



Notice of Development Control Unit Meeting

**to be held at the Council Chambers
4 Breese Parade, Forster**

30 November 2017 at 2pm

The order of the business will be as detailed below (subject to variation by Council):

1. Acknowledgement of Traditional Custodians
2. Declaration of Pecuniary or Conflicts of Interest (nature of interest to be disclosed)
3. Apologies
4. Confirmation of Minutes
5. Matters arising from Minutes
6. Addresses from the Public Gallery
7. Consideration of Officers' reports
8. Close of meeting

A handwritten signature in black ink, which appears to read 'Glenn Handford'.

Glenn Handford
General Manager

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CONSIDERATION OF OFFICERS' REPORTS:

DIRECTOR PLANNING & NATURAL SYSTEMS

1 SPECIAL EVENT APPLICATION - MUSIC FESTIVAL - TUNCURRY

Report Author Andrew Blatch, Executive Coordinator - LEMO

File No. / ECM Index SE001/2018

Date of Meeting 30 November 2017

DETAILS

Date Received: 17 July 2017

Applicant: Hopeless Utopian Pty Ltd

Owner: NSW TRADE & INVESTMENT, CROWN LAND

Land: North Tuncurry Sports Complex
Lot 7320 DP 1142386
RES 96632

Property Key: 36895

Zoning: E2 - Environmental Conservation, GLLEP 2014

SUMMARY OF REPORT

A Special Event application has been received, from the Hopeless Utopian Pty. Ltd, to stage a single day music festival at the Peter Barclay Rugby Field, part of the North Tuncurry Sports Complex.

Under Council's Policy, Special Event applications with significant community impacts or those with objections are to be determined by DCU.

SUMMARY OF RECOMMENDATION

It is recommended that Council approve the application received from Hopeless Utopian Pty. Ltd to conduct the proposed single day music festival at the Peter Barclay Rugby Field. Subject to the appropriate conditions as detailed in this report.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications for Council.

POLICY IMPLICATIONS:

The application is submitted to the DCU in accordance with Council's policy.

LEGAL IMPLICATIONS

Nil.

REPORT:

MidCoast Council has received a Special Event application from Hopeless Utopian Pty. Ltd. to conduct a single day Music Festival - Grow Your Own, located at the Peter Barclay sports fields, North Tuncurry.

The event seeks to bring national music to a regional area, with the key focus on supporting home grown talent, whether that comes in the form of a band, fresh / farmed produce or a local clothing label.

DETAILS OF THE EVENT ARE:

Operationally the event will occur Friday 22 December 2017 between the hours of 12:00 noon and 10:00pm. The event will begin setting up on Wednesday 20 December 2017 and be fully moved out by 12:00 noon on Saturday 23 December 2017.

As a result affected residents were notified of the special event application by mail. In addition a public notice was placed in the Great Lakes Advocate notifying of the proposal with 14 days from 15 August 2017, provided to make a submission.

One submission was received from the management of Club Forster/Sporties, which failed to receive any direct contact from the production company, Architects of Entertainment, who have been engaged by Hopeless Utopian Pty. Ltd, to produce and operationally manage the event.

Club Forster/Sporties were not opposed to the event but were concerned with issues relating to wet weather contingencies, power requirements mains power versus generators, and issues of traffic flows/parking/road closures. The Club wanted to make sure the special event will not cause any interruption to the Club's operation. Architects of Entertainment have dealt directly with the management of Club Forster as has Council with regards to the issues raised. Those concerns have now been adequately addressed.

BACKGROUND

This event was held in December 2016. A Development Application (DA 99/2017) was lodged by a local event company, Thinkoutside, on behalf of Hopeless Utopian Pty Ltd, to plan and operate the music event. The event was held outdoors but within the licensed confines of Club Forster. The event was sold out.

Prior to the consent being issued the proposal was notified to neighbouring properties. No submissions were received. Post-event there were some noise complaints received by Council.

The move to North Tuncurry will see a potential crowd of approximately 3,000 attend the concert.

RECOMMENDATION

It is recommended that Council approve the application received from Hopeless Utopian Pty. Ltd. to conduct the proposed single day music festival at the Peter Barclay Rugby Field, subject to the conditions detailed in Annexure A.

ANNEXURES

A: Conditions of Consent.

CONDITIONS OF CONSENT

Any approval of the event should be subject to the following conditions:

1. Approval in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan type/Supporting Document	Plan No. & version	Prepared by	Dated
Event Management Plan	Unknown	Architects of Entertainment (AoE)	Undated
SOP's	Unknown	AoE	8/9/2016
Entry Plan	Version 1	AoE	23/8/2017
Safety & Risk Management Plan	Unknown	AoE	Undated
Emergency Response Plan	Unknown	AoE	07/9/2017
Noise Management Plan	Unknown	AoE	Undated
Security Plots	1,2&3 Version 3	AoE	07/9/2017
Alcohol Management Plan	Version 1.0	Hamiltons Hospitality	16/10/2017
Traffic Management Plan	Unknown	Men At Work	Undated
Transport Management Plan	Unknown	AoE	Undated
Site Plans	1 - 9	AoE	07/9/2017

The approved plans and supporting documents endorsed by Council must be kept on site at all times while work is being undertaken.

Reason: Information and to ensure compliance.

2. A First Aid Station/tent shall be provided. First Aid Personnel should be appropriately qualified. St John's Ambulance recommends four first aiders per 1000 people. The primary first aid area should be within the concert area and not outside the fence line.

Reason: To provide First Aid care to event attendees if the need arises

3. Crowd Control

A portable, folding crowd control barrier with a continuous rear security step is to be installed in front of the stage for the entire length of the stage, plus at least one metre at either end. Suitable numbers of security personnel must be operating between the barrier and the stage.

Reason: To ensure that no persons are crushed by the crowd against the stage and to facilitate the removal of distressed and or unruly patrons.

4. Marquees & Temporary Structures

Marquees & temporary structures must be erected in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Reason: To ensure compliance with relevant legislation.

5. Insurance

The event organiser must hold a minimum of \$20 million public liability insurance. A copy of the appropriate certificate of currency must be provided to Council two (2) weeks prior to the event.

Individual stall holders, food vendors and sub-contractors must provide evidence of their own public liability insurance coverage to the value of \$20 million, to the event organiser.

Reason: To ensure that adequate insurance is provided for the event.

6. Promotional advertisements

Promotional/advertising signage is not to be displayed upon any site other than the site approved for the event. Signage must be removed immediately at the conclusion of the event.

Reason: To ensure that no unapproved signage is erected.

7. Other Agency approvals

Compliance with all Police requirements, ie: Notice of Intention to hold a Public Assembly under the Summary Offices Act 1988.

Copies of any approvals required from other authorities are to be provided to Council, two (2) weeks prior to the event.

Reason: To ensure compliance with relevant authorities.

8. Electrical

All electrical cords and devices should be tested and tagged. All electrical reticulation works are to be undertaken by a suitably licenced electrician and should not be run along the ground unless covered by an approved above ground cable tray.

Reason: To ensure that all power cords and devices are safe and that works are completed by a licenced electrician.

9. Emergency Egress

The licenced area is to have a minimum of two (2) double gates as dedicated emergency exit points. The gates should be manned once patrons are inside the concert venue. The gates are to be clearly sign posted either side "emergency exit". No physical barriers eg parked vehicles should prevent the flow of people should the emergency exits be required.

At the conclusion of concert the emergency exit gates are to be opened to facilitate egress from the concert venue.

Reason: To ensure that there is a clear emergency exit that can be opened immediately in the event of an emergency.

10. Emergency Evacuation Plan

At a minimum of 2 weeks prior to the event, Event Organisers are to provide Council with a copy of the proposed emergency evacuation plan.

Reason: To ensure that should there be an emergency, Council is aware that the Event Organiser has an adequate evacuation plan to enable patrons to be directed to an appropriate and safe area.

11. Crowd Density

The crowd density is not to exceed 3,000 patrons within the concert ticketed area. The 3,000 patrons is inclusive of complimentary passes that allow access to the front of house.

Reason: To ensure that the crowd capacity remains at a safe and comfortable level.

12. Noise - Hours of Operation

- Hours of operation shall be restricted to: 12:00pm to 10:30pm on Friday 22 December 2017.
- Noise such as broadcasting and amplified music shall be restricted to performance times within the hours outlined above.
- Noise monitoring should occur at a minimum at the nearest residential boundary.
- Noise monitoring should be in direct communication with the event manager and sound desk.
- Noise should not exceed 75db(A) at the nearest residential boundary.

Reason: To maintain acoustic amenity to adjoining properties.

13. Noise associated with the proposed use must not be a source of offensive noise at the nearest affected residence:

offensive noise" means noise:

- a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - i) is harmful to (or is likely to be harmful to) a person who is outside the location from which it is emitted, or
 - ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the location from which it is emitted, or
- b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulation.

Reason: To maintain acoustic amenity to adjoining properties.

14. Toilet Facilities

The applicant shall provide toilet facilities at the following rates:

- Male Closets 1/100 patrons
- Male Urinals 1/100 patrons
- Female Closets 2/100 patrons
- Unisex 2 facilities suitable for use by a person with a disability

The toilets must be cleaned every 3 hours, or as required and toilet paper, soap and hand towels must be provided at all times. Additional portable toilets shall be brought in as required to satisfy additional demands. The contents of the portable toilets are to be removed by an approved liquid waste transporter, licensed to transport liquid waste within the Mid Coast Local Government area, at such intervals to ensure that the contents of the portable toilets do not overflow.

Reason: To maintain public health and safety.

15. Food

The food stalls & food handlers shall at all times comply with the requirements of the Food Act 2003, Food Standards Code and the NSW Food Authority's 'Guidelines for food businesses at temporary events'.

A 'Notification to Council for Temporary Food Stall' form must be completed by the proprietor of each food stall and be submitted to and approved by Council's Environmental Health Officer prior to the event. Copies of the application form are enclosed.

Reason: To maintain public health and safety

16. Traffic Management / Road Closures

Approval has been given for the closing of the following roads subject to the following conditions be complied with at least two (2) weeks prior:-

- The closure of Beach St Tuncurry. From the entrance to the Sporties complex through to the North Tuncurry Sports Field. Restricting access to all vehicles between the hours of 10:00 and 01:00.
- Advertising of the road closure in the local newspaper.
- Letter box drop of all affected residents and businesses.
- Plan of proposed traffic control by prepared by those with suitable accreditation.
- Implementation of traffic control plans 1, 2 and 3 drawn by Men at Work 4/09/2017
- Compliance with all Police requirements

General Conditions

1. Waste - The public litter bins are not to be used for the disposal of waste at the conclusion of the event. All event generated waste is to be removed from the site. The event organiser must ensure that the venue and the surrounding area is maintained in a clean and tidy condition throughout the event, including the bump-in and bump-out phases, and is returned immediately after the event to the same condition (in the Council's opinion) as it was in prior to the event.
2. Security fencing must be installed in a manner that prohibits public access to the licensed area. This area must have at least two (2) exits with illuminated exit signs.
3. Glass containers are prohibited from all council reserves at all times.
4. Any Damage caused to Council infrastructure as a result of the festival must be rectified at the expense of festival organisers. A \$3,200.00 damage bond is required to be paid to Council a minimum of 2 weeks prior to the event.
5. Organisers are to provide a single AAA accreditation for Council use. Council will provide event organisers with a senior officer during the event's operational hours. The cost of this officer is to be borne by the promoter.
6. Organisers are to ensure that all emergency response agencies are notified of the event and its duration in order to support any emergency response should it be required.

2 DA 577-2017 - RESIDENTIAL FLAT BUILDING - PEEL STREET, TUNCURRY

Report Author Lisa Proctor, Town Planner

File No. / ECM Index DA 577/2017

Date of Meeting 30 November 2017

DETAILS

Date Received: 23 June 2017

Applicant: Wakefield Ashurst Developments Pty Ltd

Owner: Wakefield Ashurst Developments Pty Ltd

Land: Lot 17 Sec 2 DP 759005, Lots 54 and 55 DP 31768
15 Peel Street Tuncurry NSW 2428

Zoning: R3 – Medium Density Residential, GLLEP 2014

SUMMARY OF REPORT

- The application proposes to demolish an existing Church and construct a residential flat building comprising 35 units over seven (7) storeys.
- The application seeks a variation to the maximum height and floor space ratio standards applying to the site.
- The application was notified and advertised and 4 submissions were received.
- It is recommended that the proposal be approved, subject to the imposition of conditions.

SUMMARY OF RECOMMENDATION

The proposed development application be approved subject to conditions.

FINANCIAL/RESOURCE IMPLICATIONS

Cost of defending any appeal against Council's decision.

LEGAL IMPLICATIONS

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.

ATTACHMENTS

- A: Development Plans.
- B: Statement of Environmental Effects.
- C: SEPP 65 Design Review and Certification.
- D: Landscape Details.
- E: Stormwater Management Concept.
- F: Geotechnical Assessment.
- G: Traffic Assessment.

Attachments A, B, C, D, E, F and G have been circulated in hard copy to the Councillors and Senior Staff, however these Attachments are publicly available on Council's website.

SUBJECT SITE AND LOCALITY

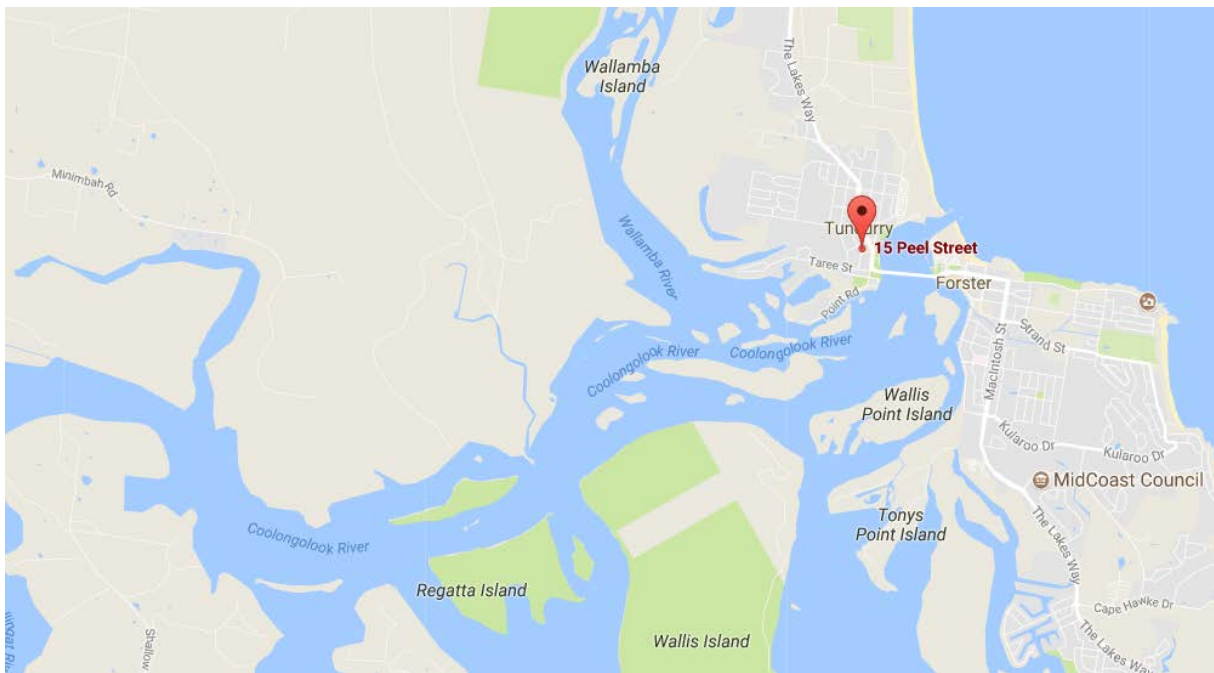


Figure 1: Site Location
Source: Map data 2017 Google

The site area is 2336m² and comprises three lots with three street frontages; to Kent Street, Peel Street and Manning Lane. A Church and grounds formerly owned by the Forster Tuncurry Catholic Parish exists over the three lots.

The site is located in the central part of the Tuncurry Township at the interface between the Bent and Peel Street Precinct (3) and Tuncurry CDB Precinct (2) identified in the Tuncurry Town Centre Precinct Plan in Figure 2 below.



Figure 2: Site location within the Tuncurry Town Centre Precincts
 Source: Great Lakes DCP 2014

Land to the north of the site is part of the Tuncurry CBD Precinct and is developed with commercial and service uses, including a supermarket and Tuncurry Ambulance Station. Development in the Tuncurry CBD Precinct varies from single storey commercial buildings to commercial/residential developments of 5-6 storeys.

Land to the east of the site is part of the Tuncurry CBD Precinct. This area is currently developed for commercial and tourist purposes. The buildings on the opposite side of Manning Lane are comprised of two storey tourist accommodation (the South Pacific Palms Motor Inn) and a vacant development site. A nine storey apartment building was approved in 2004 on the lot currently occupied by the South Pacific Palms Motor Inn.

Land to the south of the site is located in the Bent and Peel Street Precinct. This area contains a mix of low and medium density residential development in the form of residential dwellings and residential flat buildings. The properties immediately adjoining the site to the south contain single storey residential dwellings.

Land to the west of the site is located within the Bent and Peel Street Precinct. The land on the opposite side of Peel Street is currently developed with low density residential dwellings, primarily single storey.



Figure 3: Aerial photograph showing the site's local context
Source: Coastplan Group, June 2017

BACKGROUND

The site is comprised of three separate lots located within the original town plan area of Tuncurry. The land is developed with a church which was used by the local catholic parish as a place of worship up until early 2017, when it was closed and sold to the current owner. In February 2017 the applicant attended a meeting with Council staff to discuss the proposed development and identify key issues that would need to be addressed in the development application. Those issues have been addressed in the Statement of Environmental Effects (SEE) at Attachment B and in the supporting documents at Attachments C - G.

SITE DESCRIPTION

Topography: The subject land is elevated above Kent and Peel Streets generally at the same level as Manning Lane. The levels of the land are approximately 1.5m higher than the Peel Street level, at approximately 4 metres AHD around the existing church. The grades within the site are generally flat. There are no significant topographic features on the site or within the surrounding area.

Soils: The site is comprised of deep sand foundation exceeding 10 metres in depth. The Acid Sulfate Soils (ASS) Maps for the area identify the site as Class 3 ASS (i.e. there is potential for Acid Sulfate Soils to be present at depths of 1 metre below the natural surface). The geotechnical assessment for the proposed development has identified that the soils are not Actual or Potential Acid Sulfate Soils.

Site Drainage: The site is primarily drained by on-site infiltration of stormwater, given the rapid infiltration capacity of the underlying sand foundation. In addition, the site grades to the surrounding street frontages which are provided with kerb and gutter collecting overland flow that does not infiltrate on-site.

Ecology: The site is highly disturbed, with vegetation on the land comprised of managed lawns and gardens with primarily ornamental exotic species, as well as some native garden plants.

Traffic and Access: The site has wide unobstructed frontage to three streets, being Kent Street (approximately 46m frontage), Peel Street (approximately 50m frontage), and Manning Lane (approximately 50m frontage). There is a narrow concrete driveway on the Kent Street frontage which provided occasional vehicle access to the church and there are pedestrian access connections at each street frontage.

The Kent Street and Peel Street frontages of the site have concrete kerb and gutter, with a footpath and formed sealed road width of approximately 11 metres.

The Manning Lane frontage is also provided with kerb and gutter and has a constructed width of approximately 6 metres.

Roads in the area are generally in a grid pattern as set by the original Tuncurry Town Plan. The main traffic flow through the Tuncurry Township is from the bridge connecting to Forster along Manning Street. Kent and Peel Streets also provide connection for vehicle movements between Tuncurry Woolworths and the surrounding road system. Manning Lane is a local access road providing one way low traffic volume access to residential properties.

Public Transport: Public transport in the Forster Tuncurry area is limited to bus and taxi services. Bus services in the area are provided by Forster Buslines, with a local bus service directly passing the site and connecting the Tuncurry and Forster town centres and Stockland Forster, as well as Forster Private Hospital and the central Forster Medical Precinct. The route operates eight times per day on weekdays, and three times per day on Saturdays. There is a bus shelter and bus stops located approximately 50 metres north of the site in Peel Street.

Natural Hazards: The subject land is identified as being partly located within the flood planning area along the western and north western boundary of the site. The relevant flood levels for the site are:

- Current 1% AEP – 2.0m AHD
- 1% AEP 2100 Sea Level Rise – 2.7m AHD
- Flood Planning Level (2100 1% AEP plus 500mm free board) – 3.2m AHD

The levels of the subject land vary between approximately 2.80m AHD and 4.04m AHD, with the proposed habitable areas of the building being located above the flood planning level.

The subject land is not identified as bushfire prone land and is located over 350 metres from any areas mapped as containing bushfire prone vegetation.

Heritage: There are no items of European heritage listed as being present on the land or in adjoining areas. A search of the Aboriginal Heritage Information Management System (AHIMS) has been undertaken and did not reveal any Aboriginal Sites or Places on the site. The site has been disturbed through past activities and would be classified as 'disturbed land' under the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*.

PROPOSAL

The proposed development involves a residential flat building containing 35 residential units over seven storeys and comprising the following:

Description	Proposal
Site Area	2,366m ²
Gross Floor Area	4,560.8m ²
FSR	1.95:1
Landscaped Area	34%
Deep Soil Areas	22%
Maximum building heights above existing ground level	23.46 metres

Figure 4 below shows the development when viewed from the intersection of Peel and Kent Streets.



Figure 4: Montage of the proposed development
Source: Leffler Simes, 2017

The development plans are included in full at Attachment A.

Residential accommodation is the proposed primary use of the site with the building containing a variety of dwelling types as follows:

- 2 bedroom (15 units)
- 3 bedroom (20 units)

Each unit includes open plan living, dining and kitchen areas, bathrooms/ensuites and laundry facilities.

The building is laid out in articulated sections to maximise sunlight access and cross flow ventilation and is provided with two lifts and two stairs to facilitate access throughout the building.

Vehicular access to the basement and podium parking areas will be provided via a new driveway off Manning Lane. Pedestrian access will be available into the site from Peel Street by way of access path/ramp to facilitate access by disabled persons.

Fifty five parking spaces, plus trailer parking, are proposed to be provided as follows:

- Basement Parking providing 40 parking spaces.
- Parking at Podium (ground floor) providing 15 spaces.
- Trailer Parking area at ground floor.

The development includes landscaping to complement the building and enhance the streetscape. The landscape plan includes the establishment of native trees and shrubs around the site perimeter, as well as planting above the basement to enhance communal open space areas on-site and to break up the appearance of the built form.

The proposed stormwater management system meets the requirements of Council's Development Control Plan (DCP) Part 11. This includes the following measures:

- Draining of roof water balcony areas to pits with Enviropod or outlet screen and dry sump to capture coarse sediment, trash and vegetation matter and screen finer particulates.
- Inlet pits and pipe conveyance system.
- Bioretention Basin to accept and treat all stormwater from the collection systems.

The proposal is described in detail in the SEE at Attachment B.

ASSESSMENT

SECTION 79C MATTERS FOR CONSIDERATION -

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

- a) ***The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; 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; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.***

State Environmental Planning Policy (SEPP) 71 – Coastal Protection

The provisions of State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71) apply to the subject site as the land is located within the coastal zone.

The matters for consideration for development applications located in the coastal zone are provided in Clause 8 of SEPP 71. These matters are discussed below.

Clause	Matters for Consideration	Assessment
(a)	the aims of this Policy set out in clause 2	Development is not contrary to the aims of SEPP 71.
(b)	existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	No impact likely on existing foreshore access arrangements.
(c)	opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	The site does not present any opportunities for foreshore access.
(d)	the suitability of development given its type, location and design and its relationship with the surrounding area	The proposal is for a new residential development containing multi-storey buildings, within a redeveloping urban area where planning controls encourage this type of building form. The development of the site in the manner proposed is consistent with the planning for the Tuncurry Town Centre and the relevant precincts.
(e)	any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	The proposed development is set back from the foreshore to Wallis Lake and does not result in any overshadowing of the foreshore. There are no existing public areas which gain views to the foreshore over the site.
(f)	the scenic qualities of the New South Wales coast, and means to protect and improve these qualities	The proposed development involves a contemporary style of residential flat building in an area containing existing residential flat development. The proposed development will be consistent with the planned evolving character of the area and will not significantly impact on the scenic qualities of the NSW coast.
(g)	measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that Act), and their habitats	The proposed development is located on land which is disturbed and does not contain native vegetation communities or habitats.
(h)	measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats	The proposed development does not impact on any aquatic areas or areas of aquatic habitat (mangroves, sea grass, etc). Proposed treatment of water quality on site will reduce any indirect impacts.
(i)	existing wildlife corridors and the impact of development on these corridors	The site is in the middle of an established urban area which does not contain wildlife corridors.

Clause	Matters for Consideration	Assessment
(j)	the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	The site and surrounding area are not subject to any identified coastal hazards or processes.
(k)	measures to reduce the potential for conflict between land-based and water-based coastal activities	The proposed development is set back from the waterway and there is unlikely to be any conflict between land-based and water-based coastal activities.
(l)	measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	The majority of the site has been significantly disturbed and the site has not been identified as having any cultural significance for Aboriginal people.
(m)	likely impacts of development on the water quality of coastal waterbodies	The proposal includes stormwater management to meet Council's controls and provide for treatment of stormwater quality to prevent impacts on coastal waterways.
(n)	the conservation and preservation of items of heritage, archaeological or historic significance	The proposed development does not impact on any heritage items or culturally significant places.
(o)	only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	Not applicable.
(p)(i)	only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and	No cumulative impact issues have been identified.
(p)(ii)	measures to ensure that water and energy usage by the proposed development is efficient	The proposed development utilises water and energy efficient design, as per the BASIX certificate for the building.

State Environment Planning Policy (SEPP) 65 – Design Quality of Residential Apartment Development

SEPP 65 aims to improve the design quality of residential apartment developments in New South Wales. The Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

Clause 28 of the SEPP applies as follows:

- (1) *After receipt of a development application for consent to carry out development to which this Policy applies (other than State significant development) and before it determines the application, the consent authority is to refer the application to the relevant design review panel (if any) for advice concerning the design quality of the development.*

(2) *In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*

(a) *the advice (if any) obtained from the design review panel,*

No design review panel exists for the MidCoast Council area.

(b) *the design quality of the development when evaluated in accordance with the design quality principles, and*

(c) *the Apartment Design Guide.*

The proposed development achieves the SEPP design quality principles and the objectives of the NSW Government's Apartment Design Guide. Details are included in full in the Design Review and Certification at Attachment C.

Environmental Planning and Assessment Regulation 2000

Part 6, Division 1, Clause 50 (1A):

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

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

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

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

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

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

The architect for the development has prepared a design quality statement and certification for the proposal which addresses how the design quality principles have been achieved and certifies that the objectives of the Apartment Design Guide are achieved for the proposal. This is included at Attachment C.

Draft State Environmental Planning Policy (Coastal Management) 2016

The SEPP will repeal SEPP 71, SEPP 14 and SEPP 26 and is intended to provide a consolidated instrument for protection of land in the coastal zone. The draft SEPP maps identify that the site is a:

- Coastal Environment Area; and
- Coastal Use Area.

Clause 14 of the draft SEPP applies to land in the coastal environment area as follows:

(1) *Development consent must not be granted to development on land that is wholly or partly within the coastal environment area unless the consent authority is satisfied that the proposed development:*

Clause		Assessment
(a)	is not likely to cause adverse impacts on the biophysical, hydrological (surface and groundwater) and ecological environment, and	The development includes stormwater treatment and reuse which will result in improvements to water quality in the locality.
(b)	is not likely to significantly impact on geological and geomorphological coastal processes and features or be significantly impacted by those processes and features, and	The development is not in a coastal hazard risk area.
(c)	is not likely to have an adverse impact on the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, having regard to the cumulative impacts of the proposed development on the marine estate including sensitive coastal lakes, and	The application includes stormwater treatment and reuse which will result in improvements to water quality in the locality. The proposal will not impact on water quality in any marine estate or a sensitive coastal lake.
(d)	is not likely to have an adverse impact on native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, and	The subject site is comprised of disturbed lands and does not contain any native vegetation communities or habitat areas.
(e)	will not adversely impact Aboriginal cultural heritage and places, and	The development is unlikely to impact Aboriginal cultural heritage.
(f)	incorporates water sensitive design, including consideration of effluent and stormwater management, and	The development includes stormwater treatment and reuse which will result in improvements to water quality in the locality.
(g)	will not adversely impact on the use of the surf zone	The proposal is not located in proximity to the surf zone.

Clause 15 of the draft SEPP provides controls in relation to land in the coastal use area as follows:

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

Clause		Assessment
(a)	is satisfied that the proposed development:	
(i)	if near a foreshore, beach, headland or rock platform—maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and	The site is separated from the foreshore by public roads, private development and reserves and there is no opportunity to improve foreshore access
(ii)	minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and	The proposal does not impact on any public views to foreshores and is unlikely to result in wind funnelling to foreshore areas.
(iii)	will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and	The proposal will not impact on the scenic amenity of the coast, including coastal headlands.
(iv)	will not adversely impact on Aboriginal cultural heritage and places, and	The proposal does not impact on any known Aboriginal sites or places.

Clause		Assessment
(v)	will not adversely impact on use of the surf zone, and	The proposal is not located in proximity to the surf zone.
(b)	has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.	The proposed development involves a residential development as part of the Tuncurry town centre and is consistent with the density and scale of other buildings in the precinct

Great Lakes Local Environmental Plan (GLLEP) 2014

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

Zone: R3 – Medium Density Residential

Definition of Proposed Development: residential accommodation (residential flat building)

LEP Requirement	Summary of Requirement	Proposal	Complies
Zone Objectives	<ul style="list-style-type: none"> To provide for the housing needs of the community within a medium density residential environment. To provide a variety of housing types within a medium density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. To achieve increased population density in locations that support the business centre. 	A residential flat building that will support increased population density in a location that supports the business centre.	The proposal provides an alternate housing form in a medium density residential environment in close proximity to the Tuncurry business centre and is consistent with the objectives of the zone.
Permissible use	RESIDENTIAL ACCOMMODATION	Residential flat building	Yes
4.3 - Height of Buildings (HOB)	18M	23.46m	No
4.4 - Floor Space Ratio (FSR)	1:1	1.95:1	No
4.6 - Exceptions to Development Standards	<ul style="list-style-type: none"> HOB FSR 	THE APPLICATION IS SEEKING AN EXCEPTION TO THE FSR AND HOB PRINCIPAL DEVELOPMENT STANDARDS	n/a

LEP Requirement	Summary of Requirement	Proposal	Complies
7.1- Acid Sulphate Soils	The proposed development would be located on Class 3 ASS.	N/a. Soil testing has revealed that the site does not contain actual or potential ASS.	n/a
7.5 - Stormwater	STORMWATER MANAGEMENT SYSTEM THAT MAINTAINS OR IMPROVES THE QUALITY OF STORMWATER DISCHARGED FROM THE LAND.	WATER QUALITY MEASURES TO COMPLY WITH COUNCIL'S STORMWATER QUALITY MANAGEMENT OBJECTIVES.	THE STORMWATER STRATEGY IS CONSIDERED TO BE ACCEPTABLE AND CONDITIONS HAVE BEEN PROVIDED.

Clause 4.6 of GLLEP 2014 provides a degree of flexibility in the application of certain development standards where it can be demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the proposed development. Clause 4.6 also requires the concurrence of the Secretary to be obtained prior to the granting of consent for development that contravenes a development standard. However, in accordance with Clause 64 of the *Environmental Planning & Assessment Regulation* and *Planning Circular PS 08-003*, Council has assumed concurrence with respect to applications to vary the height or floor ratio standards set by the LEP or any other environmental planning instrument. The application to vary the standards is contained in full in section 4.5.3 of the SEE at Attachment B, and summarised below.

Height of Buildings: The Height of Buildings map (extract below) shows that the maximum building height control applying to the land is 18 metres, with adjacent areas to the north and east having building height controls of 20-30 metres.



Figure 5 – Building Height Control Map

Source: Coastplan Group, June 2017

Clause 4.3 of the LEP provides:

- (2) *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.*
- (2A) *Despite subclause (2), the height of a building may exceed the maximum height shown for the land on the Height of Buildings Map by 10% if the land is in Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use and the consent authority is satisfied that:*
 - (a) *internal lift access will be provided to all levels in the building, and*
 - (b) *the design of the building is consistent with AS 4299–1995, Adaptable Housing.*

Internal lift access is provided to all levels of the buildings and the proposal includes adaptable units meeting the requirements of AS 4299-1995. Accordingly, the provisions of subclause (2A) mean that the height controls applicable under the clause would be 19.8 metres.

The maximum height of the central highest roof is between 21.90 metres and 23.46 metres above the existing ground levels. As such there are parts of the proposed upper building which exceed the maximum building height plane by up to 3.66m.

Clause 4.3 of Great Lakes LEP 2014 sets out the objectives of the HOB development standard:

- (a) *to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality,*
- (b) *to encourage residential development that is consistent with AS 4299–1995, Adaptable housing.*

In considering whether adherence to the development standard is strictly necessary in the circumstances of the case, it is considered that the development meets the objectives of the standard as follows:

- The subject land is located at the northern extent of the R3 Medium Density Residential Zone and the area subject to the 19.8 metre height limitation. Adjoining areas to the north and east have height controls of 22-33 metres. The scale of the proposed building will act as a transition between the two areas and is compatible with the desired future character for the area.
- The proposed development footprint will deliver a high quality design. The footprint has been broken into smaller components which give good access to cross flow ventilation for the units, and has taken an approach to provide a communal open space area for the residents which is open to the sky rather than covered with units above, thus resulting in the creation of liveable green space for residents. The effect provides for a higher level of design quality for the units, as well as a high level of visual interest when viewed from the street. The approach however impacts on unit yield per floor with approximately one unit per floor loss. The top level allows for the creation of three (3) units to assist in making this design outcome feasible and possible, and thus the height limit is exceeded.
- The proposed units are highly accessible and adaptable, with parking provided, as well as two lifts to facilitate disabled access throughout the building.

Floor Space Ratio: The Floor Space Ratio Map (extract below) shows that the floor space ratio applicable to the site is 1:1, whilst the control for adjacent sites to the north and east is either 2:1, or there is no control.

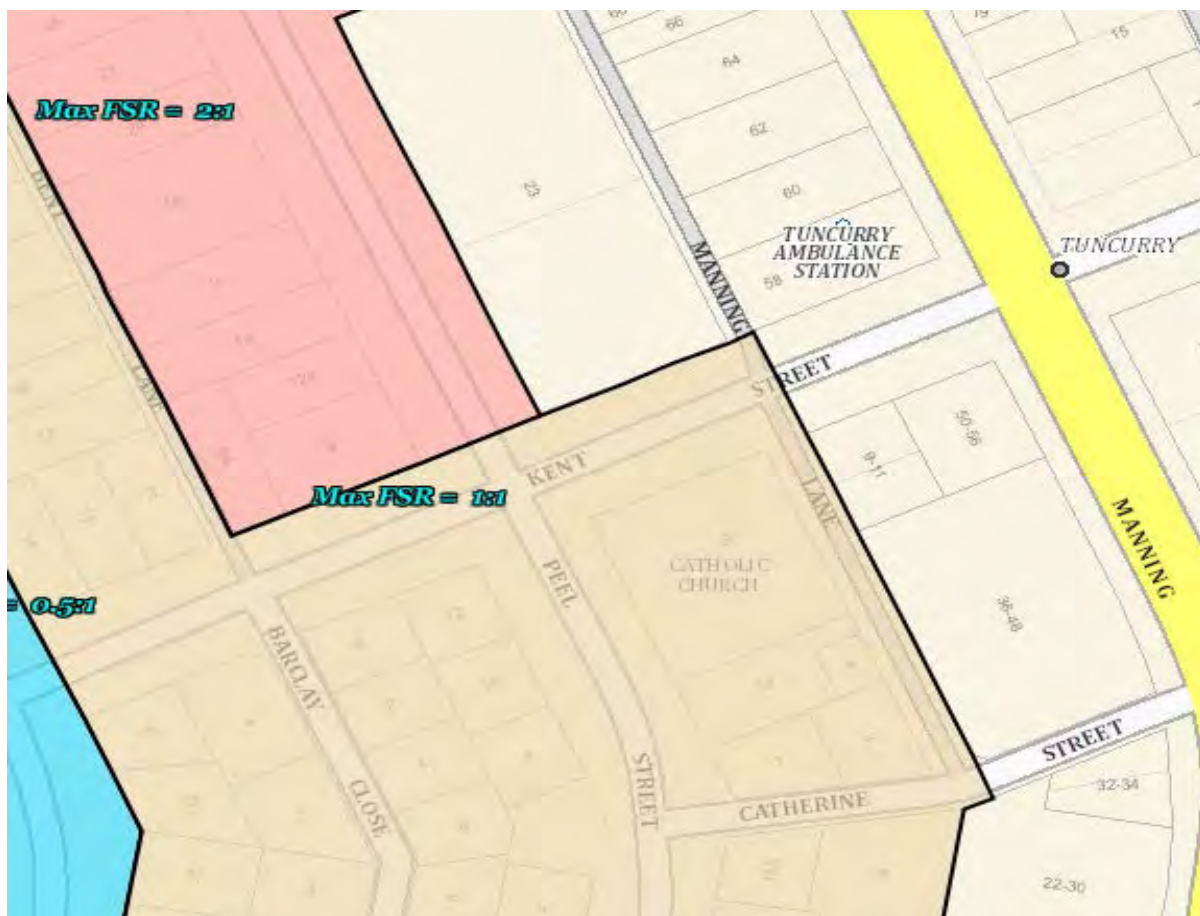


Figure 6: Floor Space Ratio Map
Source: MCC Exponare

Clause 4.4 of the LEP provides:

- (2) *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.*
- (2B) *Despite subclause (2), the floor space ratio for a building on land in Zone R3 Medium Density Residential or Zone B4 Mixed Business may exceed the floor space ratio shown for the land on the Floor Space Ratio Map by 10% if the consent authority is satisfied that:*
 - (a) *lift access will be provided to each level in the building, and*
 - (b) *the design of the building is consistent with AS 4299–1995, Adaptable Housing.*

Clause 4.4 of Great Lakes LEP 2014 sets out the objectives of the FSR development standard:

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality,*
 - (b) *to encourage a diversity of development on land in business zones, which is unlikely to prejudice the supply of retail or business floor space in those zones,*
 - (c) *to permit a floor space ratio that will provide a transition in built form and land use intensity,*
 - (d) *to encourage residential development that is consistent with AS 4299-1995, Adaptable housing.*

In considering whether adherence to the development standard is strictly necessary in the circumstances of the case, it is considered that the development meets the objectives of the standard. Although the density of the proposal is in excess of the standard, this is due primarily to the generous unit design rather than overdevelopment of the site.

The subject site is located in an R3 zoned area which has a maximum building height that allows buildings up to 19.8 metres, with a floor space ratio of 1.1:1. It is noted that there are also other R3 areas which have a maximum building height of 13.2 metres and have the same floor space ratio control. It is considered that there is an inconsistency in these controls as while additional building levels are permitted, there is no allowance for additional floor space.

The subject site adjoins land which allows 22-33 metre buildings with no control on floor space ratio or floor space ratios of 2.2:1 and is capable of achieving much higher densities than that proposed. The additional density for this proposal is not significant in a local context and transitions between these areas and the lower density areas of 3-4 storeys to the west.

It is considered that the FSR development standard in this case is not appropriate for the site which has a higher building height control and compliance with the numerical standard in the circumstances would be unreasonable.

Great Lakes Development Control Plan (DCP) 2014

Criteria	Assessment	Complies with objectives and / or criteria
PART 3 - CHARACTER STATEMENTS		
TUNCURRY TOWN CENTRE	The subject land is located in the Tuncurry Town Centre precinct known as the Bent and Peel Street Precinct. The development complies with the relevant character statement.	yes
Part 4 - Environmental Considerations		
Flooding	All habitable floor levels are located above the flood planning level.	yes
Part 6 - Residential Apartment Buildings Mixed Use Development and Business Premises		
General Building Design	The proposed design has been undertaken by a registered architect and has addressed design quality principles and also meets the DCP requirements.	yes
Pedestrian Amenity: Street Address	The pedestrian entry from Peel Street is clear/defined.	yes
Pedestrian Amenity: Awnings	The proposal is not part of commercial streetscapes and awnings over footpaths are not proposed. An awning is proposed over the building entrance meeting the DCP controls	yes
Pedestrian Amenity: Pedestrian Access	The pedestrian access is clearly highlighted. Disabled access is provided throughout the building and an access from Peel Street is suitable for use by disabled persons. Disabled parking spaces are also provided in the basement and podium parking areas.	yes
Pedestrian Amenity: Vehicle Access	The vehicle access points occupy approximately 12% of the lane frontage. Vehicle Access is integrated into the development design. The garage door to restrict access to parking areas is located approximately 25 metres from the site frontage.	yes
Pedestrian Amenity: Safety and Security	The pedestrian access is open and provided with good surveillance from the street and within the development. Access control is provided throughout to restrict access to other areas within the site.	yes
Building Configuration: Adaptable Housing	More than 10% (approximately 28%) of the dwellings have been designed to be adaptable and lift access is incorporated throughout the building with 2 lifts provided to enhance access.	yes

Criteria	Assessment	Complies with objectives and / or criteria
Building Configuration: Dwelling Layout and Mix	<p>There are no studio apartments within the development. The mix of apartments is:</p> <ul style="list-style-type: none"> - 43% 2 bedroom - 57% 3 bedroom <p>Whilst there are no 1 bedroom units, the developer's research of the market has found that there is minimal demand for this product from local buyers.</p> <p>The internal floor areas of the different units are:</p> <ul style="list-style-type: none"> - 2 bedroom – 102-108m² - 3 bedroom – 110-155m² 	yes
Building Configuration: Ceiling Heights	<p>Ceiling heights within the proposed development are:</p> <ul style="list-style-type: none"> - Ground floor – 2.7 - 2.9m - Residential – 2.7m 	yes
Building Configuration: Storage	<p>Storage is provided for each unit in the form of storage lockers in the basement, and internal storage within the units, exceeding the DCP requirements.</p>	yes
Building Configuration: Basements and Podiums	<p>The top of the basement podium is located less than 1 metre above existing ground level, and in generally located at or below existing ground levels.</p>	yes
Building Configuration: Facade Articulation	<p>The facades of the building to the street frontages are highly articulated in meeting the controls. The top level of building has a reduced footprint to enable a setback from the levels below.</p>	yes
Building Configuration: Roof Design	<p>The maximum building height above top floor level is 4.3m The lift tower is concealed within the upper roof form.</p>	yes
Building Amenity: Acoustic Privacy	<p>There are no acoustic privacy issues between the site and adjoining areas.</p>	yes
Building Amenity: Solar Access and Overshadowing	<p>71% the proposed units receive the required sunlight. All units receive some sunlight, however, all units achieve heat and energy rating requirements of BASIX.</p> <p>Shadow diagrams show that the midwinter shadows affect the existing property to the south. The shadow diagrams show that the rear yard receives sunlight in the morning hours. The dwelling is not oriented to take advantage of northerly aspect and there are no large windows etc. in the northern face of the building.</p>	yes

Criteria	Assessment	Complies with objectives and / or criteria
Building Amenity: Natural Ventilation	Apartment depth is generally no more than 14 metres. All apartments have building depth of less than 21 metres from balcony edge. 100% of units achieve ventilation compliance. All kitchens in apartments are part of an open plan with access to the balconies providing natural ventilation.	yes
Building Amenity: Site Facilities and Servicing	Mail boxes are provided at the pedestrian entrance off Peel Street. A single antennae/dish can be provided for the building.	yes
Building Performance	The required BASIX certificate has been received.	yes
Minimum Allotment Frontages	The site has 3 frontages with 46-50m frontages existing.	yes
Building Depth and Bulk	Whilst overall building depth is greater than 18m on places, the articulated apartment design means that effective building depth is less than 18 metres. The gross floor area of the top level is approximately 59% of the floor area below.	yes
Primary Street Setbacks	Peel Street Podium setback of 7-8 metres. Kent Street Podium setback of 5-8 metres.	yes
Side and rear Setbacks	The only common boundary to south does not have balconies facing the boundary and has a 9 metre setback, which is also consistent with setback requirement for buildings over 3 stories in the high density residential zone.	yes
Ground level Uses	Large Communal Open Space provided at Ground Floor Level.	yes
Part 10 – Parking		
Resident and Visitor parking	55 spaces and trailer parking is provided. Bicycle parking is provided.	yes
Part 11 – Water Sensitive Design		
Stormwater Treatment	Water sensitive design strategy demonstrates that the criteria for pollution reduction targets are met.	yes
Part 13 – Landscape and Open Space		
Communal Open Space	The proposal provides 324m ² of Ground level communal open space. The communal areas provided meet the objectives of the DCP by providing residents with active and passive recreational opportunities.	yes
Private Open Space	Each unit has a balcony in excess of 12m ² in area with the balconies 2m wide.	yes

Criteria	Assessment	Complies with objectives and / or criteria
Landscape Design	Although the formal landscaped area represents only 34% of the site area, the inclusion of the communal green space and integration with stormwater drainage requirements means the objectives are met.	yes
Deep soil zones	The proposal has 22% of the site as deep soil zone.	yes
Part 14 – Waste Management		
Construction Waste	Construction waste can be adequately managed.	yes
Waste Management and Collection	On-site waste collection facilities provided.	yes

b) *The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality*

Context and Setting

The site is suitable for the proposed development, being located in a town centre precinct including both medium density and mixed use areas. The site is located close to the Tuncurry town centre, adjacent to commercial and community uses, as well as public transport. The site is a highly disturbed urban environment which is largely unconstrained. Although the site is partially flood prone, the flood planning area only effects minor areas of the site frontage to Peel and Kent Streets and does not affect the development footprint.

Site Design and Internal Layout

The architect for the proposal has prepared a design quality statement certifying that the design quality principles set out in Schedule 1 of SEPP 65 have been met in the design of the development. This is contained at Attachment C. The table below is a summary of the proposal's compliance with the design principles:

Design Principle	Comment
1. Context and Neighbourhood Character	<p>Located in Tuncurry, the proposal responds to the need to deliver high quality residential development in this popular area. Its position provides the opportunity to create a building that responds to the zoning and can define the character of the area as it moves forward.</p> <p>A combination of articulating architecture and landscaping intend to blend the development into a precinct while offering the community a recognisable feature.</p> <p>The development seeks to achieve maximum view aspects from the site in a 360 degree structure taking advantage of the coastal flat terrain available in the area.</p>

Design Principle	Comment
2. Built Form and Scale	<p>The building seeks to fill a perceived market in the area and as such is formed around the large more luxurious level of apartment dwelling and design. With this philosophy in place, the building form is an articulated cube base form with fenestration to articulate and soften the form.</p> <p>The main residential entry fronts Peel Street, being the preferred residential address, and is to be defined by a suitably scaled entry feature, letter boxes, providing a feeling of precinct while maintaining a feel of arrival and security. The full residential area is fenced from the streets and surrounding edges fenced and landscaped for safety and security.</p> <p>Balconies are used as elements from the main form of the building, with glass and stainless steel balustrades fundamentally, with solid sections for privacy at all times maintaining casual surveillance and a high quality feel.</p> <p>Fenestration is also varied with a combination of full height and half height windows with spandrels.</p> <p>An interplay of strong horizontal and vertical elements, such as the rectilinear elements with projecting balconies define the architectural language of the development.</p> <p>Car parking is in two (2) forms. While both are accessed from the lane the majority of the parking is in the form of a basement holding 40 cars while the remainder of the parking is at ground level in the form of undercover parking for 15 cars including the visitor spaces.</p> <p>All vehicle access is from Manning Lane while residential foot traffic is from Peel Street.</p>
3. Density	<p>THE DENSITY OF THE PROPOSAL IS IN EXCESS OF THE ALLOWABLE REQUIREMENTS HOWEVER BY NATURE OF THE INTENDED OFFERING AND THE PERCEIVED MARKET THE EXCESS IS DUE MORE TO THE GENEROUS UNIT DESIGN RATHER THAN OVERDEVELOPMENT OF THE SITE.</p>
4. Sustainability	<p>The proposal aims to set desirable benchmarks in sustainability, both in construction and in the continuing life of the building. A combination of passive design and active sustainable systems are proposed to minimise the environmental impact of the building while maximising the amenity of the occupants. Features of the ESD inclusions are:</p> <ul style="list-style-type: none"> a) laundry facilities in each apartment and generous balconies for drying of clothes; b) passive solar design enhances natural heating and cooling; c) dual aspect corner design and cross through apartments enhance natural ventilation, reducing electrical output; d) solar collection devises contribute to energy input from natural sources; e) generous window sizes promote natural light usage, rather than electrical; and f) orientation maximises the available daylight access to the apartments with most apartments exceeding the SEPP 65 apartment design guide requirements of 2 hours per day on the 21st June. <p>The diagram below shows the solar access received at the 19.8m height plane (top storey) of the proposed building:</p>



5. Landscaping

The landscape design is appropriate for the local context and ensures suitable native species are planted.

Outdoor areas are set up for the passive recreation of the residents. Areas proposed for common open space will contain seating and attractive landscaping providing outdoor activities for the residents. Play equipment and BBQ facilities can also be introduced as seen to meet the resident's requirements.

Landscaping provides privacy and amenity to the occupants and integrates the building with its surroundings and in keeping with the sustainable goals of the development, the landscaping proposed will soften the site and create a precinct character defining a destination.

The landscape plans at Attachment D show the extent and type of species as well as the external living areas and how the landscaping will integrate and provide a grounding for the residential blocks.

6. Amenity

The design takes advantage of the best available orientation and the district views. This, in combination with the generous landscaped setting provides an amenity for the residents and the passing public as they move around the development irrespective at which level the involvement occurs be it residential or passing pedestrian.

Natural ventilation and daylight access are successfully achieved with the orientation and unit footprint successfully fulfilling the requirements while maintaining a reasonably cost effective solution for the development.

Storage, access and services are easily achieved and isolation of the activities between all these and the commercial/retail areas are such that the security aspects of the residential development are not broken.

Units exceed the private open space requirements for the unit type and suitable allowances have been made in the design to achieve acoustic isolation between units and interfacing activities between units.

Ease of access is paramount in the design and has been undertaken in such a way that all age groups and varying degrees of mobility can move freely across and through the development.

Design Principle	Comment
7. Safety	<p>The first line of security is a perimeter screen that maintains visual transparency and runs around the majority of the development. The screen is situated within the vegetation of the landscaping to soften its appearance.</p> <p>There are secure entries for the block that act as a checkpoint prior to gaining access to the security front door of each particular apartment.</p> <p>All apartments have their own outdoor private space attached to their apartment, secured adequately and separated by landscaping where possible. Sightlines from all parts of the building allow for good views of semi-obscured spaces within the common areas of the site as well as beyond the perimeter fence to the streets.</p> <p>Safety in lighting will be a major element in the formation of the parking areas.</p>
8. Housing Diversity and Social Interaction	<p>The development is responding to a need in the area for apartment style accommodation. It introduces a selection of housing that caters to all social contexts within this area. The design is suitable for adaptable living.</p>
9. Aesthetics	<p>Located on a fully exposed site, viewed from four (4) directions and from distance, the development can be said to be "landmark". It has been carefully considered for viewing and location from all directions and attempts to achieve a well-proportioned and balanced spatial construct.</p> <p>The consistent architectural language will give it its own character and identity and be recognisable to the surrounding area.</p> <p>The building form is tailored to articulate within the site; with each facade broken down by elements, forms and colour intensity.</p> <p>The materials and colours selected enhance the architectural language of the buildings. Painted masonry surfaces are offset by composite decorative elements.</p>

Geotechnical Impacts

The geotechnical assessment is contained in full at Attachment F. The assessment found:

- The site is located on relic sand dune deposits which are comprised of deep sands, greater than 10 metres deep over the site.
- Groundwater levels on the site vary between 3.1 metres and 4.3 metres below the existing surface.
- Basement construction is unlikely to encounter groundwater.
- Excavation would result in temporary 2:1 batters and some form of sheet piling would most likely be required for basement construction.
- Infiltration rates are very high, allowing for on-site infiltration of stormwater as necessary.
- The soils were found to be non-aggressive to steel and mildly to non-aggressive to concrete.
- The soils are not Actual or Potential Acid Sulfate Soils.
- Foundation options include stiffened raft slabs or piles to underlying dense sands.
- Design factors for earthquake factors at Forster are Subsoil Class (De) Deep Soil Site and a site Hazard Factor (Z) of 0.08.

Water NSW have requested that Council include a condition on the consent for the development to require all the necessary approvals from Water NSW in accordance with the Water Management Act 2000 for dewatering of the site, prior to issue of the Construction Certificate. This has been addressed in the draft consent at Annexure A.

Hydrology and Water Quality Impacts

Whilst the land is partly flood prone, the habitable parts of the building are located outside of the Flood Planning Area.

Proposed stormwater management on the site utilises an approach which provides for the effective collection, treatment, and conveyance of stormwater flows from the development. The system is detailed within the water sensitive design strategy submitted with the development application and located at Attachment E. The system provides for improvement in the quality of stormwater from the site in accordance with Council's controls. Post development stormwater flow rates have been modelled and are less than the pre-developed flow rates for critical storms.

Privacy and Overshadowing Impacts

Shadow diagrams have been prepared for the proposal, which shows the impact of shadows cast in mid-winter. These are contained at Attachment A. The shadows cast by the proposed building between 9am and 3pm in mid-winter impact on the adjoining property to the south. The rear yard outdoor space in the central parts of the property would still receive morning sun. Whilst the overshadowing of the adjoining property will have a negative impact, tall buildings, because of their large scale, will inevitably and unavoidably cast shadows.

The large setback of the proposed development from this boundary (approximately 9 metres) is greater than the 6 metre control specified for medium density residential areas and combined with the east west orientation of the adjoining lot provides opportunity for future residential development on the adjoining land to obtain high levels of sunlight access.

The separation between residential units and balconies within the development will maintain visual and acoustic privacy.

Traffic and Access Impacts

Parking spaces provided for the proposed development are generally in accordance with the requirements of Great Lakes DCP 2014. Trailer parking is provided as a flexible arrangement, rather than allocated spaces, which is considered suitable due to the vast differences in trailer sizes.

Vehicular access to the site would be provided by a new driveway from Manning Lane, which will serve the basement and podium parking areas. There is no access provided from Peel or Kent Streets. Thirty metres of new concrete footpath will be constructed along Peel Street to accommodate pedestrian movements between the building entrance and the local pathway network.

A traffic assessment has been undertaken by Road Culture which is contained at Attachment G and has concluded that the likely generation of traffic for the proposed residential apartments is low and was found to be easily accommodated in the existing road network.

Although the development is not a traffic generating development under SEPP (Infrastructure) 2007, the traffic assessment and SEE was referred to the NSW Roads and Maritime Services (RMS) for comment. The RMS have indicated that they have no objection to, or requirements for, the proposed development.

Social and Economic Impacts

The proposal facilitates the growth of the Tuncurry township. The proposal contributes to the provision of a range of housing types and forms, including adaptable units, which provide an increased choice of housing, consistent with SEPP 65.

The development will provide additional employment opportunities in the short term, for construction, and long term there are likely to be additional employment opportunities in building maintenance.

The proposal is likely to have a positive social and economic impact on the local community.

c) The Suitability of the Site for the Development

The site is located adjacent to the Tuncurry Central Business District and provides an increased density of population within close walking distance to services and facilities, as well as being connected to public transport. Such outcomes are consistent with the desired character for the area. The site is largely unconstrained for the proposed development.

d) Any Submissions Made in Accordance with the Act or Regulations

The application was notified to adjoining land owners in accordance with Council's Policy from 12 July to 11 August 2017 and was advertised in the Great Lakes Advocate on 12 July 2017. Four submissions were received. Issues raised in submissions and responses to those issues are detailed below:

Issue	Response
Object to the increase in the height limit, floor space ratio.	An application to vary the height and floor space ratio standards has been lodged and is included in part 4.5.3 of the SEE at Attachment B. The proposed variations are considered to meet the objectives of the standard, and in the circumstances of the case it is considered that numerical compliance with the standard is unnecessary or unreasonable.
Object to building bulk	The building has been sympathetically designed to be well proportioned. Generous green communal space on site and articulation and fenestration of the building contribute to reducing the building's perceived bulk and scale.
Development will affect micro-climate, including overshadowing and reduction in easterly breezes at 10 Peel Street.	The shadow diagrams lodged with the application demonstrate that No. 10 Peel Street would experience shadows from the proposed development for less than 3 hours in the morning, which complies with Council's DCP 2014 for limiting overshadowing of surrounding properties. The reduction in easterly breezes is unlikely to be significant as the dwelling on No. 10 Peel Street is located over 40m west of the proposed apartments.
The south west corner of Kent and Peel Streets should be rezoned to B4 to allow a more balanced approach to design.	Noted. No LEP amendment is required for this application as the development is permitted with consent.
3 Catherine Street sits within a low density residential zone where all of the existing dwellings are single storey.	3 Catherine Street is located in the R3 medium density residential zone. Catherine Street has a variety of dwelling types, including a 9 storey apartment building and a 4 storey apartment building.

Issue	Response
Development is out of scale with the rest of Peel Street and will change its character.	<p>Whilst Peel Street is comprised primarily of one and two storey dwellings, there is a five storey apartment building to the south and a Woolworths shopping centre to the north of the development site.</p> <p>The zoning of land in Peel Street is B2 Local Centre, B4 Mixed Use and R3 Medium Density Residential. Height controls for Peel Street vary between 13.2m to 22m. The future desired character for the area is that of medium density development.</p>
The Land and Environment Court will reject the development due to the variations to the development standards.	The application is not being considered by the Land and Environment Court.
Object to having no elected Council representative to provide guidance to impacted neighbours and request that application is deferred for further consideration.	The application will be considered by elected Council representatives.
Object to flawed environmental assessment and impacts such as erosion, aesthetics, construction impacts on adjoining properties and safety.	The SEE is considered to be adequate. The likely environmental impacts of the development are considered to be acceptable, and conditions will be placed on the consent to ensure construction impacts are minimised.
No justification for housing supply.	The 2016 census data shows that Tuncurry has a higher proportion of persons at post retirement age than the average for the MidCoast area. The largest change in the age structure in Tuncurry between 2011 and 2016 was in people aged 60 to 69 years. Research released by the NSW Government shows that this age group typically prefer apartment-style living due to the security it provides, as well as lower maintenance requirements.
Object to impacts on privacy of neighbours	Tall buildings inevitably overlook adjoining properties, which in most cases cannot be avoided. The development has been set back from the adjoining property boundaries to the south by approximately 9m (Council's control for this form of development is 6m) and it is therefore considered that the impacts have been mitigated to the greatest extent possible. It is also of relevance that the density of units per floor is reasonably low, therefore the "amount" of units that overlook the adjoining properties is also low.

Issue	Response
Solar panels at 13 Peel Street will be impacted.	It is likely that any east facing solar panels on the dwelling at 13 Peel Street will have reduced efficiency in winter as a result of the development as they will be overshadowed for more than 3 hours during the day. In considering whether the impacts are acceptable, it is of relevance that there is an 18m height limit in the locality, and any building of this height would also overshadow the solar panels on this property.
Construction impacts will damage dwelling at 13 Peel Street	The consent includes the requirement for adjoining properties to be protected during the works.
Dust impacts on adjoining properties during construction will need mitigating	The consent includes the requirement for approval of a dust suppression methodology during construction.

e) The Public Interest

The proposal is considered to be a high quality contemporary style of development in an area recognised by Council to be suitable for residential flat buildings, by virtue of it's height limit. The precinct in which the development is located is evolving into an established urban neighbourhood with a variety of lot sizes and a changing streetscape and scale. The development has been designed to be a "landmark" and provides adaptable living options close to shops and public transport, as well as other places of interest including parks and the foreshore, for Tuncurry's increasing population of retirees. The proposed development is considered to be in the public interest.

CONCLUSION

Subject to the conditions contained in Annexure A the impacts of the development are considered to be acceptable against the relevant provisions of section 79C of the *Environmental Planning and Assessment Act 1979*.

RECOMMENDATION

It is recommended that Development Application DA-577/2017 for a Residential Flat Building on Lot 17 Sec 2 DP 759005 and Lots 54 and 55 DP 31768 be approved in accordance with the conditions of consent contained in Annexure A.

ANNEXURES

A: Conditions of Consent

General Requirements

The following conditions of consent are general conditions applying to the development.

1. Development in accordance with approved plans

The development must be implemented in accordance with the following stamped plans and details submitted with application DA-577/2017 (as amended by the following conditions).

Plan type/Supporting Document	Plan No. & version	Prepared by	Dated
Water Sensitive Design Strategy for Proposed Apartments, Lot 17 Sec 2 DP759005 & Lots 54 & 55 DP31768, No. 15 Peel St, Tuncurry	Issue 2	Lidbury, Summers and Whiteman	June 2017
Water Sensitive Design Strategy Cnr Kent St & Peel St, Tuncurry	Sheet 1 of 1	Lidbury, Summers and Whiteman	8/6/2017
Landscape Plan	LA-02 Rev Amendments	Paterson Design Studio	30/08/2017
Landscape Section and Planting	LA-03 Rev Amendments	Paterson Design Studio	30/08/2017
Existing Conditions Plan	DA015 Rev A	Leffler Architects Simes	Mar 2017
Site Plan	DA020 Rev A	Leffler Architects Simes	Mar 2017
Basement Car Park	DA100 Rev B	Leffler Architects Simes	Mar 2017
Ground Plan	DA101 Rev B	Leffler Architects Simes	Mar 2017
1 st – 5 th Floor Typical Plans	DA 102 Rev A	Leffler Architects Simes	Mar 2017
6 th Floor (Penthouses)	DA001 Rev A	Leffler Architects Simes	Mar 2017
Elevations Sheet 1	DA150 Rev A	Leffler Architects Simes	Mar 2017
Sections Sheet 1	DA160 Rev B	Leffler Architects Simes	Mar 2017
Perspectives Sheet 1	DA300	Leffler Architects Simes	Mar 2017

The approved plans and supporting documents must be kept on site at all times whilst work is being undertaken.

Reason: Information and to ensure compliance.

2. Compliance with National Construction Code Series- Building Code of Australia

All building work must be carried out in accordance with the requirements of the *National Construction Code Series - Building Code of Australia* as in force on the date the application for the relevant construction certificate or complying development certificate was made.

Reason: Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

3. Support for neighbouring buildings

If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- i. Protect and support the adjoining premises from possible damage from the excavation.
- ii. Where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to this condition not applying.

Reason: To protect development on adjoining premises. Prescribed condition under the Environmental Planning and Assessment Regulation 2000.

4. Adjustment to utility services

All adjustments to existing utility services made necessary by the development are to be undertaken at no cost to Council.

Reason: To ensure utility services remain serviceable.

5. Stormwater Quality Management Treatment measures

The development is to contain a 16.25m² bioretention basin collecting 100% of the roof water, balcony surface water, driveway and basement ramp surface water. The water is to be pre-treated in sediment reduction / pre-filter pits.

Reason: To ensure the elements of the agreed stormwater strategy are implemented so as to meet the stormwater quality targets.

Prior to Issue of the Construction Certificate

The following conditions of consent must be complied with prior to the issue of the construction certificate.

6. MidCoast Water approval

Prior to the issue of a construction certificate, a certificate of compliance from MidCoast Water, stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development, must be submitted to the certifying authority.

Reason: To ensure suitable water and sewage disposal is provided to the development.

7. Works within the road reserve

Prior to the issue of a construction certificate, an application for a Public Engineering Works Permit (PEWP) must be submitted to and approved by Council for the road reserve works listed in the table below. Each work must be carried out in accordance with the standard specified. All works must include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities.

Work	Standard to be provided
Footpath for the full frontage of the site	1.2m wide at a cross-fall of 1 % or 1:100 (maximum 2.5% or 1 in 40) in accordance with Council Standard Drawing No. 28.
Removal of the disused driveway and vehicular crossing fronting Kent Street.	Reinstatement of kerb. Existing cycle way/footpath to be longitudinally regraded either side of the driveway to match existing levels and reduce the existing vertical curve.

Reason: To ensure works within Council's road reserve are constructed to a suitable standard for public safety.

8. Stormwater Quality Management Concept and Treatment measures

Submit final engineering plans and specifications for the stormwater management system, for approval by MidCoast Council. Engineering plans are to be designed in accordance with the approved Water Sensitive Design Strategy (LSW, June 2017).

Bioretention design is to meet the requirements of the Water Sensitive Design Strategy and the following criteria:

- Designed in accordance with *Water by Design (2006), Water Sensitive Urban Design – Technical Design Guidelines for South East Queensland*, South East Queensland Healthy Waterways Partnership, including calculations for the underdrain pipe hydraulic capacity and calculations to demonstrate that the critical volume 3-month ARI event can be retained in the biofiltration basin without overflowing into the outlet pit.
- Contain at least four species of plants selected from *Great Lakes Councils Fact Sheet 15 'Local plant selection for raingardens, guidance for Water Sensitive Design*, dated 10 August 2016, planted at densities indicated in the fact sheet.
- Contain 0.4m filter media of uniform sandy loam texture and be consistent with the specifications contained in *Adoption Guidelines for Stormwater Biofiltration Systems, Facility for Advancing Water Biofiltration*, (Monash University, June 2009). Filter media must be tested by a NATA registered laboratory to confirm orthophosphate is a maximum 35 mg/kg.
- Have a maximum surface storage depth of 0.4m and minimum surface storage depth of 0.2m, with a maximum batter/side slope of 1:3 (v:h), unless otherwise retained by a structural wall and landscaping.
- Have suitable access arrangements for operation and maintenance.
- Landscaping to provide separation from surrounding areas.
- Configuration of stormwater drainage to avoid damage to the bioretention systems (particularly the filter media) during construction.

Reason: To ensure water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan are met.

9. Water Sensitive Design Maintenance Plan

Submit to Council for approval a Water Sensitive Design operation and maintenance plan for the approved Water Sensitive Design Strategy (LSW, June 2017). The maintenance plan must include but not be limited to:

- The location and nature of stormwater management structures such as pits, pipes, filters, the bioretention basin and other drainage works.
- Requirements for inspection, monitoring and maintenance including the frequency of these activities during the establishment and operational phases.
- Identification of responsibilities for maintenance including a reporting protocol and checklists.

Reason: To ensure water quality measures installed on the site can be adequately maintained.

10. Driveway Application

A Driveway Levels Application must be submitted to Council for approval together with the application fee and all required plans and specifications.

Note: Driveways must be constructed by a qualified/licensed contractor at no cost to Council in accordance with the driveway levels and construction standards issued by Council.

Reason: To ensure works within Council's road reserve are constructed to a suitable standard for public safety.

11. Traffic Management Plan

A traffic management plan including measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development must be prepared by an accredited person trained in the use of the current version of *RTA Traffic Control at Work Sites Manual* and approved by Council. The plan must be designed in accordance with the requirements of the Roads and Maritime Services Manual, *Traffic Control at Work Sites Version 2* and *Australian Standard AS 1742.3: Manual of uniform traffic control devices - Traffic control for works on roads* and must be implemented prior to the commencement of work. The plan must incorporate measures to ensure that motorists using the road adjacent to the development and residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site.

Reason: To ensure public safety during the construction of the development.

12. Land to be consolidated

All separate parcels of land must be consolidated into one allotment and evidence of the lodgement with the Register General of the NSW Land and Property Information must be submitted to the certifying authority.

Reason: To ensure development is not constructed over lot boundaries.

13. Bond required to guarantee against damage to public land

A Damage Bond Application form together with payment of a bond in the amount of \$105,000 and a non-refundable administration fee of \$330 must be submitted to Council. The bond is payable for the purpose of funding repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.

A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

- a) once all works, including landscaping, driveway construction, turfing, etc, have been completed, and
- b) following issue of an Occupation Certificate by the certifying authority.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council's current fees and charges document at the time of lodgement of the damage bond.

Reason: Protection of public assets.

14. Geotechnical report – engineering works

A suitably qualified and experienced geotechnical engineer must undertake the following design and preparation of a dewatering management plan that includes the development of a groundwater model for the:

- a) Construction period. The model shall determine a suitable dewatering system that includes and ensures the re-injection of any extracted groundwater to ground within/adjacent to the development site. The system shall be designed and monitored so that any properties adjacent to the development site are not adversely affected. Any proposal to reinject the groundwater in an adjacent property will need to approval of the property owner.
- b) Post development: that includes any requirements for:
 - Ensuring the re-injection of any extracted groundwater to ground is undertaken within the development site.
 - Structural stability of the development with a fluctuating water table that includes the influence of sea level rise to the year 2060. (Note that the 1 in 100 year Wallis Lake flood level for the year 2060 is RL 2.40 m AHD).
 - Tanking and waterproofing the lift wells and the basement carpark up to at least the 1 in 100 flood level RL 2.4m AHD.

The dewatering management plans and recommendations made by the Geotechnical Engineer must include a quality assurance structure and be submitted to and approved by the certifying authority. Approval is required from Water NSW in accordance with the Water Management Act 2000 for dewatering of the site. Evidence of all of the necessary approvals from Water NSW are to be supplied to the certifying authority.

Reason: Management of dewatering, site stability and public safety.

15. Basement Car Park Pump-Out

Plans and specifications detailing a pump-out system for the stormwater drainage that enters the basement car park from the driveway ramps must be submitted to and approved by the certifying authority. The pump wet well must have the capacity that:

- Has a minimum safety factor of 1.5 larger than the volume required for a 1in 100 year storm event or;
- Is not less than average recurrence interval (ARI) = 10 years and duration of 120 minutes.

The pump system must be designed and constructed:

- a) With a minimum of two pumps being installed in parallel (with each pump capable of discharging at the designed discharge rate) connected to a control board so that each pump will operate alternately.
- b) In accordance with Australian Standard AS/NZS 3500.3: Plumbing and Drainage - Stormwater Drainage.
- c) Electrical pumps are to comply with Australian Standard AS/NZS 3000: Electrical installations.
- d) The pump system must drain to a silt arrester/stilling pit within the property and then drain by gravity to either Councils' storm water drainage system or alternatively to a suitable infiltration system located within the development site.

16. S94 Contributions

A monetary contribution must be paid to Council in accordance with Section 94 of the Environmental Planning and Assessment Act 1979. The services and facilities for which the contributions are levied and the respective amounts payable under each of the relevant plans are set out in the following table:

Contributions Plan	Facility	Quantity / Unit	Rate	Amount
Great Lakes Wide	Library bookstock	63.8 persons	\$78.75	\$5,024.25
Great Lakes Wide	Headquarters building	63.8 persons	\$472.81	\$30,165.28
Great Lakes Wide	S94 administration	63.8 persons	\$216.92	\$13,839.50
Forster District	Major roads inner zone	148 one-way trips	\$684.30	\$101,276.40
Forster District	Aquatic centre	63.8 persons	\$310.17	\$19,788.85
Forster District	Surf life saving	63.8 persons	\$91.48	\$5,836.42
Forster District	Open space	63.8 persons	\$1,483.35	\$94,637.73
Forster District	Library facility	63.8 persons	\$513.26	\$32,745.99
Forster District	Community facilities	63.8 persons	\$560.25	\$35,743.95
			Total	\$339,058.37

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June following the date of consent. Payment made after 30 June will be at the indexed rates applicable at that time. The Contributions Plan and the Standard Schedule for Section 94 Plans may be viewed on Council's website or at Council's offices at Breese Parade Forster.

Reason: Statutory Requirement to be paid towards the provision or improvement of facilities and services.

17. Dust Control

Suitable details must be provided for the approval of the certifying authority of an appropriate system to control dust emissions from the site during works. The approved method of controlling dust emissions from the site is to be implemented and be maintained for the duration of works on the site.

Reason: To ensure that dust impacts on adjoining neighbours are minimised.

Prior to Commencement of Works

The following conditions of consent must be complied with prior to any works commencing on the development site.

18. Construction certificate required

A Construction Certificate is to be issued by an accredited certifier prior to commencement of any construction works. The application for this certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

Reason: Statutory requirement under the *Environmental Planning and Assessment Act 1979*.

19. Details of Asbestos Removal

Prior to the commencement of any demolition work, details of the SafeWork NSW licensed asbestos removalist, engaged to undertake the demolition and asbestos removal work, must be provided in writing to Council. A documented copy of the Asbestos Removal Control Plan for the demolition (which must nominate the appropriately licensed waste facility where the material is to be disposed of) and evidence of SafeWork NSW notification must be provided with the details of the removalist. Alternatively, a report from a suitably qualified person must be provided to Council which demonstrates that less than 10m² of asbestos containing material is to be removed.

Reason: To ensure public health and safety.

20. Removal of asbestos

All asbestos containing materials associated with demolition works must be removed, handled and disposed of in accordance with the requirements of SafeWork NSW and the following requirements:

- a) the demolition and removal must be undertaken by a SafeWork NSW licensed demolition contractor who holds an appropriate SafeWork Asbestos Removal Licence for the material to be demolished where 10m² or more asbestos containing materials are present.
- b) All asbestos must be removed from the site and be disposed of at an approved licensed waste facility. All asbestos waste must be delivered to an approved licensed waste facility in heavy duty sealed polyethylene bags.
- c) The bags are to be marked "Caution Asbestos" with 40mm high lettering. A minimum of Twenty four (24) hours' notice must be given to the waste facility prior to disposal.
- d) Receipts of the disposal of all asbestos to a licensed waste facility must be provided to Council within seven (7) days of the demolition.
- e) A copy of an Asbestos Clearance Certificate prepared by a suitably qualified independent person is to be provided to Council for all licensed asbestos removal works within seven (7) days of the completion of the demolition.

Reason: To protect public health and safety and to ensure the correct disposal of asbestos waste.

21. Sewer Connections

All existing sewer connections are to be capped and sealed prior to completion of the demolition operation. The sewer is to be excavated at the shaft, capped and adequately sealed at the sewer junction by a licensed plumber/ drainer. The sealing of the sewer junction is to be inspected by MidCoast Water's Plumbing Inspector prior to the excavation being backfilled.

Reason: To ensure public health and safety during the demolition.

22. Notification of commencement and appointment of principal certifying authority

Prior to the commencement of any building construction work (including excavation), the person having the benefit of the development consent must appoint a principal certifying authority and give at least two (2) days' notice to Council, in writing, of the persons' intention to commence construction work.

Reason: Statutory requirement under the *Environmental Planning and Assessment Act 1979*.

23. Toilet facilities - sewerred areas

Toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet must be a standard flushing toilet connected to a public sewer.

Reason: To maintain the public health and the natural environment.

24. Site construction sign

Prior to the commencement of any works, a sign or signs must be erected in a prominent position at the frontage to the site:

- a) showing the name, address and telephone number of the principal certifying authority for the work, and
- b) 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 work site is prohibited.

The sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

Reason: Prescribed condition under the *Environmental Planning and Assessment Regulation 2000*.

25. Erosion and sediment control plan

Prior to the commencement of any work, an erosion and sediment control plan prepared by a suitably qualified person in accordance with "*The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction*" (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins. The bioretention basin must also be protected with erosion and sediment control measures during construction.

Reason: To protect the environment from the effects of erosion and sedimentation.

26. Installation of approved erosion & sediment control measures

Prior to the commencement of any work, erosion and sedimentation controls must be installed in accordance with the approved erosion and sediment control plan and are to be maintained for the duration of the project.

Reason: To protect the environment from the effects of erosion and sedimentation.

27. Public safety management plan

Prior to the commencement of any work, consent from Council must be obtained for a public safety management plan for those works within the road reserve in accordance with Section 138 of the *Roads Act 1993*. The public safety management plan must include provision for (but not be limited to):

- a pedestrian barrier, alternative footpaths and ramps as necessary;
- lighting of the alternative footpath between sunset and sunrise;
- the loading and unloading of building materials;
- parking space for tradesman's vehicles, where such vehicles must be located near the site due to tools and equipment contained within the vehicle; and
- removal of any such hoarding, fence or awning as soon as the particular work has been completed.

The approved public safety management plan is to be implemented prior to the commencement of any work.

Reason: To ensure public safety during the construction of the development.

28. Public safety requirements

Public liability insurance cover, for a minimum of \$10 million, is to be maintained for the duration of the construction of the development and a copy of the certificate of currency is required to be provided to the certifying authority.

Reason: To ensure public health and safety during the construction of the development.

During Construction Works

The following conditions of consent must be complied with during the construction stage of the development.

29. Construction times

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

Monday to Friday: 7 am to 6 pm.
Saturday: 8 am to 1 pm.

No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

Reason: To maintain amenity during construction of the development.

30. Maintenance of erosion and sediment control measures in accordance with the approved plan

Erosion and sediment control measures must be maintained at all times in accordance with the approved erosion and sediment control plan until the site has been stabilised by permanent vegetation cover or hard surface.

Reason: To protect the environment from the effects of erosion and sedimentation.

31. Burning of felled trees prohibited

The burning of trees and vegetation felled during clearing of the site is not permitted. Where possible, vegetation is to be mulched and reused on the site.

Reason: To maintain amenity and environmental protection.

32. Aboriginal heritage

This consent does not authorise the harming of an Aboriginal object or place. It is the responsibility of all persons to ensure that harm does not occur to an Aboriginal object or place. If an Aboriginal object is found whilst undertaking any work, all work must stop immediately and Council and the NSW Office of Environment and Heritage must be notified.

Reason: To protect Aboriginal heritage.

33. Vibrating compaction rollers

Vibrating compaction rollers must not be used unless a report prepared by a qualified geotechnical engineer has been submitted to and approved by the certifying authority which demonstrates that such use will not result in adverse structural impacts to adjoining properties.

Reason: To avoid damage to adjoining properties from vibration impacts.

34. Construction requirements

Unless otherwise approved, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.

Reason: To avoid damage to adjoining properties and public places.

35. Noise and Dust Control

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind blown dust, debris, noise and the like during the demolition, excavation and building works.

Reason: To preserve the amenity on adjoining properties and public places.

36. Protection of Adjoining Property requirements

All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

Reason: To avoid damage to adjoining properties.

37. Safety

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and the adjoining property while the development is being constructed.

Reason: To ensure safety.

38. Waste management and site condition

A suitable metal waste skip-bin is to be provided on the development site for the duration of the works. The site must be maintained in a tidy condition for the duration of works.

Reason: To ensure that the site is maintained in a tidy condition during works.

39. Construction and inspection of stormwater treatment measures (Bioretention Swales)

Construct the stormwater management system so that it is consistent with final approved Water Sensitive Design Strategy for Proposed Apartments, Lot 17 Sec 2 DP759005 & Lots 54 & 55 DP31768, No. 15 Peel St, Tuncurry (June 2017) and the approved engineering design and all other consent conditions.

Install the bio-retention swale filter media in accordance with Water Sensitive Urban Design (WSUD) Engineering Procedures (Melbourne Water, 2005).

Protect bioretention with erosion and sediment control measures during construction.

Engage a suitably qualified stormwater engineer to inspect each bioretention during construction. Verify compliance with the approved plans using the sign off forms in 'Construction and Establishment Guidelines: Swales, Bioretention Systems and Wetlands' Healthy Waterways, 2010 including:

- a) Earthworks and functional (hydraulic) structures and under drainage prior to covering in.
- b) Filter media including NATA test results and verification through field tests of bioretention basin infiltration rates within 10% of the rates of the design parameters.
- c) Finished levels (works as executed).
- d) Landscape installation and establishment.

Submit signed inspection forms to Council including photographs and NATA test results confirming that the asset has been constructed to comply with development consent conditions.

Reason: To ensure that the bioretention is constructed in accordance with approved plans, standards and conditions of consent.

Prior to Issue of the Occupation Certificate

The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.

40. Application for an Occupation Certificate

An application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building. The occupation or use of the building must not commence until the occupation certificate has been issued.

Reason: To ensure compliance.

41. Undergrounding of Electrical Services

The applicant must relocate to underground all overhead low voltage wires located along/adjacent to the site frontage in Peel St. to the nearest power pole outside the site frontage. Within the site, cables are to be located underground.

The applicant shall liaise directly with the relevant service utility authority. All cables (other than high voltage) must be relocated underground to the satisfaction of the relevant authority.

Reason: To remove unsightly cabling and add to the amenity of the surrounding area.

42. Inspections of engineering work

All engineering work must comply with Council's engineering guidelines, specifications and standards and must be inspected in accordance with Council's holding points. Upon completion of the public works a final inspection must be arranged with Council and a Certificate of Practical Completion must be issued by Council.

Reason: To ensure compliance with Council's specification for engineering works.

43. Street tree planting

Street tree planting must be installed in accordance with the following schedule:

- For the Kent Street frontage: 4 x Cupaniopsis (Tuckeroo). For the Peel Street frontage: 4 x Tristanopsis (Water Gums),
- 250mm pot size,
- be protected by a suitable tree guard,
- provided with slow release fertiliser, and
- be mulched with 100mm of native tree mulch.

Reason: To maintain environmental and streetscape amenity.

44. BASIX

Pursuant to Clause 97A(2) of the Environmental Planning and Assessment Regulation 2000, it is mandatory that all the commitments listed in the BASIX Certificate applicable to the development are fulfilled.

Reason: To meet the State Government's requirements for sustainability.

45. Maintenance of stormwater treatment measures

The following restriction is to be entered onto the title of the land with Council nominated as the body empowered to modify or waive such requirements:

- The stormwater treatment system including the sediment reduction / pre filter pits and bioretention basin must be managed in accordance with the approved Water Sensitive Design Maintenance Plan for the life of the development.
- The body responsible for the maintenance must submit an annual report to Council detailing maintenance activities undertaken in accordance with the approved Water Sensitive Design Maintenance Plan.

Reason: To ensure ongoing functioning of the stormwater treatment system so that the development complies with water quality objectives in perpetuity.



Lisa Schiff
Director
Planning and Natural Systems