 3BED /100m2	
A window should be visible from any point in a habitable room.	3A / 3BED /149m2	Complies.
The state of the	3B / 3BED /132 m2	
Where minimum areas or room dimensions are not met apartments need to		Complies.
demonstrate that they are well designed and demonstrate the usability and	Every habitable room has a window in an external wall with a total	
functionality of the space with realistically scaled furniture layouts and	minimum glass area of not less than 10% of the floor area of the room.	
circulation areas. These circumstances would be assessed on their merits.		
Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	All living areas and bedrooms should be located on the external face of	Complies.
	the building.	
In open plan layouts (where the living, dining and kitchen are combined) the		Complies.
maximum habitable room depth is 8m from a window.	The balcony doors leading from the Living rooms face east and west	<b>'</b>
Greater than minimum ceiling heights can allow for proportional increases in	under the shelter of the balconies above. All address the outlook of the	Not applicable.
room depth up to the permitted maximum depths.	either the beach or the bush.	''
All living areas and bedrooms should be located on the external face of the		Complies.
building.	The "A" stack kitchen back bench nosing is at 10m from the balcony	•
Where possible:	glazing. This is considered acceptable because the front bench is within	Complies where possible. Six (6) of the units have windows that are
bathrooms and laundries should have an external openable window	8m. The back "work" bench is likely to always be artificially lit to achieve	openable. Mechanical ventilation can assist, and is an acceptable solution
• main living spaces should be oriented toward the primary outlook and aspect	the high lux level needed for preparation and cooking.	as acknowledged in the BCA.
and away from noise sources		
,	The criteria are satisfied.	
Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2	Refer to drawing A8200. All minimum habitable room areas and widths	Complies.
(excluding wardrobe space)	are achieved.	
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	L	Complies.
	Direct access from Living areas to bedrooms is limited and screens.	
Living rooms or combined living/dining rooms have a minimum width of:	The division (Division (Leaders and Control of Control	Complies.
3.6m for studio and 1 bedroom apartments	The Living/Dining/balcony spaces are joined and sized to permit a	
• 4m for 2 and 3 bedroom apartments	variety of furnishing arrangements.	N. c. W. L.
The width of cross-over or cross-through apartments are at least 4m internally	The required wardrobe lengths are provided.	Not applicable.
to avoid deep narrow apartment layouts.	The required wardrope lengths are provided.	O annual la ca
Access to bedrooms, bathrooms and laundries is separated from living areas		Complies.
minimising direct openings between living and service areas.		0li
All bedrooms allow a minimum length of 1.5m for robes.		Complies.
The main bedroom of an apartment or a studio apartment should be provided		Complies.
with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high.		Compiles.
Apartment layouts allow flexibility over time, design solutions may include:		Complies. Apartment layout design allows flexibility.
dimensions that facilitate a variety of furniture arrangements and removal		Complice. Apartment layout design allows hexibility.
spaces for a range of activities and privacy levels between different spaces		
within the apartment		
dual master apartments		
dual key apartments		
Note: dual key apartments which are separate but on the same title are		
regarded as two sole occupancy units for the purposes of the Building Code		
of Australia and for calculating the mix of apartments		
• room sizes and proportions or open plans (rectangular spaces (2:3) are		
more easily furnished than square spaces (1:1))		
• efficient planning of circulation by stairs, corridors and through rooms to		
maximise the amount of usable floor space in rooms.		
Part 4E – Private Open Space and Balconies		
All apartments are required to have primary balconies as follows:	Nett balcony areas:	Complies and in fact exceeds the minimum.
Studio: 4m2	APT NO. / Occupancy / AREA	
	1 1	



1 Bedroom: 8m2, 2m minimum depth	GA / 3BED /72 m2	
2 Bedroom: 10m2, 2m minimum depth	GB / 3BED /124 m2	
3 Bedroom: 12m2, 2.4m minimum depth	1A / 3BED /28 m2	
The minimum balcony depth to be counted as contributing to the balcony	1B / 3BED /29m2	
area is 1m	1C / 2BED /19 m2	
For apartments at ground level or on a podium or similar structure, a private	1D / 3BED /18 m2	Complies.
open space is provided instead of a balcony. It must have a minimum area	2A / 3BED /28m2	
of 15m2 and a minimum depth of 3m.	2B / 3BED /29m2	N. c. P. 11
Increased communal open space should be provided where the number or size of balconies are reduced.	2C / 2BED /19m2 2D / 3BED /18m2	Not applicable.
	3A / 3BED /121m2	Nist southerful
Storage areas on balconies is additional to the minimum balcony size.	3B / 3BED /52 m2	Not applicable.
Balcony use may be limited in some proposals by:		Not applicable.
consistently high wind speeds at 10 storeys and above	All balconies are shelter and exceed the minimum dimensions.	''
close proximity to road, rail or other noise sources		
exposure to significant levels of aircraft noise		
heritage and adaptive reuse of existing buildings		
In these situations, juliet balconies, operable walls, enclosed wintergardens		
or bay windows may be appropriate, and other amenity benefits for		
occupants should also be provided in the apartments or in the development		
or both. Natural ventilation also needs to be demonstrated.		
Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space.	All balconies and private gardens are accessed directly from the internal Living/Dining spaces.	Complies.
Private open spaces and balconies predominantly face north, east or west.	Living/Dining spaces.	Complies.
	All balconies face either E, NE, NW or W to take advantage of outlook	·
Primary open space and balconies should be orientated with the longer side	to the beach or bush.	Complies.
facing outwards or be open to the sky to optimise daylight access into adjacent rooms.		
Solid, partially solid or transparent fences and balustrades are selected to	The criteria are satisfied.	SZ advised "The objective is not achieved because the design guidance is
respond to the location. They are designed to allow views and passive		not met. Private open space and balcony design does not contribute to the
surveillance of the street while maintaining visual privacy and allowing for a	A balance has been struck between openness, privacy and solar access	overall architectural form. Full width full height glass balustrades are used
range of uses on the balcony. Solid and partially solid balustrades are	using walls, louvre screens and pergolas.	for all east facing balconies and will not screen clothes drying. It is
preferred.	Come variation in the extent of actid wastered to the east and waste	suggested that a small portion of the balustrade be made solid (like the
Full width full height glass balustrades alone are generally not desirable.	Some variation in the extent of solid upstands to the east and west elevations assists in breaking down the floor to repetition of the	west facing balconies), to assist with visual privacy from the street and conceal the contents of the balcony including clothes drying. The
Projecting balconies should be integrated into the building design and the design of soffits considered.	elevations assists in breaking down the moor to repetition of the elevation.	balustrade in front of the badrooms may be the most suitable."
Operable screens, shutters, hoods and pergolas are used to control sunlight	Airconditioning condensers are located above the driveway ramp	The applicant has amended the design to address SZ comments:
and wind.  Balustrades are set back from the building or balcony edge where	behind louvre screens.	The applicant has different the design to address of confinents.
overlooking or safety is an issue		Solid balustrades have been added to all east facing balconies.
Downpipes and balcony drainage are integrated with the overall facade and	The ceilings of the entire upper level apartments as well as ceilings	
building design.	below the L3 balconies will be appropriately thermally insulated.	BASIX applies in relation to insulation.
Air-conditioning units should be located on roofs, in basements, or fully	Flashirity and to belassica	A sendition of several to sold be insured in relation to such several
integrated into the building design.	Electricity only to balconies.	A condition of consent could be imposed in relation to water and gas outlets
Where clothes drying, storage or air conditioning units are located on		if necessary.
balconies, they should be screened and integrated in the building design.		
Ceilings of apartments below terraces should be insulated to avoid heat loss.		
Water and gas outlets should be provided for primary balconies and private		
open space.		
Changes in ground levels or landscaping are minimised.	There will be no climbing hazards on balconies. There are no dramatic changes in ground level in the GA and GB private gardens.	Complies.
Design and detailing of balconies avoids opportunities for climbing and falls.		Complies.
Part 4F- Common Circulation and Spaces		
The maximum number of apartments off a circulation core on a single level	There is limited travel distance from the vertical circulation points to	SZ advised "The objective is not achieved because the design guidance is
is eight	each apartment entry door. At most, there are only 4 dwellings per floor	not met. Common circulation spaces do not receive good amenity. No
For buildings of 10 storeys and over, the maximum number of apartments	via security access. It is considered that adequate safety and security is	window providing daylight or natural ventilation is provided to common
sharing a single lift is 40 n/a	provided within the lobby areas.	
sharing a single lift is 40 n/a	provided within the lobby areas.	

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Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry doors.  Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.  Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors.  Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:  • a series of foyer areas with windows and spaces for seating  • wider areas at apartment entry doors and varied ceiling heights  Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments.  Achieving the design criteria for the number of apartments of 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 1 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.  Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give	Contriving to enlarge the lobbies to provide seating and other social interaction opportunities was considered unnecessary.  There are no windows or other openings from apartment interiors exposed to the lift lobbies.  Given the low population of each floor (and the security provisions to prevent unauthorized access to floors), the predicted occupancy of each	circulation spaces on levels 1, 2 and 3. A window should be provided to each of these corridor spaces by adjusting an adjacent unit."  The applicant has amended the design to address SZ comments:  A window has been provided to each lobby. The window will be frosted louvred glass to allow ventilation and maintain boundary privacy.  Design is satisfactory.
short, straight, clear sight lines. Tight corners and spaces are avoided. Circulation spaces should be well lit at night.	lobby makes it unlikely that chance meetings would regularly occur.  The ground floor lobby is larger and naturally lit. This pedestrian route to the beach makes this lobby more conducive for the desired social	Complies.  Able to comply.
Legible signage should be provided for apartment numbers, common areas and general wayfinding.  Incidental spaces, for example space for seating in a corridor, at a stair landing, or near a window are provided.  In larger developments, community rooms for activities such as owners corporation meetings or resident use should be provided and are ideally colocated with communal open space.  Where external galleries are provided, they are more open than closed above the balustrade along their length.	interactivity.	Able to comply.  Complies, as per comments by applicant.  Not applicable.  Not applicable.
Part 4G - Storage		
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Studio: 4m3 1 Bedroom: 6m3 2 Bedroom: 8m3 3 Bedroom: 10m3 At least 50% of the required storage is to be located within the apartment. Storage is accessible from either circulation or living areas.	The required apartment internal storage is provided in Linen, coat and laundry cupboards  The Ground floor storage room contains strata titled secure wire mesh enclosures for large items, including bikes.	Complies.



Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street.		Not applicable.
Left over space such as under stairs is used for storage.		Able to comply.
Storage not located in apartments is secure and clearly allocated to specific apartments.	Refer to 4G-1	Able to comply, subject to recommended condition of consent. Clear allocation of the 'chain link enclosures for resident storage' as nominated on the submitted ground floor plan, is required.
Storage is provided for larger and less frequently accessed items.		Complies.
Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages so that allocated car parking remains accessible.		Not applicable.
If communal storage rooms are provided they should be accessible from common circulation areas of the building.		Complies.
Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain.		Complies.
Part 4H – Acoustic Privacy		
Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy).  Window and door openings are generally orientated away from noise sources.  Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas. Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources.  The number of party walls (walls shared with other apartments) are limited and are appropriately insulated.  Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	The criteria are satisfied.  The apartment layouts are primarily driven by outlook, privacy etc. Intertenancy acoustic attenuation/isolation is provided by code compliant construction.  The majority of walls will be lightweight, non-loadbearing, dry lined partitions.  Standard, acoustic rating systems (from CSR, Boral, etc) will be specified to achieve the field tested performance required by the building codes. Airborne, structure borne and impact resistant criteria will be met. Using multi layer sheet and continuous double stud / cavity construction is an industry standard technique.  The floors will be monolithic concrete slabs minimum 200mm thick with either carpet or tiles on acoustic underlay to vertically separate apartments.  Habitable spaces bounding the lift and service shaft will be appropriately treated to provide acoustic isolation/attenuation.	SZ advised "The objective is not achieved because the design guidance is not met. The siting of buildings and building layout does not minimise noise transfer. Consideration should be given to adjusting the noncompliant habitable windows such that windows do not face directly towards the boundary (see 3F-1). The southern side of the entry path could include a relatively solid screen to reduce noise transfer (see also 3F-2). Ensure that the planters in front of the windows provide a positive outlook from the habitable rooms."  The applicant has amended the design to address SZ comments:  Windows have been modified to face east/west, privacy louvres have been added to the southern side of the entry path to reduce noise transfer and landscaping will be implemented to maintain a positive outlook.
Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions:  rooms with similar noise requirements are grouped together  doors separate different use zones  wardrobes in bedrooms are co-located to act as sound buffers  Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions:  double or acoustic glazing  acoustic seals  use of materials with low noise penetration properties  continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements	The wall systems will solely provide the acoustic attenuation. Joinery will not be relied upon.  All plant, equipment, drainage pipes, roller shutters etc will be acoustically isolated from habitable space.	SZ advised "The objective is not achieved because the design guidance is not met. Noise impacts are not mitigated within apartments through layout and acoustic treatments. The southern side of the entry path could include a relatively solid screen to reduce noise transfer (see also 3F-2). Ensure that the planters in front of the windows provide a positive outlook from the habitable rooms."  The applicant has amended the design to address SZ comments:  Windows have been modified to face east/west, privacy louvres have been added to the southern side of the entry path to reduce noise transfer and landscaping will be implemented to maintain a positive outlook.
Part 4J – Noise and Pollution		
To minimise impacts the following design solutions may be used:  - physical separation between buildings and the noise or pollution source	The site is not considered acoustically "hostile", hence balcony edge treatments for acoustic attenuation have not been incorporated in favour of optimising the view out.	

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residential uses are located perpendicular to the noise source and where possible buffered by other uses		
non-residential buildings are sited to be parallel with the noise source to provide a continuous building that shields residential uses and communal		
open spaces		
non-residential uses are located at lower levels vertically separating the		
residential component from the noise or pollution source. Setbacks to the underside of residential floor levels should increase relative to traffic		
volumes and other noise sources		
buildings should respond to both solar access and noise. Where solar		
access is away from the noise source, non-habitable rooms can provide a		
buffer		
where solar access is in the same direction as the noise source, dual		
aspect apartments with shallow building depths are preferable (see figure		
4J.4) • landscape design reduces the perception of noise and acts as a filter for		
air pollution generated by traffic and industry		
Achieving the design criteria in this Apartment Design Guide may not be	-	Not applicable.
possible in some situations due to noise and pollution. Where developments		
are unable to achieve the design criteria, alternatives may be considered in		
the following areas:		
solar and daylight access		
private open space and balconies     natural cross ventilation		
Design solutions to mitigate noise include:	N/A	Not applicable.
limiting the number and size of openings facing noise sources		The applicable.
providing seals to prevent noise transfer through gaps		
using double or acoustic glazing, acoustic louvres or enclosed balconies		
(wintergardens)		
using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits.		
e.g. solid balcony baldstrades, external screens and solits.		
4K – Apartment Mix		
A variety of apartment types is provided	Two and three bedroom apartments are proposed. This is considered appropriate for the location and anticipated demographic. A range of	Complies.
The apartment mix is appropriate, taking into consideration:	dwelling sizes is provided to introduce a range of price points and	Apartment mix is appropriate.
the distance to public transport, employment and education centres	affordability.	
the current market demands and projected future demographic trends		
the demand for social and affordable housing     different cultural and socioeconomic groups.		
Flexible apartment configurations are provided to support diverse household	-	Complies.
types and stages of life including single person households, families, multi-		- Compileo.
generational families and group households.		
Different apartment types are located to achieve successful facade	The criteria are satisfied.	Complies.
composition and to optimise solar access (see figure 4K.3).		
Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building		Complies.
frontage is available.		
Part 4L – Ground Floor Apartments		
Direct street access should be provided to ground floor apartments.	The criteria are satisfied.	Complies.
Activity is achieved through front gardens, terraces and the facade of the	No provision for office conversion.	Complies.
building. Design solutions may include:		
both street, foyer and other common internal circulation entrances to		
ground floor apartments		
private open space is next to the street     doors and windows face the street.		
Retail or home office spaces should be located along street frontages.	-	Not applicable.
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Ground floor apartment layouts support small office home office (SOHO)		Complies
use to provide future opportunities for conversion into commercial or retail areas. In these cases provide higher floor to ceiling heights and ground floor		Complies.
amenities for easy conversion  Privacy and safety should be provided without obstructing casual	The building is setback 7m from the Beach Street boundary, but with no	Design is satisfactory.
surveillance. Design solutions may include:  • elevation of private gardens and terraces above the street level by 1-1.5m (see figure 44.4)  • landscaping and private courtyards  • window sill heights that minimise sight lines into apartments  • integrating balustrades, safety bars or screens with the exterior design	level separation. A fence and screen planting will separate public and private spaces.	Design is suiside tory.
Solar access should be maximised through:  • high ceilings and tall windows  • trees and shrubs that allow solar access in winter and shade in summer.		Complies.
Part 4M - Facades		
Design solutions for front building facades may include:  • a composition of varied building elements  • a defined base, middle and top of buildings  • revealing and concealing certain elements  • changes in texture, material, detail and colour to modify the prominence of elements	The building facades express their internal programme and take advantage of light, view and privacy. The north and south facades are broken down by stepping, change of material and colour.	Complies, as per comments by applicant.
Building services should be integrated within the overall façade.	-	Complies.
Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include:		Complies.
well composed horizontal and vertical elements     variation in floor heights to enhance the human scale     elements that are proportional and arranged in patterns     public artwork or treatments to exterior blank walls     grouping of floors or elements such as balconies and windows on taller     buildings.		
Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights.		Not applicable.
Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals.		Complies.
Building entries should be clearly defined.	The criteria are satisfied.	Complies.
Important corners are given visual prominence through a change in	-	Not applicable.
articulation, materials or colour, roof expression or changes in height.  The apartment layout should be expressed externally through facade features such as party walls and floor slabs.		Complies.
Part 4N – Roof Design		
Roof design relates to the street. Design solutions may include: • special roof features and strong corners • use of skillion or very low pitch hipped roofs • breaking down the massing of the roof by using smaller elements to avoid bulk	The visual impact of the roof has been minimised by having the upper storey set back. Pergolas over upper balconies are used in lieu of roof overhangs to provide a lighter weight edge when seen from the ground.	Complies, as per comments by applicant.
using materials or a pitched form complementary to adjacent buildings.  Roof treatments should be integrated with the building design. Design solutions may include:     roof design proportionate to the overall building size, scale and form roof materials compliment the building service elements are integrated.		Complies.
Habitable roof space should be provided with good levels of amenity.  Design solutions may include:	N/A	Not applicable.



penthouse apartments		
dormer or clerestory windows     openable skylights.		
Open space is provided on roof tops subject to acceptable visual and		Not applicable.
acoustic privacy, comfort levels, safety and security considerations.		Trot applicable.
Roof design maximises solar access to apartments during winter and	A low pitch roof has been used to minimise visual bulk.	SZ advised "The objective is not achieved because the design guidance is
provides shade during summer. Design solutions may include:	, ,	not met. The roof design does not incorporate sustainability features. The
the roof lifts to the north		opportunity exists for skylights to units 3A and 3B."
eaves and overhangs shade walls and windows from summer sun.		
Skylights and ventilation systems should be integrated into the roof design.		The applicant has amended the design to address SZ comments:
		Sky domes have been included for units 3A and 3B.
Part 4O – Landscape Design		
Landscape design should be environmentally sustainable and can enhance	The criteria are satisfied.	Complies. Mixture of plantings proposed.
environmental performance by incorporating:		
diverse and appropriate planting		
bio-filtration gardens     appropriately planted shading trees		
appropriately planted shading trees     areas for residents to plant vegetables and herbs		
composting		
• green roofs or walls.		
Ongoing maintenance plans should be prepared.		Complies. Ongoing maintenance incorporated into submitted landscape
		plan.
Million Provide In our Library		
Microclimate is enhanced by:		Complies. Council's Landscape Architect has advised that the mixture of
appropriately scaled trees near the eastern and western elevations for shade		plantings proposed are suitable.
a balance of evergreen and deciduous trees to provide shading in summer		
and sunlight access in winter		
shade structures such as pergolas for balconies and courtyards.		
Tree and shrub selection considers size at maturity and the potential for		Complies.
roots to compete (see Table 4).		·
Landscape design responds to the existing site conditions including:	A landscape strip fronts the Beach Street boundary. Trees are proposed	Complies. Council's Landscape Architect has advised that the plantings
• changes of levels	in the private gardens to provide a substantial and three dimensional	proposed are suitable to the location.
<ul> <li>views</li> <li>significant landscape features including trees and rock outcrops.</li> </ul>	landscaped presentation to the public realm.	
Significant landscape features including trees and rock outcrops.  Significant landscape features should be protected by:		Not applicable.
• tree protection zones (see figure 40.5)		Not applicable.
appropriate signage and fencing during construction.		
Plants selected should be endemic to the region and reflect the local		Complies.
ecology.		·
Part 4P – Planting on Structures		
Structures are reinforced for additional saturated soil weight.	The criteria are satisfied.	Able to comply, detail could be provided with engineering plans at CC
		stage.
Soil volume is appropriate for plant growth, considerations include:		Able to comply detail could be previded at CC stage
		Able to comply, detail could be provided at CC stage.
• tree anchorage.		
Minimum soil standards for plant sizes should be provided in accordance		Able to comply, detail could be provided at CC stage.
with Table 5.		
	The criteria are satisfied.	
		etc. is required. In this regard, conditions of consent could be imposed.
modified substrate depths for a diverse range of plants		
Minimum soil standards for plant sizes should be provided in accordance with Table 5.  Plants are suited to site conditions, considerations include:  • drought and wind tolerance • seasonal changes in solar access	The criteria are satisfied.	Able to comply, detail could be provided at CC stage.  Complies. Council's Landscape Architect has advised that the plants proposed are suitable to the location. However, confirmation of species etc. is required. In this regard, conditions of consent could be imposed.



A landscape maintenance plan is prepared.		Complies.
Irrigation and drainage systems respond to:  - changing site conditions  - soil profile and the planting regime		Complies.
• whether rainwater, stormwater or recycled grey water is used.		
Building design incorporates opportunities for planting on structures. Design solutions may include:	The criteria are satisfied.	Complies.
green walls with specialised lighting for indoor green walls	The structural slab over the basement carpark is treated with a mix of	
wall design that incorporates planting     green roofs, particularly where roofs are visible from the public domain     planter boxes     Note: structures designed to accommodate green walls should be integrated into the building facade and consider the ability of the facade to change over	soft and hard landscaping. Refer Landscape Principles drawing.	
time.		
Part 4Q – Universal Design		
Developments achieve a benchmark of 20% of the total apartments	20% of the total apartments will incorporate the Livable Housing	SZ advised "The objective is not achieved because the design guidance is
incorporating the Livable Housing Guideline's silver level universal design features.	Guideline's silver level universal design features.	not met. Universal design features are not included in apartment design. 3 units are required to be silver level universal design. It is suggested that typical unit A or B is adjusted to meet the requirements. It is also noted that not all spaces for use in common by the residents are accessible as required by BCA/ NCC Table D3.1, including the storage room, garbage room and the car wash (A1001)."
		The applicant has amended the design to address SZ comments:
		<ul> <li>Units GB, 1B and 2B are all designed in accordance with requirements of an adaptable dwelling to silver level universal design. This is demonstrated on drawing A8300.</li> <li>Access to the storage room, garbage room and the car wash has been modified to be compliant with BCA/NCC Table D3.1.</li> </ul>
		This could be reinforced with conditions of consent.
Adaptable housing should be provided in accordance with the relevant council policy.	15% of the dwellings will be adaptable in accordance with the requirements of AS4299 Adaptable Housing, Refer drawing A8300.	Not applicable. No Council policy for the type of development proposed.
Design solutions for adaptable apartments include:		Not applicable.
convenient access to communal and public areas     high level of solar access		One (1) accessible parking space provided. Two (2) dwelling units (GB and
minimal structural change and residential amenity loss when adapted		2B) are identified as adaptable and compliant with design solutions.
larger car parking spaces for accessibility		Conditions could be imposed to reinforce the adaptability of apartments.
parking titled separately from apartments or shared car parking		
arrangements.  Apartment design incorporates flexible design solutions which may include:	Most apartments are large 3 bed dwellings. Each bedroom could double	Complies.
• rooms with multiple functions	as a study, office or store room.	Compiles.
dual master bedroom apartments with separate bathrooms	,	
larger apartments with various living space options	The Living and dining rooms are sizeable enough to permit a variety of	
open plan 'loft' style apartments with only a fixed kitchen, laundry and bathroom	furnishing options.	
Ballicom	The Livable Housing guidelines are satisfied to permit changing physical needs of the occupants.	
Part 4R – Adaptive Reuse – N/A	1	
Part 4S – Mixed Use – N/A		
Part 4T – Awnings and Signage		
Awnings should be located along streets with high pedestrian activity and active frontages.	Not addressed.	Not applicable.



A number of the following design solutions are used:  continuous awnings are maintained and provided in areas with an existing pattern  height, depth, material and form complements the existing street character protection from the sun and rain is provided awnings are wrapped around the secondary frontages of corner sites awnings are retractable in areas without an established pattern Awnings should be located over building entries for building address and public domain amenity.  Awnings relate to residential windows, balconies, street tree planting, power poles and street infrastructure.  Gutters and down pipes should be integrated and concealed.  Lighting under awnings should be provided for pedestrian safety.  Signage should be integrated into the building design and respond to the scale, proportion and detailing of the development.  Signage is limited to being on and below awnings and a single facade sign on the primary street frontage	Not addressed.	Not applicable.  Complies.  Complies.  Not applicable.  Able to comply.  Not applicable.  Able to comply.
Part 4U – Energy Efficiency	I	
Adequate natural light is provided to habitable rooms (see 4A Solar and daylight access).  Well located, screened outdoor areas should be provided for clothes drying.	Balcony balustrades have solid portions to permit and conceal clothes drying on low level portable racks.	SZ advised "The objective is not achieved because the design guidance is not met. Passive environmental design through well located, screened outdoor areas have not been provided for clothes drying it is suggested that a small portion of the balustrade be made solid (like the west facing balconies), to conceal clothes drying. The balustrade in front of the bedrooms may be the most suitable (see 4E-3)."  The applicant has amended the design to address SZ comments:  Solid balustrades have been added to all east facing balconies.
A number of the following design solutions are used:  • the use of smart glass or other technologies on north and west elevations  • thermal mass in the floors and walls of north facing rooms is maximised  • polished concrete floors, tiles or timber rather than carpet  • insulated roofs, walls and floors and seals on window and door openings  • overhangs and shading devices such as awnings, blinds and screens  Provision of consolidated heating and cooling infrastructure should be located in a centralised location (e.g. the basement)	A number of the guidance options have been adopted.	Complies, as per comments by applicant.  As per BASIX Certificate.  Not applicable.
A number of the following design solutions are used:  rooms with similar usage are grouped together natural cross ventilation for apartments is optimised natural ventilation is provided to all habitable rooms and as many non-habitable rooms, common areas and circulation spaces as possible.	The criteria are satisfied.	SZ advised "The objective is not achieved because the design guidance is not met. Inadequate natural ventilation will require mechanical ventilation. Adequate natural ventilation is not provided to the common circulation spaces on levels 1, 2 and 3. A window should be provided to each of these corridor spaces by adjusting an adjacent unit (see 4F-1)."  The applicant has amended the design to address SZ comments:  A window has been provided to each lobby. The window will be frosted louvred glass to allow ventilation and maintain boundary privacy.
Part 4V – Water Management and Conservation		
Water efficient fittings, appliances and wastewater reuse should be	The criteria are satisfied.	As per BASIX Certificate.
incorporated. Apartments should be individually metered.		Subject to Shoalhaven Water Notice.
Rainwater should be collected, stored and reused on site.		As per BASIX Certificate.

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Drought tolerant, low water use plants should be used within landscaped areas.		Complies. Council's Landscape Architect has raised no issue with the species selected.
Water sensitive urban design systems are designed by a suitably qualified professional.	The criteria are satisfied.	Complies.
A number of the following design solutions are used:  •runoff is collected from roofs and balconies in water tanks and plumbed into toilets, laundry and irrigation  •porous and open paving materials is maximised  • on site stormwater and infiltration, including bio-retention systems such as	(re-use in irrigation)	Complies.
rain gardens or street tree pits.  Detention tanks should be located under paved areas, driveways or in	The criteria are satisfied.	Complies.
basement car parks.	The Chieffa are Satisfied.	Compiles.
On large sites parks or open spaces are designed to provide temporary on site detention basins.		Not applicable.
Part 4W – Waste Management		
Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park.  Waste and recycling storage areas should be well ventilated.	The criteria are satisfied.	SZ advised "The objective is not achieved because the design guidance is not met. Waste storage facilities do not minimise the impact on the amenit of residents. The waste and recycling storage area should be ventilated.
Circulation design allows bins to be easily manoeuvred between storage and collection points.		temporary storage space for large bulk items should be provided."
Temporary storage should be provided for large bulk items such as mattresses.		The applicant has amended the design to address SZ comments:
A waste management plan should be prepared.		<ul> <li>Waste and recycling areas will be mechanically ventilated, temporary bulky good storage area has been provided in th basement below the entry ramp.</li> </ul>
		Waste management plan has been prepared.
All dwellings should have a waste and recycling cupboard or temporary storage area of sufficient size to hold two days' worth of waste and recycling.	The criteria are satisfied.	Able to comply.
Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core.		Complies.
For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses.		Not applicable.
Alternative waste disposal methods such as composting should be provided.		Able to comply.
Part 4X – Building Maintenance		
A number of the following design solutions are used:  roof overhangs to protect walls  hoods over windows and doors to protect openings  detailing horizontal edges with drip lines to avoid staining of surfaces  methods to eliminate or reduce planter box leaching  appropriate design and material selection for hostile locations	The recommended measures to protect from weathering will be provided.	Complies, as per comments by applicant.
Window design enables cleaning from the inside of the building.	Occupant safety provisions in the BCA restrict the opening of sashes to 125mm. Window cleaning will be done from the exterior.	Applicant justification is satisfactory.
Building maintenance systems should be incorporated and integrated into the design of the building form, roof and façade.		Not applicable. Specialised building maintenance systems not required.
Design solutions do not require external scaffolding for maintenance access.		Design solutions and material selections are satisfactory.
Manually operated systems such as blinds, sunshades and curtains are used in preference to mechanical systems.		Not applicable.
Centralised maintenance, services and storage should be provided for communal open space areas within the building.		Not applicable.



A number of the following design solutions are used:	Facade materials have been selected to be visually contextually	Complies. Material selections are appropriate for maintenance.
<ul> <li>sensors to control artificial lighting in common circulation and spaces</li> </ul>	appropriate. Louvres, window frames and balustrades will be	
<ul> <li>natural materials that weather well and improve with time such as face</li> </ul>	prefinished and not required ongoing maintenance.	
brickwork		
easily cleaned surfaces that are graffiti resistant	The balance of the facades will be paint finish. Coatings will be selected	
<ul> <li>robust and durable materials and finishes are used in locations which</li> </ul>	to achieve a ten year performance without recoating.	
receive heavy wear and tear, such as common circulation areas and lift		
interiors		



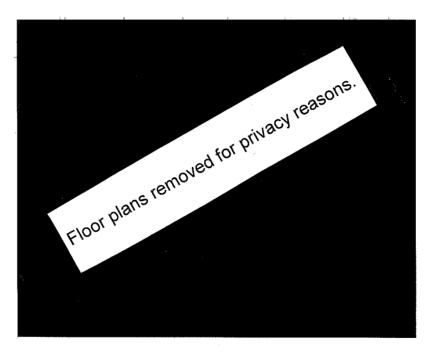


Figure 2 – 4th Floor Setbacks (Refer Appendix A)

## 3.3. Shoalhaven Local Environmental Plan 2014 - 4.3 Height of Building

The below presents the objectives of Section 4.3 Height of Building.

- 1) The objectives of this clause are as follows:
  - a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,
  - to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,
  - to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.
- The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
  - a) If the Height of Bulldings Map does not show a maximum height for any land, the height of a building on the land is not to exceed 11 metres.

The extent of the variation to building height is presented below:

- Maximum height limit = 13m;
- Lift shaft overrun = 574mm, 4.4%;
- Eastern architectural roof feature = 208mm, 1.6%;
- Western architectural roof feature = 239mm, 1.8%;

The above demonstrates that the extent of the encroachment is minor and is therefore reasonable. It is note that the extent of roof structure overrun is limited in scale and the majority of the roof structure is compliant.



Figures 3-6 presents the minor height overrun in detail.

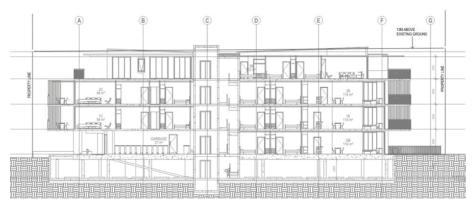
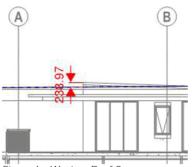
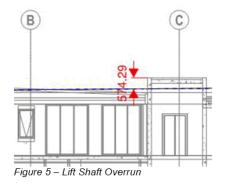


Figure 3 – Building Height Limit (Refer Appendix B)







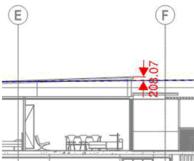


Figure 6 – Eastern Roof Overrun



Table 4 presents how each Objective is achieved in relation to Building Height and provides a compliance statement in relation to the proposed development.

Objective	How is the Objective Achieved	Compliance Statement
to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality	Photomontages were prepared and submitted with the application. The photomontages illustrate how the new building will be consistent with the size and scale of neighbouring properties 1 Beach Street and 5 Beach Street.  It is noted that the roof ridge height of 1 Beach Street is RL19.20m with the lift shaft breaching this to RL19.70. In comparison, the maximum roof ridge for 7 Beach Street is RL18.93m with the proposed lift shaft breaching this to RL19.13m.  Therefore the lift shift for 7 Beach Street is lower than the roof structure for 1 Beach Street.  They also demonstrate the minimal visual effect of the additional height from both the front and rear of the building.  The building proposed has considerable architectural merit and suitable setbacks are proposed to adjoining residential properties to ensure that the development remains compatible with the surrounding built environment. Whilst the physical form of the building does differ from some older existing development in the locality in terms of height and architectural style, it is expected to make a positive contribution to the streetscape both current and future desired.  The physical form of the building materials are proposed to be used in construction. The proposal will enhance the streetscape qualities of the area despite the minor encroachment made to the 13m height limit.  The structure will not be visually prominent from any important public places. The height of the structure (the bulk of which complies) will be compatible with the existing built environment. Of note is the fact that floor levels and building height generally match what has been constructed at No. 1 Beach St.	Objective Achieved
to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development	Overshadowing studies have been undertaken the results of which have been depicted on shadow diagrams which form part of the architectural plan set. The shadow diagrams demonstrate that the proposal is acceptable with respect to how it impacts on the adjoining residential properties. In this regard the ADG indicates that on the 21st of June adjoining properties should receive at least 3 hours of sunlight between 9am and 3pm to living room windows and 50% of private open space areas. The diagrams submitted demonstrate the degree to which the proposal achieves compliance with this.	Objective Achieved



ı		In addition the continue DIDD has so destated	
-		In addition, the architect, DJRD, has undertaken	
1		an assessment in relation to the effect of the	
		height overrun. The overshadowing studies and	
1		shadow diagrams, which form part of the	
-		architectural plan set, demonstrate that the	
-		proposal is acceptable with respect to the extent	
		to which to the building is expected to	
		, , ,	
-		encroachment is minimal.	
		No views will be impacted as a result of the	
ı		building height or overrun.	
	to ensure that the height of	N/A	N/A
	buildings on or in the vicinity		
	of a heritage item or within a		
	heritage conservation area		
	respect heritage significance.		
-	respect nemage significance.		
- 1			

Table 4: Objectives identified in SLEP - 4.3 Height of Buildings

VARIATION STATEMENT - Strict compliance with the development standard for Building Height is unreasonable and unnecessary because there are strong Environmental Planning grounds to justify contravention, in particular the development will be in the public interest because it is consistent with the objectives of the development standards for Building Height. Refer to *Table 4* and the Statement of Environmental Effects.

In line with the criteria established in *Veloshin v Randwick Council* [2007] NSWLEC 428, the following justification is provided:

- Are the impacts consistent with impacts that may be reasonably expected under the controls?
  - The building creates the exact impact that could be reasonably expected from a four story building consistent with the zoning. The building design is cognisant of the Height Limits and breaches have been limited to minor isolated areas which add to the amenity and aesthetic of the building;
  - The non-compliance caused by the height overrun constitutes an additional 4.4% to the lift shift, and a maximum 1.8% of the roof structure, due to architectural feature.
     This should be considered as a minor variation;
  - The non-compliance has no effect on the bulk and scale of the building and will, therefore, have no impact on streetscape;
  - The extent of roof structure overrun is limited in scale and the majority of the roof structure is compliant.
- Does the area have a predominant existing character and are the planning controls likely to maintain it?
  - The bulk and scale of the building will be compatible with other development in the vicinity and developments which may be erected in future;
  - The overall height limit of the development (including lift shaft) will be less than he current building height at 1 Beach Street;
- Is the proposal consistent with the bulk and character intended by the planning controls?
  - The proposed development will reflect the built form envisaged by Council and provide additional medium density development options which contribute to supporting Huskisson as a coastal town;
  - The proposed development provides a four storey apartment building consistent with the intent of the zoning controls with no significant variation;
  - The extent of roof structure overrun is limited in scale and the majority of the roof structure is compliant.
- · Does the proposal look appropriate in its context?
  - The building maintains the bulk and character intended by the planning controls and looks appropriate in its context;



 The non-compliance will have no visual impact, will not disrupt views and will not result in any loss of privacy to existing neighbouring developments or public areas.

Refer *Appendix C* for the Clause 4.6 Variation for the Height of Building Development Standard Statement.

COMPLIANCE STATEMENT – The impacts are consistent with impacts that may be reasonably expected under the controls for a residential apartment building. We consider that the building maintains the bulk and character intended by the planning controls and the building looks appropriate in its context

The above demonstrates the development meets the objectives of the SLEP. The proposal if approved, will not result in any inconsistencies with other environmental planning instruments or the objectives of the zone as outlined within the SLEP 2014.

The above justification demonstrates that the minor variation maintains the intent and integrity of the planning controls and does not set precedence for significant future variation.

The development will also not preclude development of the neighbouring property meeting the objective of the SLEP, SDCP and ADG.

Therefore it is considered reasonable in the circumstance to approve notwithstanding strict compliance is not achieved.



## 4. Floor Space Ratio (FSR)

The Floor Space Ratio requirements have been assessed against the SLEP, SDCP and ADG.

### 4.1. Apartment Design Guide - Section 2D Floor Space Ratio

There are no specific requirements for floor space ratio outlined in the ADG.

# 4.2. Shoalhaven Development Control Plan 2014 Chapter N19: Huskisson Mixed Use Zone

The below presents the objectives of Section 5.3 Density

- Provide building forms that create distinctive, attractive and pedestrian friendly coastal town streets.
- · Provide highly modulated buildings to reduce the bulk and scale of the buildings
- Provide quality urban building forms.

Compliance with the objectives is demonstrated by achieving the Acceptable Solutions in relation to building separation. *Table 5* presents the Acceptable Solutions in relation to Floor Space Ratio and provides a compliance statement in relation to the proposed development.

Provision/Clause	Acceptable Solution	Compliance Statement
5.3.2 / A1.1	Your development complies with the maximum	Objective Achieved
	FSR as shown on the Floor Space Ratio Map in	See Section 4.3
	Shoalhaven LEP 2014.	

Table 5: Objectives identified in SDCP - 7.3 Building Height

## 4.3. Shoalhaven Local Environmental Plan 2014 - 4.4 Floor Space Ratio

The below presents the objectives of Section 4.4 Floor Space Ratio

- 1) The objectives of this clause are as follows:
  - a) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of a locality.
- The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The extent of the variation to FSR is presented below:

- Site Area = 1012m2;
- FSR = 1.4:1
- Allowable Floor Space = 1416m2;
- Actual Floor Space = 1445m2;
- Additional Floor Space = 29m2, 2%;

The above demonstrates that the extent of the encroachment is minor and is therefore reasonable

The overrun is a result of moving the storage units from the basement to the ground floor. This achieves a far greater amenity to the residents than basement storage. Since providing storage in the basement does not count towards the FSR, the result of the overrun in FSR has absolutely no impact on the bulk or scale of the building.

Table 6 presents how each Objective is achieved in relation to Floor Space Ratio and provides a compliance statement in relation to the proposed development.

Objective	How is the Objective Achieved	Compliance
		Statement
to ensure that buildings are compatible with the bulk and scale of the existing and	FSR is overrun by 2% in order to provide greater amenity to residents.	Objective Achieved



desired future character of a locality.	The overrun in no way affects the size and scale of the building.  The building bulk and scale is less than that of the neighbouring apartment building at 1 Beach Street in terms of height and width.  Refer Appendix D for Photomontages demonstrating consistent bulk and scape	
The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map	FSR is overrun by 2% in order to provide greater amenity to residents.	Variation sought under Clause 4.6

Table 6: Objectives identified in SLEP - 4.4 Floor Space Ratio

VARIATION STATEMENT - Strict compliance with the development standard for Floor Space Ratio is unreasonable and unnecessary because there are strong Environmental Planning grounds to justify contravention, in particular the development will be in the public interest because it is consistent with the objectives of the development standards for Floor Space Ratio. Refer to *Table 6* and the Statement of Environmental Effects.

In line with the criteria established in *Veloshin v Randwick Council* [2007] NSWLEC 428, the following justification is provided:

- Are the impacts consistent with impacts that may be reasonably expected under the controls?
  - The building creates the exact impact that could be reasonably expected from a four story building consistent with the zoning. The building design is cognisant of the FSR limits and breaches have been limited to minor isolated areas which add to the amenity and aesthetic of the building:
  - The non-compliance caused by the relocation of storage units from the basement to ground floor is minor and constitutes an additional 2% of GFA across the entire site;
  - The non-compliance has no effect on the bulk and scale of the building and will, therefore, have no impact on streetscape;
  - The option exists for the storage units to remain in the basement, which would not count towards the overall GFA. This will have no effect on the building bulk or scale. The non-compliance, however, will achieve greater amenity for future residents by providing more easily accessible storage on ground floor as opposed to in the basement
- Does the area have a predominant existing character and are the planning controls likely to maintain it?
  - The bulk and scale of the building will be compatible with other development in the vicinity and developments which may be erected in future;
- Is the proposal consistent with the bulk and character intended by the planning controls?
  - The proposed development will reflect the built form envisaged by Council and provide additional medium density development options which contribute to supporting Huskisson as a coastal town;
  - The building presents less bulk and scale than the building at 1 Beach Street and is therefore consistent with the existing character of the street.
  - The proposed development provides a four storey apartment building consistent with the intent of the zoning controls with no significant variation;
- Does the proposal look appropriate in its context?
  - The building maintains the bulk and character intended by the planning controls and looks appropriate in its context;
  - The non-compliance will have no visual impact, will not disrupt views and will not result in any loss of privacy to existing neighbouring developments or public areas.

Refer *Appendix E* for the Clause 4.6 Variation for the Floor Space Ratio Development Standard Statement.



COMPLIANCE STATEMENT – The impacts are consistent with impacts that may be reasonably expected under the controls for a residential apartment building. We consider that the building maintains the bulk and character intended by the planning controls and the building looks appropriate in its context.

The above demonstrates the development meets the objectives of the SLEP. The proposal if approved, will not result in any inconsistencies with other environmental planning instruments or the objectives of the zone as outlined within the SLEP 2014.

The above justification demonstrates that the minor variation maintains the intent and integrity of the planning controls and does not set precedence for significant future variation.

The development will also not preclude development of the neighbouring property meeting the objective of the SLEP, SDCP and ADG.

Therefore it is considered reasonable in the circumstance to approve notwithstanding strict compliance is not achieved.



31 August 2017 Andre Vernez Senior Development Planner Shoalhaven City Council 36 Bridge Road NOWRA NSW 2541

Re: 7 BEACH STREET HUSKISSON (DA16/2070)
ADDENDUM TO STATEMENT OF ENVIRONMENTAL EFFECTS

**CLAUSE 4.6 VARIATION - FLOOR SPACE RATIO** 

Dear Andre,

This addendum report is in relation to the Statement of Environmental Effects prepared by LCTP in relation to building Floor Space Ratio (FSR) and outlines the Clause 4.6 variation request. This addendum should be read in conjunction with the architectural plans prepared by DJRD, issued on the 31st August 2014 as part of Development Application 16/2070.

The site has a total area of 1012m². With an FSR of 1.4:1, the allowable gross floor area (GFA) for a new building would be 1416m². The GFA of the building proposed is 1444m². The new building therefore exceeds the allowable FSR by 28m² or 2% and results in an FSR of 1.427:1.

The following comments are made in support of this proposal and to justify the request made for this application to be approved pursuant to Clause 4.6 of the SLEP 2014. The written request made below aims to demonstrate that:

- (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.

Compliance with the development standard, in this case, the 1.4:1 FSR, is unreasonable and unnecessary because:

- 1) The proposal is consistent with the objectives of Clause 4.4. The objectives being:
  - (a) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of a locality.

The proposal is not inconsistent with the above objective for the following reasons:

- a. The building proposed has considerable architectural merit;
- Appropriate building to boundary setbacks have been proposed to minimise the perception of building bulk. The FSR of the building has no impact upon how it will present to adjoining public and private spaces;
- c. Whilst the physical form of the building does differ from some older existing development in the locality in terms of height and architectural style, it is expected to make a positive contribution to the streetscape both current and future desired despite the minor variation to the FSR;
- d. Photomontages have been prepared and submitted with the development application. The photomontages illustrate how the new building will sit within the street and the extent to which it enhances the built environment;

Strict compliance with the 1.4:1 FSR is unreasonable in the circumstances of the case because:

a. The extent of the variation is considered minor and negligible (2%);



- b. The FSR overrun does not contribute to the overall bulk and scale of the building;
- The structure will not be visually prominent from any important public places. The FSR
  proposed will not in itself result in development that is out of character with the area;
- d. A reduction of the floor area of the building by 28m² will be of no consequence one way or another with reference to achieving a greater deal of consistency with the objectives of Clause
- e. A way of achieving compliance with the FSR would be to have either the garbage or storage room, located on the ground floor, moved to within the basement as basement storage is excluded from floor space calculations. This however is not considered possible or a worthwhile exercise as this would:
  - Compromise the layout and functionality of the basement in respect of vehicle manoeuvring:
  - The storage room would not be in a convenient location for residents and therefore overall amenity would be reduced;
  - The garbage room would not be in a convenient location for residents or garbage contracts for servicing purposes.
  - iv. The act of doing this would do nothing in respect of the appearance of the building and this highlights to a degree the ineffectiveness of FSR as a development control.
- f. The Council had the plans of the proposed building reviewed by an independent urban design consultant who has handed down a series of recommendations and suggested design improvements. The proponent has agreed to implement all suggested design reviews and the plans of the development have been amended accordingly;

The Environmental Planning grounds in favour of the variation are as follows:

- Adjoining lands will not be adversely affected by the proposal especially as a result of the variation proposed to the FSR provisions of the SLEP2014. Information has been supplied to Council to verify that the impacts on neighbouring properties in terms of overshadowing and privacy are acceptable;
- The proposal if approved, will not result in any inconsistencies with other environmental planning instruments or the objectives of the B4 zone as outlined within the SLEP 2014;
- Appropriate building to boundary setbacks have been proposed to minimise the perception of building bulk. In this regard, a high degree of compliance has been achieved with both Council's site specific DCP and the NSW Apartment Design Guide;
- d. The physical form of the building is well articulated and a variety of building materials are
  proposed to be used in construction. The proposal will enhance the streetscape qualities of the
  area despite the FSR proposed;
- The structure will not be visually prominent from any important public places. The height, bulk
  and scale of the structure will be compatible with the both the future desired and existing built
  environment;
- f. The proposal if approved will not set an undesirable precedence. Further it is assessed that the Council ought to be satisfied that the proposal is within the public interest because it has



been demonstrated that it is consistent with the objectives of Clause 4.3 and the objectives of the B4 zone.

Based on the justification provided above it is requested that Council approve the proposal and vary the 1.4:1 FSR as set by Clause 4.4 of the Shoalhaven LEP.

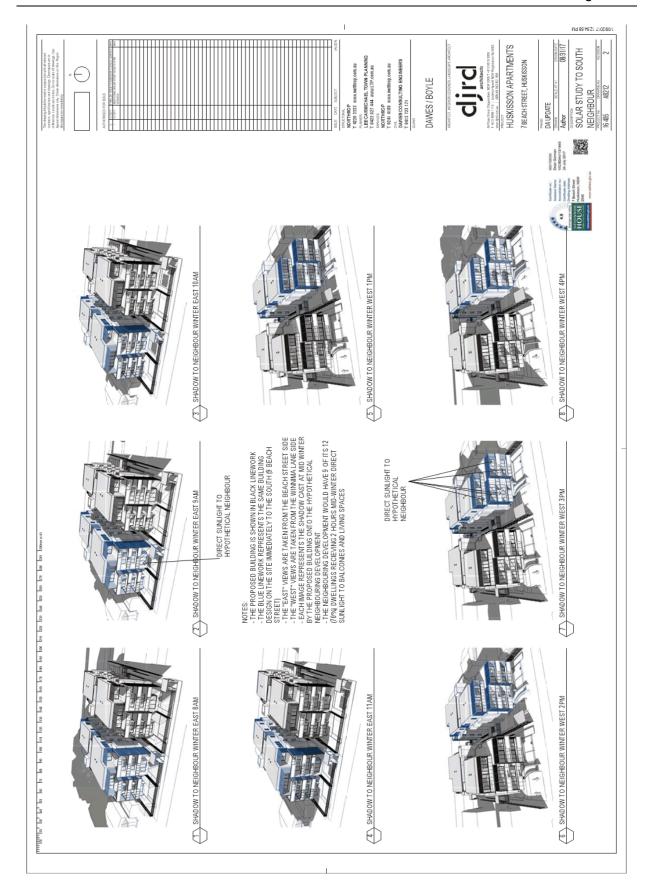
Thank you for your assistance and if you have any queries please contact me to discuss  $-\,$  0413723171.

Yours faithfully,

Andrew Dawes

Owner – 7 Beach Street, Huskisson











Bridge Rd, Nowra NSW 2541 **02 4429 3111** Deering St, Ulladulla NSW 2539 **02 4429 8999** 

Address all correspondence to

The General Manager, PO Box 42, Nowra NSW 2541 Australia DX5323 Nowra Fax 02 4422 1816

# NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION DEVELOPMENT CONSENT

Environmental Planning and Assessment Act, 1979 DA16/2070

## TO:

Jaca Property Group Pty Ltd 20 CRESCENT RD CARINGBAH 2229

being the applicant(s) for DA16/2070 relating to:

7 Beach St, HUSKISSON - Lot B DP 359526

## APPROVED USE AND OR DEVELOPMENT:

Demolition of Existing Dwelling and Ancillary Outbuilding and Construction of Residential Flat Building – Twelve (12) Dwellings

### **DETERMINATION DATE:**

**INSERT DATE 2017** 

Pursuant to the Section 81 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM:

**INSERT DATE 2017** 

CONSENT TO LAPSE ON:

**INSERT DATE 2022** 

This consent is valid for five years from the date hereon.

In accordance with Section 95 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

## **DETAILS OF CONDITIONS**

The conditions of consent and reasons for such conditions are set out as follows:



## Development Consent - Page 2 of 18 - DA16/2070

# PART A

# CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT

### General

 This consent relates to Demolition of Existing Dwelling and Ancillary Outbuilding and Construction of Residential Flat Building – Twelve (12) Dwellings as illustrated on the plans and documentation (referenced in the table below), stamped with reference to this consent, as modified by the following conditions. The development must be carried out in accordance with this consent.

DOCUMENTS/PLANS	REF/SHEET NO.	PREPARED BY	DATED	
Cover Sheet/Site Plan	Project No. 16405 Drawing No. A0001	DJRD Architects	01/09/2017 (Revision 13)	
Basement Plan	Project No. 16405 Drawing No. A1000	DJRD Architects	01/09/2017 (Revision 10)	
Ground Floor Plan	Project No. 16405 Drawing No. A1001	DJRD Architects	01/09/2017 (Revision 12)	
Level 1 Floor Plan	Project No. 16405 Drawing No. A1002	DJRD Architects	01/09/2017 (Revision 10)	
Level 2 Floor Plan	Project No. 16405 Drawing No. A1003	DJRD Architects	01/09/2017 (Revision 10)	
Level 3 Floor Plan	Project No. 16405 Drawing No. A1004	DJRD Architects	01/09/2017 (Revision 11)	
Roof Plan	Project No. 16405 Drawing No. A1005	DJRD Architects	01/09/2017 (Revision 9)	
East/North Elevations	Project No. 16405 Drawing No. A2001	DJRD Architects	01/09/2017 (Revision 10)	
West/South Elevations	Project No. 16405 Drawing No. A2002	DJRD Architects	01/09/2017 (Revision 10)	
Sections Sheet 1	Project No. 16405 Drawing No. A2500	DJRD Architects	01/09/2017 (Revision 11)	
Sections Sheet 2	Project No. 16405 Drawing No. A2501	DJRD Architects	01/09/2017 (Revision 9)	
Concept Stormwater Management Plans – Basement	Drawing No. 16018-DA- C3.02	Dawes Consulting Engineers	14/12/2016 (Revision 4)	
Concept Stormwater Management Plans – Ground Floor	Drawing No. 16018-DA- C3.01	Dawes Consulting Engineers	01/09/2017 (Revision 6)	
BASIX Certificate	No. 715773M_03	Greenview Consulting Pty Ltd	24/07/2017	



### Development Consent - Page 3 of 18 - DA16/2070

#### Notes:

- Any alteration to the plans and/or documentation must be submitted for the approval
  of Council. Such alterations may require the lodgement of an application to amend the
  consent under s96 of the Act, or a fresh development application. No works, other
  than those approved under this consent, are to be carried out without the prior
  approval of Council.
- Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions prevail to the extent of that inconsistency.
- 2. The approved development must not be occupied or the use commence until all relevant conditions of development consent have been met or unless other satisfactory arrangements have been made with Council (i.e. a security).

#### Occupation Certificate

3. An Occupation Certificate must be issued by the Principal Certifying Authority (PCA) before the approved development is used or occupied.

## PART B

# CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORK CAN COMMENCE

Principal Certifying Authority/Construction Certificate/Notice of Commencement/ Supervision of Works

- 4. The following must be undertaken prior to the commencement of any works:
  - a) a Principal Certifying Authority (PCA) must be appointed,
  - a Construction Certificate must be obtained from either Council or an accredited certifier,
  - notice must be given to Council at least two (2) days prior to the commencement of any works, and
  - d) Council must be advised in writing of the name and 24hr contact number of the designated person/company nominated by the developer or their agent to be responsible for construction of all engineering works including erosion and sediment control measures and their maintenance.

## Works within the Road Reserve

- Prior to undertaking any works within an existing road reserve, the contractor must obtain the consent of Council under Section 138 of the Roads Act, 1993. The following details must be submitted to Council to obtain the s.138 consent:
  - a) Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the vehicular and pedestrian public. The TCP must comply with the current RMS's manual Traffic Control at Work Sites. Warning and protective devices must comply with the provisions of AS 1742.3 – 2002 Traffic Control Devices for Works on Roads. The plan must be prepared, signed and certified by a person



## Development Consent - Page 4 of 18 - DA16/2070

holding the appropriate RMS accreditation, a copy of which is to be submitted with the plan.

- b) Insurance details.
- Name and contact information of the person/company appointed to supervise the construction.

#### **Erosion and Sediment Control**

- 6. Prior to the commencement of works, a Soil and Water Management Plan (SWMP) and accompanying specifications for the construction phase of the works, prepared by a suitably qualified and experienced person and based on the Landcom manual "Soils and Construction, Managing Urban Stormwater, Vol 1, 4th Edition, March 2004", must be lodged with the PCA (for works within the development lot) and Council (for works within the road reserve) for approval. The SWMP must include, but is not limited to:
  - a) location and type of proposed erosion and sediment control measures,
  - b) maintenance program for all soil and water management measures,
  - c) disposal site for silt removed from sediment traps, and
  - d) standard construction drawings for proposed soil and water management measures.
- 7. Prior to the commencement of any works, the approved erosion and sediment control measures must be implemented by the contractor, and inspected and approved by the PCA prior to the commencement of any other site works. The erosion and sediment measures must be maintained for the life of the construction period and until runoff catchments are stabilised.

#### Sign - Supervisor Contact Details

- 8. Prior to the commencement of any works, a sign must be erected in a prominent position on the site on which the work is being carried out:
  - a) Showing the name, address and telephone number of the PCA for the work;
  - Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
  - c) Stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

**Note:** This condition is prescribed under the Environmental Planning and Assessment Regulation (EPAR) 2000.

## Fencing

9. Prior to the commencement of any works and during construction, a fence is to be erected onsite to keep members of the public and unauthorised people out.

#### Builder's Toilet

10. Prior to the commencement of any works and during construction, a builder's water closet accommodation must be provided to Council's satisfaction.



### Development Consent - Page 5 of 18 - DA16/2070

A chemical toilet may be used on the site or alternatively the site may be provided with temporary closet accommodation connected to Council's sewer where sewer is available and operational. Under no circumstances will pit toilets or similar be accepted by Council.

#### Residential Building Work

11. Any licensed contractor(s) performing residential building work valued at \$20,000 or more must obtain indemnity insurance as required by the Home Building Act 1989. Evidence of such insurance must be provided to the PCA prior to the commencement of any works.

#### Notes:

- This condition is prescribed under the EPAR 2000.
- If appointed as the PCA, Shoalhaven City Council will not inspect any building work unless evidence of indemnity insurance has been provided. A copy of the Certificate of Insurance will suffice.

#### Existing Services/Damage to Public Assets (Dilapidation Report)

- 12. Prior to the commencement of any works, the person having benefit of this consent must:
  - a) check that the proposed works are not affected by or do not affect any Council, electricity, telecommunications, gas or other services. All services, existing and proposed, above or below ground are to be shown accurately on the engineering plans including longitudinal sections with clearances to proposed infrastructure clearly labelled. Any required alterations to services will be at the developer's expense, and
  - b) undertake a site inspection and document any evidence of damage to the public assets prior to commencement of works (i.e. the adjoining/adjacent road reserve area). A copy of the inspection documentation is to be provided to Council prior to the commencement of any works.

#### Construction Management Plan (Traffic & Parking)

- 13. Details of the proposed method of dealing with construction traffic are to be submitted to Council for approval by Council's Development Engineer or Delegate. The details must include but are not limited to the following.
  - a) Stabilised site construction access location.
  - b) Proposed haulage routes for delivery of materials to the site and spoil disposal from the site.
  - c) Estimated timing of construction works in the form of a Gant chart or similar.
  - d) Parking arrangements for construction employees and contractors.
  - e) Proposed maintenance of the haulage routes and the name of the person responsible for such maintenance. The approved haulage route may require upgrading and/or maintenance prior to the commencement of any works and maintenance during the construction period for public safety.

## Shoalhaven Water - Water and/or Sewer Requirements

14. Prior to the commencement of demolition works, all conditions listed on the Shoalhaven Water Development Application Notice under the heading "Prior to commencement of Demolition Works" must be complied with and accepted by Shoalhaven Water.



### Development Consent - Page 6 of 18 - DA16/2070

#### Waste Minimisation and Management

15. A Waste Minimisation and Management Plan (WMMP) must be prepared for demolition and construction works in accordance with Chapter G7 – Waste Minimisation and Management Controls of Shoalhaven Development Control Plan 2014. The WMMP must be approved by Council or an accredited certifier prior to the commencement of any works.

**Note**: "Waste" has the same meaning as the definition of "Waste" in the Protection of the Environment Operations Act 1997.

### Asbestos - Notification of Neighbours

16. Fourteen (14) days prior to the commencement of any demolition works involving asbestos, all immediate neighbours must be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications are to be retained and provided to Council.

#### Asbestos - Statement

- 17. No later than seven (7) days prior to the demolition of any building or structure, a written statement must be provided to Council indicating whether the building or structure contains asbestos or material containing asbestos and, if so, the following must be provided:
  - a) A hazardous substances audit report prepared by a competent and appropriately qualified person in compliance with AS2601-2001; and
  - b) A hazardous substances management plan prepared by a competent and appropriately qualified person in compliance with AS2601-2001.

## PART C

# CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

## Section 68 Approval for Drainage Works Required

18. Approval for water, sewer and drainage works is required to be obtained under Section 68 of the Local Government Act prior to the issue of the Construction Certificate.

#### Shoalhaven Water - Water and/or Sewer Requirements

19. Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Development Application Notice under the heading "Prior to the Issue of a Construction Certificate" must be complied with and accepted by Shoalhaven Water. The authority issuing the Construction Certificate for the development must obtain written approval from Shoalhaven Water allowing a Construction Certificate to be issued.

**Note**: Relevant details, including monetary contributions (where applicable) under the Water Management Act 2000, are given on the attached Notice issued by Shoalhaven Water.

For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3111.



## Development Consent - Page 7 of 18 - DA16/2070

#### Contributions for Additional Services and/or Facilities

20. This development will generate a need for additional services and/or facilities as described in Shoalhaven City Council's Contributions Plan 2010, as itemised in the following table:

Description	Rate	Qty	Total	GST	GST Incl
Planning Area 3 active recreation facility upgrades	\$761.33	8.2	\$6,242.91	\$0.00	\$6,242.91
03 Bay and Basin Leisure Centre		8.2	\$3,264.58	\$0.00	\$3,264.58
Bay and Basin District Community Centre and Branch Library (Bay & Basin urban precinct)		8.2	\$9,698.47	\$0.00	\$9,698.47
Northern Section of Currambene Street	\$1,067.09	8.2	\$8,750.14	\$0.00	\$8,750.14
Winnima Lane	\$8,068.46	8.2	\$66,161.37	\$0.00	\$66,161.37
Sydney / Bowen Streets, Huskisson	\$399.95	8.2	\$3,279.59	\$0.00	\$3,279.59
Synthetic Hockey Field Facility	\$80.29	8.2	\$658.38	\$0.00	\$658.38
Shoalhaven City Arts Centre	\$36.13	8.2	\$296.27	\$0.00	\$296.27
Shoalhaven Mobile Childrens Services	\$11.96	8.2	\$98.07	\$0.00	\$98.07
Shoalhaven Multimedia & Music Centre	\$11.88	8.2	\$97.42	\$0.00	\$97.42
Shoalhaven City Library Extensions	\$314.93	8.2	\$2,582.43	\$0.00	\$2,582.43
Shoalhaven Multi Purpose Cultural & Convention Centre	\$953.87	8.2	\$7,821.73	\$0.00	\$7,821.73
Citywide Fire & Emergency services	\$130.93	8.2	\$1,073.63	\$0.00	\$1,073.63
Shoalhaven Fire Control Centre	\$191.55	8.2	\$1,570.71	\$0.00	\$1,570.71
Contributions Management & Administration	\$544.47	8.2	\$4,464.65	\$0.00	\$4,464.65
Embellishment of Icon and District Parks and Walking Tracks	\$233.98	8.2	\$1,918.64	\$0.00	\$1,918.64
Northern Shoalhaven Community Transport and Family Support Services	\$7.37	8.2	\$60.43	\$0.00	\$60.43
Northern Shoalhaven Integrated Children's Services	\$44.68	8.2	\$366.38	\$0.00	\$366.38
	Planning Area 3 active recreation facility upgrades Bay and Basin Leisure Centre Bay and Basin District Community Centre and Branch Library (Bay & Basin urban precinct) Northern Section of Currambene Street Winnima Lane Sydney / Bowen Streets, Huskisson Synthetic Hockey Field Facility Shoalhaven City Arts Centre Shoalhaven Mobile Childrens Services Shoalhaven Multimedia & Music Centre Shoalhaven City Library Extensions Shoalhaven Multi Purpose Cultural & Convention Centre Citywide Fire & Emergency services Shoalhaven Fire Control Centre Contributions Management & Administration Embellishment of Icon and District Parks and Walking Tracks Northern Shoalhaven Community Transport and Family Support Services Northern Shoalhaven Integrated Children's	Planning Area 3 active recreation facility upgrades  Bay and Basin Leisure Centre  Bay and Basin District Community Centre and Branch Library (Bay & Basin urban precinct)  Northern Section of Currambene Street  Sydney / Bowen Streets, Huskisson  Synthetic Hockey Field Facility  Shoalhaven City Arts Centre  Shoalhaven Mobile Childrens Services  Shoalhaven City Library Extensions  Shoalhaven Multi Purpose Cultural & 5953.87  Convention Centre  Citywide Fire & Emergency services  Shoalhaven Fire Control Centre  Stydney / Bowen Streets, Huskisson  Shoalhaven Multi Purpose Cultural & 5953.87  Convention Centre  Citywide Fire & Emergency services  Shoalhaven Fire Control Centre  Stydney / Bowen Streets  Stydney / Bowen Streets, Huskisson  Shoalhaven Multi Purpose Cultural & 5953.87  Convention Centre  Citywide Fire & Emergency services  Shoalhaven Fire Control Centre  Stydney / Sydney /	Planning Area 3 active recreation facility upgrades   Say and Basin Leisure Centre   \$398.12   8.2	Planning Area 3 active recreation facility upgrades   \$1,04.58   \$2,042.91	Planning Area 3 active recreation facility upgrades   \$761.33   8.2   \$6,242.91   \$0.00

Sub Total: \$118,405.78 GST Total: \$0.00 Estimate Total: \$118,405.78

Contribution rates are adjusted annually on 1st July in accordance with the indexation formula indicated in the Contributions Plan (currently the implicit price deflator) and the total contribution levied will be adjusted accordingly at the time of payment. (i.e. contributions are calculated on the rate applicable at the date of payment, not the date of development consent).

A total contribution, currently assessed at the sum of \$118,405.78 (i.e. 2017/2018 rate) or as indexed in future years, must be paid to Council prior to the issue of a Construction Certificate.

Contributions Plan 2010 may be inspected online or at Council's Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

## Asbestos - Clearance Certificate (Friable Asbestos)

21. Following the removal of all friable asbestos and prior to the issue of the Construction Certificate, a clearance certificate from an independent occupational hygienist in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos is to be obtained and submitted to Council or the accredited certifier. Note: This relates to friable asbestos only.

## Asbestos - Clearance Certificate (Bonded Asbestos)

22. Following the removal of all bonded asbestos and prior to the issue of the Construction Certificate, a clearance certificate from an independent competent person with a current



### Development Consent - Page 8 of 18 - DA16/2070

WorkCover Class 2 (Restricted) Asbestos Licence in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos is to be obtained and submitted to Council or the accredited certifier.

### Asbestos - Tip Receipts

23. Documentary evidence in the form of tip receipts from an approved Waste Management Facility must be obtained demonstrating the appropriate disposal of the asbestos waste. Tip receipts must be provided to Council or the accredited certifier at the completion of demolition works and prior to the issue of the Construction Certificate.

#### Design Standards

- 24. Engineering design plans and specifications for the driveway, car parking spaces and stormwater drainage must be submitted to Council or the accredited certifier. The plans must be approved with the Construction Certificate.
- 25. Engineering design plans for civil works within the road reserve must be submitted to Council for approval prior to the issue of the Construction Certificate. All work must be carried out in accordance with the approved plans.

**Note**: Works in the road reserve require approval under section 138 of the Roads Act 1993.

26. All civil works are to be in accordance with Council's Engineering Design Specifications and Development Construction Specifications current at the time of construction unless otherwise specified in this consent.

#### Structural Design

- 27. The person having benefit of this consent must provide detailed design 'where required' of the following works and certified by an NPER-III registered practising engineer.
  - a) Major drainage structures, stormwater pits/structures that require steel reinforcement.
  - b) Retaining walls greater than 0.6m in height.

Details of this must be shown on the engineering plans for approval by Council or the accredited certifier with the Construction Certificate.

**Note:** A NPER-III registered practising engineer will be required to certify that construction of the above structures has been completed in accordance with the approved plans prior to the issue of any Occupation Certificate.

## Stormwater Drainage Design

28. The person having benefit of this consent must provide stormwater drainage generally as shown on the concept plans by Dawes Consulting Engineers Pty Ltd (Reference No. 16018-DA-C3.01, Revision 6, dated 01/09/2017 and 16018-DA-C3.02, Revision 4, dated 14/12/2016). Details of this must be shown on the engineering plans for approval by Council or the accredited certifier with the Construction Certificate.

## Driveway and Carparking Design

29. The person having benefit of this consent must provide the driveway and car parking spaces generally as shown on the concept plans by DJRD Architects (Reference No.



## Development Consent - Page 9 of 18 - DA16/2070

16405, Drawing No. A1000, Revision 10, dated 01/09/2017 and Drawing No. A1001, Revision 12, dated 01/09/2017).

The internal driveway access and car parking spaces must be designed:

- a) for light vehicular loading;
- b) in accordance with AS/NZS 2890.1 Parking facilities;
- c) to a coloured, patterned concrete standard (driveway only not required for the basement car park).

Details of this must be shown on the engineering plans for approval by Council or the accredited certifier with the Construction Certificate.

#### Civil Works within the Road Reserve (Beach Street)

- 30. Concrete integral kerb and gutter and associated drainage must be designed across the Beach Street frontage of the development site with details to be shown on the engineering plans for approval by Council with the Construction Certificate, in accordance with the following:
  - either a minimum 30mm thick 10mm asphaltic concrete on a primer seal or 2 coat bitumen seal with 14mm and 7mm aggregate surfaced shoulder (to match the existing seal);
  - b) the kerb and gutter must have a standard upright profile;
  - the alignment must match the existing kerb and gutter alignment and be generally in accordance with the concept plan by Dawes Consulting Engineers Pty Ltd (Reference No. 16018-DA-C3.01, Revision 6, dated 01/09/2017);
  - the shoulder crossfall to the lip of the gutter must be no less than 2% and no greater than 5%. A minimum width of 1m is to be constructed adjacent to the lip of the gutter to facilitate compaction of the new pavement;
  - e) the shoulder seal is to overlap the existing pavement by a minimum of 300mm with the existing seal to be saw cut and the exposed pavement is to have a tack coat or prime seal if finished with AC;
  - f) have a minimum grade of 0.5% and the longitudinal design must extend a minimum of 30m each end of the development and at least 60m if the grade is <0.5% or ≥ 0.3%. This is to ensure the proposed works will be compatible with the existing longitudinal pavement grade and allow future extension of the kerb without unnecessary modification of the existing;
  - g) the road shoulder pavement must be designed in accordance with Council's Engineering Design Specifications, section D2.04; and
  - the road table drain either side of the proposed development is to be reconstructed as required to match the kerb and gutter and to prevent ponding of water, including any adjustment or reconstruction of nearby driveways.
- 31. A standard concrete gutter layback and footpath crossing must be designed at the driveway entrance in accordance with Council's Standard Drawings Plan Nos. 5104-07, 2026-05 and Fig D1.20 (Engineering Design Specification).

Details of this must be shown on the engineering plans for approval by Council with the Construction Certificate.



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- 32. A minimum 1.5m wide concrete footpath must be designed for the full Beach Street frontage of the development. Details are to be shown on the engineering design plans for approval by Council with the Construction Certificate and must incorporate the following:
  - Footpath levels must comply with a 3% cross fall from the boundary to top of kerb;
     and
  - b) The level of the footpath must match existing nature strip levels of adjoining property frontages and be a uniform grade over the length of the development site frontage, or where this cannot be achieved, a longitudinal section must be designed.

#### Noise Impacts

33. Prior to the issue of the Construction Certificate, the person having benefit of this consent is to provide written verification and confirmation by an appropriately qualified acoustic consultant that proposed external mechanical plant will not cause offensive noise, as defined by the Protection of the Environment Operations Act 1997, to residents of the development and neighbouring properties.

#### Water & Gas

34. Water and gas outlets must be provided for all primary balconies and private open space with details of this shown on the engineering plans for approval by Council or the accredited certifier with the Construction Certificate.

#### **Outdoor Lighting**

35. Lighting is to be provided at pedestrian entry points and along paths; must not be directed to shine or cause nuisance to neighbouring properties, and installed in accordance with AS4282 "Control of the obtrusive effects of outdoor lighting".

Details of this must be shown on plans for approval by Council or the accredited certifier with the Construction Certificate.

#### Bin Washing

36. Details of bin washing must be provided with the plans prior to the issue of the Construction Certificate. The bin storage room is to have a floor of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room and provided with a hose tap connected to the water supply.

## Landscaping

37. An amended landscape plan with additional plantings adjacent to the car parking spaces at ground level that are of a nature to shade cars and soften the impact of the hard paved surface without obscuring visibility and compliant with the relevant Shoalhaven Plant Species List; must be provided to Council or the nominated accredited certifier for approval prior to the issue of the Construction Certificate.

The plan must include landscaping that complies with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006' and in particular two (2) street trees (*Banksia integrifolia*) to be planted within the nature strip of the Beach Street road reserve with a minimum 75 litre pot size (including details on how the trees will be secured/staked). The street trees must be shown on the engineering plans for approval by Council with the Construction Certificate.



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## Street Numbering of Dwellings

38. Street numbering must comply with the State Governments Comprehensive Property Addressing System (CPAS), and Council's Property Address Numbering Policy. Street numbering of the development must be as follows:

Ground Level: G01/7 Beach St, HUSKISSON

G02/7 Beach St, HUSKISSON

Level 1: 101/7 Beach St, HUSKISSON

102/7 Beach St, HUSKISSON 103/7 Beach St, HUSKISSON 104/7 Beach St, HUSKISSON

Level 2: 201/7 Beach St, HUSKISSON

202/7 Beach St, HUSKISSON 203/7 Beach St, HUSKISSON 204/7 Beach St, HUSKISSON

Level 3: 301/7 Beach St, HUSKISSON

302/7 Beach St, HUSKISSON

The allocated numbers must be shown on the engineering plans with the Construction Certificate. Where plans and details are provided to service suppliers, numbers must be in accordance with the above.

# PART D

## CONDITIONS RELATING TO THE APPROVED WORK AND SITE MANAGEMENT

## Building Code of Australia

39. All building work must be carried out in accordance with the requirements of the Building Code of Australia.

**Note:** This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.

## Disabled Access

40. Access for people with disabilities must be provided to the building in conformity with Part D3 of the Building Code of Australia (Volume 1) and AS1428.1-2009 "Design for access and mobility Part 1: General requirements for access – New building work".

## Colour Schedule

41. The development must be constructed in accordance with the approved schedule of colours and building materials and finishes, unless otherwise agreed to by Council in writing.



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#### Mechanical Plant

 External mechanical plant (air conditioning units) must not be visible from public vantage points.

#### Fencing

- 43. Fencing along Beach Street must be constructed up to a maximum height of 1.2m with an openness ratio of at least 60%, reflecting the design character of the approved building and treated with colour that blends with the built and/or natural environment.
- 44. The side boundary fencing, for at least 5m from the boundary adjacent to Beach Street, must be constructed in the same materials and design as required by the above condition.
- 45. Standard colourbond fencing is not permitted.

### Design and Construction

46. New construction on the northern, southern and western elevations must comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

**Note:** Construction BAL ratings on the northern and southern elevations may be reduced to BAL 19 where the separation distance from the hazard to the west is 16m or greater and fire separating construction occurs between units.

47. New construction on the eastern elevation must comply with Sections 3 and 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

#### Water and Utilities

48. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

#### Asset Protection Zone

- 49. At the commencement of building works and in perpetuity the entire property must be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- 50. To allow for emergency service personnel and residents to undertake property protection activities, a defendable space that permits unobstructed pedestrian access is to be provided around the building.

## Excavations, Retaining Walls and Drainage

51. All excavations and backfilling must be executed safely and in accordance with appropriate professional standards. All excavations must be properly guarded and protected to prevent a danger to life or property.



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**Note:** Under the Environmental Planning and Assessment Regulation 2000, the prescribed condition for shoring and adequacy of adjoining property applies to the development.

Suitable retaining walls with appropriate agricultural and stormwater drainage must be provided to prevent the movement of soil and subsequent nuisance to adjoining properties.

#### Impact of Works

- 52. The following must be complied with during construction works:
  - a) Any damage to the existing kerb and gutter, footpaths, pathways, road pavements, reserves or any other public infrastructure that occurs during development works must be repaired by the developer (refer to conditions earlier in this consent pertaining to dilapidation report). Restoration must be to the satisfaction of Council and at the expense of the person having benefit of this consent:
  - b) Existing roads, footpaths and reserves adjacent to and nearby the site must be kept clear of soil, debris, materials and equipment except in accordance with the Traffic Control Plan or as otherwise approved in writing by Council; and
  - c) All construction work is to be carried out so that at any time adjoining property owners are not deprived of an all-weather access during the period of construction.

#### Work Hours/Vehicles/Noise

- 53. The following must be complied with during demolition and construction works:
  - a) To limit the impact of the development on adjoining owners, all demolition and construction work must be restricted to the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 3.00pm Saturdays. No work is to take place on Sundays or Public Holidays unless otherwise approved by Council in writing; and
  - b) The noise from all activities associated with the demolition works and construction of the approved development must comply with the guidelines as outlined in the NSW Environment Protection Authority's Environmental Noise Control Manual (Chapter 171). The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

## Asbestos - Licensed Contractors

54. Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos Removal Licence or a current WorkCover Class 2 (Restricted) Asbestos Licence.

## Demolition - Work Cover

- 55. Precautions must be taken in accordance with the requirements of the SafeWork NSW in respect of:
  - a) Protection of site workers and the public;
  - b) Asbestos handling and disposal where applicable.



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#### Demolition - Adverse Effects to Adjoining Owners

56. Suitable measures must be taken to ensure that there is no adverse effect to occupants of adjoining buildings and the public by the generation of dust and/or noise during demolition.

#### Demolition

57. Demolition work must be carried out in accordance with Australian Standard AS2601-2001: The Demolition of Structures.

#### Site Management and Maintenance

58. In the event that construction works are not immediately undertaken post demolition, the site must be kept in a clean and tidy condition at all times.

#### Waste Minimisation and Management

59. All waste must be contained within the site during demolition and construction and then be recycled in accordance with the approved Waste Minimisation and Management Plan (WMMP) or removed to an authorised waste disposal facility. No waste is to be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.

Compliance with the WMMP must be demonstrated by the retention of relevant receipts. These must be submitted to Council upon request.

## Heritage

- 60. Should any historical relics be unexpectedly discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the Heritage Act 1977.
- 61. Should any Aboriginal relics be unexpectedly discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service (NPWS) should be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.

### PART E

# CONDITIONS THAT MUST BE COMPLIED WITH BEFORE AN OCCUPATION CERTIFICATE CAN BE ISSUED

### Shoalhaven Water

62. A Certificate of Compliance (CC) under Section 307 of Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 must be obtained to verify that all necessary requirements for matters relating to water supply for the development have been made with Shoalhaven Water. A Certificate of Compliance must be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Development Application Notice and prior to the issue of any Occupation Certificate.



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#### Restrictions

- 63. Prior to the issue of any Occupation Certificate the following must be created as restrictions-as-to-user under Section 88B of the Conveyancing Act 1919:
  - All garbage and waste collection from the residential flat building must be undertaken by a private contractor from the on-site designated bin storage room.
  - b) In preparing the Instrument setting out the terms restrictions affecting this land, ensure that such restrictions cannot be varied, modified or released without the consent of the necessary parties involved and without the consent of the Shoalhaven City Council.
  - c) Except those required by Council, the final plan and associated instruments must not contain any restriction, that prohibit development allowed under the relevant environmental planning instruments applicable to the site.

#### Fire Safety

64. The owner is to supply Council with a Final Safety Certificate for the fire safety measures specified in the Fire Safety Schedule. The fire safety measures must be implemented or installed in the building prior to its occupation. The building must not be occupied without a final Fire Safety Certificate being issued and a Final or Interim Occupation Certificate being issued.

#### Landscaping

65. Landscaping is to be installed in accordance with the approved plan prior to the issue of any Occupation Certificate. The landscaping must be maintained in accordance with the details provided on that plan at all times.

#### BASIX

66. All the commitments listed in the relevant BASIX Certificates for the development must be fulfilled in accordance with Clause 97A of the Environmental Planning and Assessment Regulation 2000.

Prior to the final inspection being undertaken, the person having benefit of this consent must submit certification and/or documentation to the PCA confirming that the building has been constructed in accordance with the details and commitments listed in the BASIX Certificate for the development.

**Note:** Clause 154B of the EPAR 2000 provides for independent verification of compliance in relation to certain BASIX commitments.

## Verification of Works

67. Prior to the issue of any Occupation Certificate, certification must be obtained from Council to verify that all works in the road reserve have been completed in accordance with the approved plans and construction specifications.



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#### Damage to Public Assets

68. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity, which has been damaged as a result of construction works, is to be repaired to the satisfaction of Council.

#### Colours and Materials

The building must be completed in accordance with the approved schedule of colours and materials.

## PART F

# CONDITIONS RELATING TO ONGOING MANAGEMENT OF THE APPROVED DEVELOPMENT

#### Site Management and Maintenance

- 70. The person having benefit of this consent must at all times be responsible for ongoing site management and maintenance in accordance with the following:
  - a) maintenance and replacement (if necessary) of all landscaping in accordance with the approved landscape plan;
  - b) ongoing waste bins are to be stored within the building and not in any usable private open space area or in areas visible to the public;
  - maintenance of all vehicular movement areas including driveways, car parking, manoeuvring areas and line markings to the standard specified in this consent; and
  - d) maintenance of all stormwater infrastructure.

## Fire Safety - Annual Statement

71. At least once in every twelve month period an annual Fire Safety Statement is to be submitted to Council and to the Fire Commissioner of the NSW Fire and Rescue, Fire Safety Division in relation to the fire safety measures listed in the Fire Safety Schedule.

## PART G

### **REASONS FOR CONDITIONS**

# Conditions of consent have been imposed to:

- 1. Ensure the proposed development:
  - a) achieves the objects of the Environmental Planning and Assessment Act, 1979;
  - b) complies with the provisions of all relevant environmental planning instruments;
  - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.



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- Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
- Meet the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979.
- Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
- Minimise any potential adverse environmental, social or economic impacts of the proposed development.
- Ensure that all traffic, carparking and access requirements arising from the development are addressed.
- 7. Ensure the development does not conflict with the public interest.

## PART H

### ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL

#### Development Determination under Environmental Planning and Assessment Act, 1979

Under section 82A of the Environmental Planning and Assessment Act, 1979 an applicant may request the council to review its determination except where it relates to a Complying Development Certificate, Designated Development or Integrated Development. The request must be made within six (6) months of the date of the receipt of the determination, with a prescribed fee of 50% of the original DA fee.

Section 97 of the Environmental Planning and Assessment Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within six (6) months after receipt of this notice.

# PART I

## **GENERAL ADVICE TO APPLICANT**

## **Privacy Notification**

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the *Government Information (Public Access) (GIPA) Act 2009.* 

#### Disability Discrimination Act 1992

This application has been assessed in accordance with the Environmental Planning and Assessment Act, 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992.

The applicant/owner is responsible to ensure compliance with this and other antidiscrimination legislation.



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The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

#### Disclaimer – s88B Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of Shoalhaven Local Environmental Plan 2014 agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

### DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or <a href="www.dialbeforeyoudig.com.au">www.dialbeforeyoudig.com.au</a> prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

### Inspections

If Council is the appointed PCA for this project, a minimum twenty-four (24) hours notice must be given to Council to make an inspection of the work.

SIGNED on behalf of Shoalhaven City Council:

Name INSERT DETAILS