

Central Coast

Local Planning Panel

Central Coast
Local Planning Panel Meeting
Business Paper
14 August 2025



Meeting Notice

**The Local Planning Panel Meeting
of Central Coast
will be held remotely - online,
Thursday 14 August 2025 at 12.00 pm,
for the transaction of the business listed below:**

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3 Planning Reports- Outside of Public Meeting

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4 Reports

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7
Kantara Road, Canton Beach - 5 Storey Mixed Use Development 98

Jason Perica
Chairperson

Item No: 1.1
Title: Disclosures of Interest
Department: Governance

14 August 2025 Local Planning Panel Meeting

Reference: F2020/02502 - D14205789

The NSW Local Planning Panel Code of Conduct states that all panel members must sign a declaration of interest in relation to each matter on the agenda before or at the beginning of each meeting.

Recommendation

That Panel Members now confirm that they have signed a declaration of interest in relation to each matter on the agenda for this meeting and will take any management measures identified.

Item No: 2.1
Title: Confirmation of Minutes of Previous Meeting
Department: Corporate Services

Central Coast
Local Planning Panel

14 August 2025 Local Planning Panel Meeting

Reference: F2020/02502 - D16975162

Author: Lisa Martin, Civic Support Officer Civic Support

Summary

The Minutes of the following Meeting of the Local Planning Panel, which have been endorsed by the Chair of that meeting, are submitted for noting:

- ***Local Planning Panel Meeting held on 17 July 2025***

Recommendation

That the minutes of the previous Local Planning Panel Meeting held on 17 July 2025, which were endorsed by the Chair of that meeting, are submitted for noting.

Attachments

1   MINUTES - Local Planning Panel - 17 July 2025 D16969449



Local Planning Panel

Minutes of the
Local Planning Panel Meeting
Held Remotely - Online
on 17 July 2025

Panel Members

Chairperson	Heather Warton
Panel Experts	Lindsey Dey Heather Irish
Community Representative/s	Adam Koutsamanis

Central Coast Council Staff Attendance

Ailsa Prendergast	Section Manager Residential Assessments
Kirra Hartley	Senior Development Planner Development Advisory Services
Rebecca Cardy	Senior Heritage Officer Strategic Planning Projects
Cecilia Rose	External Legal Advisor
Lisa Martin	Civic Support Officer
Tess McGown	Civic Support Officer
Sarai Vallaydam	Civic Support Officer

The Chairperson, Heather Warton declared the meeting open at 12:34pm.

The Chair read an acknowledgement of country statement.

Apologies

The Panel noted that no apologies had been received.

Minutes of the Local Planning Panel Meeting 17 July 2025 cont'd

PROCEDURAL ITEMS

1.1 Disclosures of Interest

The Panel members confirmed that they have signed a declaration of interest in relation to each matter on the agenda. No members of the Panel identified any Conflicts of Interest for this meeting.

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 Confirmation of Minutes of Previous Meeting

That the minutes of the previous Local Planning Panel meeting held on 19 June 2025, which were endorsed by the Chair of that meeting, were noted.

PLANNING REPORTS

3.1 DA/71/2024 - 464 Ruttleys Road MANNERING PARK NSW 2259 - Industrial Storage Shed

Site Inspected	Yes, by electronic means.
Relevant Considerations	As per Council assessment report and the Supplementary Report dated 15 July 2025.
Material Considered	<ul style="list-style-type: none">• Documentation with application• Council assessment report• Approved Conservation Management Plan• Supplementary Memo dated 15 July 2025.
Council Recommendation	Approval, subject to conditions.
Panel Decision	Panel Decision

- 1 The Panel grants consent to DA/71/2024 – 464 Ruttleys Road, MANNERING PARK – for construction and use of an industrial storage shed having regard to the matters for consideration detailed in Section 4.14 and 4.15 of the Environmental Planning and Assessment Act 1979. This subject to the conditions detailed in the schedule attached to the Assessment Report, amended follows:**

Under the heading 'APPROVED PLANS AND SUPPORTING

Minutes of the Local Planning Panel Meeting 17 July 2025 cont'd

DOCUMENTATION:

A. In the table of Approved Documents in Condition 1.1, add the document *Bulk Store Building, Mannering Park Revised Conservation Management Plan*, dated February 2009, prepared by Godden Mackay Logan Heritage Consultants (the CMP).

B. Add new Condition 1.4:

1.4 Limits of approval

- a) The approved use of the building is for storage associated with the use of the site under the consent for DA204/2007 as modified, that approved the 'Adaptive re-use of a heritage item for industrial purposes'.
- b) The use approved under this consent is confined to the storage of materials such as bagged concrete, plaster, drum render and heavy hardware items and timber within the proposed new building. No approval is granted under this consent for the creation or use of any other area for storage or stockpiles, shown on the approved Plan referenced in Condition 1.1.
- c) This consent allows for the storage of materials already located on the site. No intensification of the use, increase in deliveries or processing output is approved.
- d) No vegetation is to be removed on the site other than that within the footprint of the proposed building and as allowed under Condition 5.4.

Reason: to confirm and clarify the extent of the development approved under this consent.

Under the heading 'PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE':

C. After Condition 2.3, add new Condition 2.4, the s.712 Contribution as identified on pages 40 and 42 of the Assessment Report:

2.4 Section 7.12 local Infrastructure development contribution

Prior to the issue of the Construction Certificate, pursuant to Section 7.12 of the EP & A Act, the applicant must pay to Council a contribution in the amount of **\$686.07** as calculated at the date of this consent, in accordance with the *Central Coast Section 7.12 Local Infrastructure Plan 2023*.

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the

Minutes of the Local Planning Panel Meeting 17 July 2025 cont'd

Development Contribution Plan.

Contributions under the Central Coast Section 7.12 Local Infrastructure Contributions Plan 2023 are subject to quarterly indexation by CPI. A copy of the Contributions Plan is available for inspection at 2 Hely St, Wyong or on Council's website: <https://www.centralcoast.nsw.gov.au/plan-andbuild/development-contributions-plans-and-planningagreements>.

D. After new Condition 2.4, add new Condition 2.5:

2.5 Implementation of CMP

Prior to the issue of the construction certificate:

- a) The CMP shall be reviewed, updated by a suitably qualified heritage expert and re-approved by the Council.
- b) The schedule of Cyclic Inspection and Maintenance of the Bulk Store Shed, as required by section 7.2.11 of the CMP must be submitted to the Council (also see new Condition 9.3b)).
- c) Documentation of the past maintenance undertaken since 2009 and the proposed future maintenance to be undertaken immediately or within six months of any previous maintenance, shall be submitted to Council.

Reason: Consent for this DA is only possible under cl 5.10(10) of Central Coast LEP 2012 Evidence of consistency with the Approved CMP is required. It is noted that the CMP was to be reviewed every five years from 2009 (or whenever new documentary evidence has been found).

E. After new Condition 2.5, add new Condition 2.6:

2.6 Earthworks

If any cut or fill earthworks are required for the proposed building, earthworks plans prepared by a registered practicing engineer are to be submitted to the be submitted to the Certifier, prior to issuing a construction certificate.

F. After new Condition 2.6, add new Condition 2.7:

2.7 Internal circulation

Prior to the issue of the construction certificate a plan of the internal vehicular circulation within the site, as a result of the access to the new storage building with regard to truck parking, turning areas, safe pedestrians shall be submitted.

Minutes of the Local Planning Panel Meeting 17 July 2025 cont'd

Under the heading 'DURING WORKS':

Condition 5.4 is amended to read:

All native vegetation including *Angophora costata* (Smooth-barked Apple) trees is to be retained on the site, including within the asset protection zone (APZ). Within the APZ, all exotic species, such as Bitou Bush and Pine trees are to be removed without causing damage to the *Angophora costata* and any other native trees.

Under the heading 'PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE':

G. Condition 6.2 is to be reworded to read:

6.2 During the operation of the use, all non-native species within the Asset Protection Zone are to be removed and the APZ maintained in accordance with the requirements of the RFS in Condition 1.3 of this consent.

H. Condition 6.3 is to be reworded to read:

6.3 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifier. Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Under the heading 'ONGOING':

I. Condition 9.2.1 shall be renumbered as 9.2.

J. After Condition 9.2, add new Condition 9.3:

9.3 Review of CMP

- a) The approved CMP referred to in Condition 1.1 shall be reviewed every five years following the review undertaken under Condition 2.5 of this consent, or whenever new physical or documentary evidence is sourced. The owner of the bulk store is responsible for the review, which is to be by a suitably qualified heritage expert. A copy of the updated CMP is to be submitted to council for approval.
- b) Evidence of compliance with the schedule of Cyclic Inspection and Maintenance of the Bulk Store Shed, as approved by the Council under Condition 2.5b) of this consent shall be submitted to the Council every two years

Minutes of the Local Planning Panel Meeting 17 July 2025 cont'd

Reason: To ensure the CMP, on which the approved development relies, is kept up date in accordance with Part 7.2.9 of the CMP and implemented in accordance with Part 7.2.11 of the CMP.

The Council advise the relevant external authorities of the Panel's decision.

Reasons

Following the site inspection and briefing on 15 July 2024, the Panel requested additional information to be provided including the previous approvals for the site and a copy of the approved CMP. Additional questions including regarding the permissibility of the use, were addressed in the Supplementary Memo dated 15 July 2025.

With the addition of the conditions proposed above, the Panel is satisfied that the proposal can be approved, using clause 5.10(10)(a) of Central Coast LEP 2012. The proposed additional conditions relating to the CMP are to ensure that there is a nexus between this proposal and the conservation of the heritage item on the site, the Bulk Storage Shed. The Panel is also satisfied that there are no adverse impacts arising from the proposed new building on the Bulk Storage Shed (cl 5.10(10)(d)).

Other conditions are imposed to clarify the approved use and works and to that no vegetation clearing is undertaken outside that approved.

The Panel otherwise generally agrees with the reasons for approval outlined in the Assessment Report.

Votes

The decision was 4/0.

**ADDITIONAL LATE
ITEM (Confidential)**

The Panel was briefed at the Electronic Meeting on 17 July 2025 by Cecilia Rose, external solicitor acting for the Council in a Class 1 Appeal for DA/1849/2005 for a residential flat building comprising 45 units and demolition of existing structures at 2-4 Fairport Avenue and 44-48 Ocean Parade, The Entrance.

The reason for dealing with the report confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

A Memo dated 17 July 2025 with background to this matter and supporting legal advice was provided to the Panel on 18 July 2025.

Panel Decision

The Panel notes the status of the appeal and in accordance with section 2.20(8) of the Environmental Planning and Assessment Act

Minutes of the Local Planning Panel Meeting 17 July 2025 cont'd

1979, the Local Planning Panel delegates to the Unit Manager of Development Assessment the ability to give legal instruction to Council's external legal counsel at any upcoming proceedings relating to the appeal, including entering into a section 34 Agreement with the Applicant to finalise the proceedings.

Votes: *The decision was unanimous*

The Panel was advised of the details of the Applicant, Applicant's planner and Applicant's legal firm and there were no conflicts of interest declared.

Ms Dey notes that she was a member of the Panel at the previous meeting when this application was determined on 31 October 2024.

Item No: 3.1
Title: DA/4341/2022 - 53 Gindurra Road, Somersby
Designated Development Concrete Batching Plant
Department: Environment and Planning

Central Coast
Local Planning Panel

14 August 2025 Local Planning Panel Meeting

Reference: DA/4341/2022 - D16861197
Author: Emma Brown, Senior Development Planner
Section Manager: Emily Goodworth, Section Manager Employment and Urban Release
Unit Manager: Andrew Roach, Unit Manager Development Assessment

A Development Application has been received for a concrete batching plant at 53 Gindurra Road, Somersby. The application is required to be referred to the Local Planning Panel for determination in accordance with Schedule 2 (point 4(a) of the *Local Planning Panels Ministerial Directions* (dated 6 March 2024). The proposed development is characterized as designated development which is nominated as sensitive development for which the LPP is the consent authority.

The application is recommended for approval, subject to conditions.

EXECUTIVE SUMMARY

DA number	DA/4341/2022
Lodgment date	7 February 2023
Application type	Locally Significant Project – Decision required from Local Planning Panel
Proposed development	Industrial - Concrete Batching Plant (Designated Development): <ul style="list-style-type: none"> 47,000 tonnes/20,000m3 concrete processed per annum. New driveway to cement silos with access platform and ladders, aggregate material bins, feed conveyor and dual stump stand. Nine (9) employees including 2 plant supervisors, 3 concrete batchers and 4 delivery drivers. Hours of operation 6:00am to 6:00pm Monday to Friday, 6:00am to 12:00pm (midday) on Saturday.
Employment generating	Yes
Estimated value	\$1,093,807
Applicant	ATB Morton
Disclosure of political donations and gifts	No

Scheduled meeting date	17 July 2025
Author	Emma Brown
Date of report	2 July 2025
Delegation level	Local Planning Panel
Recommendation	Approval subject to conditions
Conflict of interest	The staff responsible for the preparation of the report, recommendation or advice to any person with delegated authority to deal with the application have no pecuniary conflict of interest or non-pecuniary conflict of interest to disclose in respect of the application.
Property details	
Property address	53 Gindurra Road, SOMERSBY NSW 2250
Property title description	<u>Plan for DP 1189679</u> <u>88B for DP 1189679</u>
Site area	8326m ²
Existing use	Vacant land (ancillary development partly constructed in accordance with Surescope Building Certifiers Reference: 20/0499-01 Complying Development Certificate (CDC), dated 12 March 2021 and Surescope Building Certifiers Reference: 20/0499-04 Complying Development Certificate (CDC), dated 23 September 2024
Precis	
Zoning	E4 General Industrial under the provisions of the Central Coast Local Environmental Plan 2022 (CCLEP 2022)
Permissibility	The proposed development is defined as industrial land use, which is permissible with consent in the zone.
Relevant legislation	<p>The following planning instruments, plans and policies are relevant to the development and were considered as part of the assessment:</p> <ul style="list-style-type: none"> • EP&A Act – sections: <ul style="list-style-type: none"> ○ 4.46/4.47 - The proposal does not constitute integrated development, as provided in Section 4.46 of the EP&A Act. ○ 4.15 (evaluation) and sections. • EP&A Regulation 2021

	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environment Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environment Planning Policy (Transport and Infrastructure) 2021</i> • Central Coast Local Environmental Plan 2022 (CCLEP 2022) • Central Coast Development Control Plan 2022 (CCDCP 2022)
Clause 4.6 requests	N/A
Number of total & unique submissions	<p>Two Submissions</p> <ul style="list-style-type: none"> • Sparke Helmore Solicitors - Newcastle behalf of Chivers Road Investments Pty Ltd the owner of 6 Chivers Road, Somersby. • Chivers Road Investments Pty Limited.
Key issues	<p>The key issues in the consideration of the proposed development include:</p> <ol style="list-style-type: none"> 1. Ongoing Plans of Management to ensure monitoring and reporting to mitigate any potential operational environmental impact by way of noise, vibration, odour, air quality and emissions. 2. Biodiversity – Groundwater, infiltration, bio-detention basin, impact upon Endangered Ecological Communities (EEC) 3. CDC pre-works approval completed. 4. Unauthorised Works (cement batching silos dismantled on 6 March 2025. See Figure 2-4 and Figure 2-5 of photographic evidence date stamped 10 April 2025).

SITE CONTEXT

Site and locality

The site is located at 53 Gindurra Road, Somersby and is legally described as Lot 12 P1189679 (the site). The site is generally rectangular in shape, has an area of 8,418m² and frontage to Gindurra Road of approximately 45 metres.

The site is located approximately 90 km from Newcastle, 80 km from Sydney, 25 km from Wyong and 6km from Gosford by road. The site has access to the Pacific Motorway and the Pacific Highway via Wisemans Ferry Road to the south-west. The Pacific Motorway provides

further connection to Newcastle and Sydney, while the Pacific Highway provides connection to the Gosford town centre to the south-east.

The site is bound by a large undeveloped and vegetated allotment to the north and east, Gindurra Road to the south, and existing industrial warehouse development to the west. Light industrial units are found to the immediate south of the site, also fronting Gindurra Road. The adjoining lot is high quality vegetation, including areas identified as Coastal Upland Swamp in the Sydney Basin Endangered Ecological Community.

The site is situated on the Hawkesbury Sandstone geological formation consisting of sandstone and quartz with some shale and located approximately 350 metres east of a 1st order creek, 850 metres north east of a 2nd order creek (Piles Creek) and the closest reliable fresh water source is Narara Creek which is located approximately 2.5 kilometres east of the site.

European settlers extensively cleared the original native vegetation in the 1800's and since then the site has been subject to additional clearing, may have been ploughed for pasture and is currently a partly cleared paddock (with partial CDC approved construction) and tracks throughout as well as erosion and drainage controls, all of which would have impacted the landscape.

There are 97 known Aboriginal sites currently recorded within one and a half kilometres of the site. There are no archaeological sites or Potential Archaeological Deposits (PADs) identified at the site.

The site is located within the Somersby Industrial Precinct (SIP) within the Central Coast Local Government Area. The SIP comprises approximately 300 hectares of industrial zoned land bisected by the Pacific Motorway.

The SIP accommodates a range of industrial land uses and vegetated conservation areas. A range of industries have established within the SIP including but not limited to:

- A Concrete Batching Plant
- Resource Recovery Facilities
- Building Product Manufacturing (CSR Hebel and Polytec)
- Laboratories
- Food Production and Distribution
- Transport Depots
- Plant and Equipment Hire
- Joinery Workshops.

The site is bushfire prone land as identified by Council's map predominately comprising a 'Vegetation Buffer'.

3.1 DA/4341/2022 - 53 Gindurra Road, Somersby Designated Development Concrete Batching Plant (cont'd)

A Bushfire Attack Level Certificate identified that vegetation to the east and north is classified as 'tall heath' (Heath-leaved Banksia - Coral Fern wet heath on sandstone ranges of the lower Central Coast) which occurs over cross-slope and upslope ground at a distance of greater than 22 metres from the development.

Notwithstanding this, the proposal does not constitute a 'special fire protection purpose as defined in Section 100B of the *Rural Fires Act 1997*. Notwithstanding, an assessment has been made to consider the likely impacts of bushfire on the proposed development as required under Section 4.15 of the EP&A Act.

The site is not located in a flood planning area as identified by Council's maps.

Even though considered to be partly vacant land, the site has undergone commencement of works constructed in accordance with both the Surescope Building Certifiers Reference: 20/0499-01 Complying Development Certificate (CDC), dated 12 March 2021 and the Surescope Building Certifiers Reference: 20/0499-04 Complying Development Certificate (CDC), dated 23 September 2024.

In December 2022, construction works commenced for:

- Civil works
- Stormwater infrastructure
- Hardstand areas, buildings
- Car parking areas
- Landscaped areas
- A driveway crossing to Gindurra Road
- Service connections.

CDC modification Certificate No 20/0499-04 relocated 'Building 2', hardstand area, material storage bins, parking spaces, batching plant orientation, and proposed an impermeable stormwater basin adjacent to Gindurra Road.

The basin will accommodate run off from the hardstand area to be used in association with the batching plant and storage of materials used in the production of concrete (please see **Figure 2-6**).

The CDC works are completed (please see **Figure 2 – 13**).



Figure 2-1: Site context (Source: Geocoretex Viewer).



Figure 2-2: Existing entry driveway and parking for adjacent warehouse distribution centre and offices accessed from Gindurra Road (Source: CCC)



Figure 2-3: Existing entry driveway and adjacent warehouse distribution centre accessed from Gindurra Road (Source: CCC)



Figure 2-4: Existing entry driveway and adjacent bushland on 55 Gindurra Road through to the site at the rear access from Gindurra Road (Source: CCC)



Figure 2-5: Secure entry gates to the site view of Gindurra Road and streetscape context (Source: CCC)



Figure 2-6: Site context and view of bioretention basin (Source: CCC)



Figure 2-7: View of the site and partly constructed in accordance with Surescope Building Certifiers
Reference: 20/0499-04 Complying Development Certificate (CDC), dated 23 September 2024 (Source: CCC)



Figure 2-8: View of the site and rear of the adjacent warehouse distribution centre (Source: CCC).



Figure 2-9: The site as viewed from the driveway accessed from Gindurra Road (Source: CCC)



Figure 2-10: View of the site from 6 Chivers Road (Source: 6 Chivers Road)

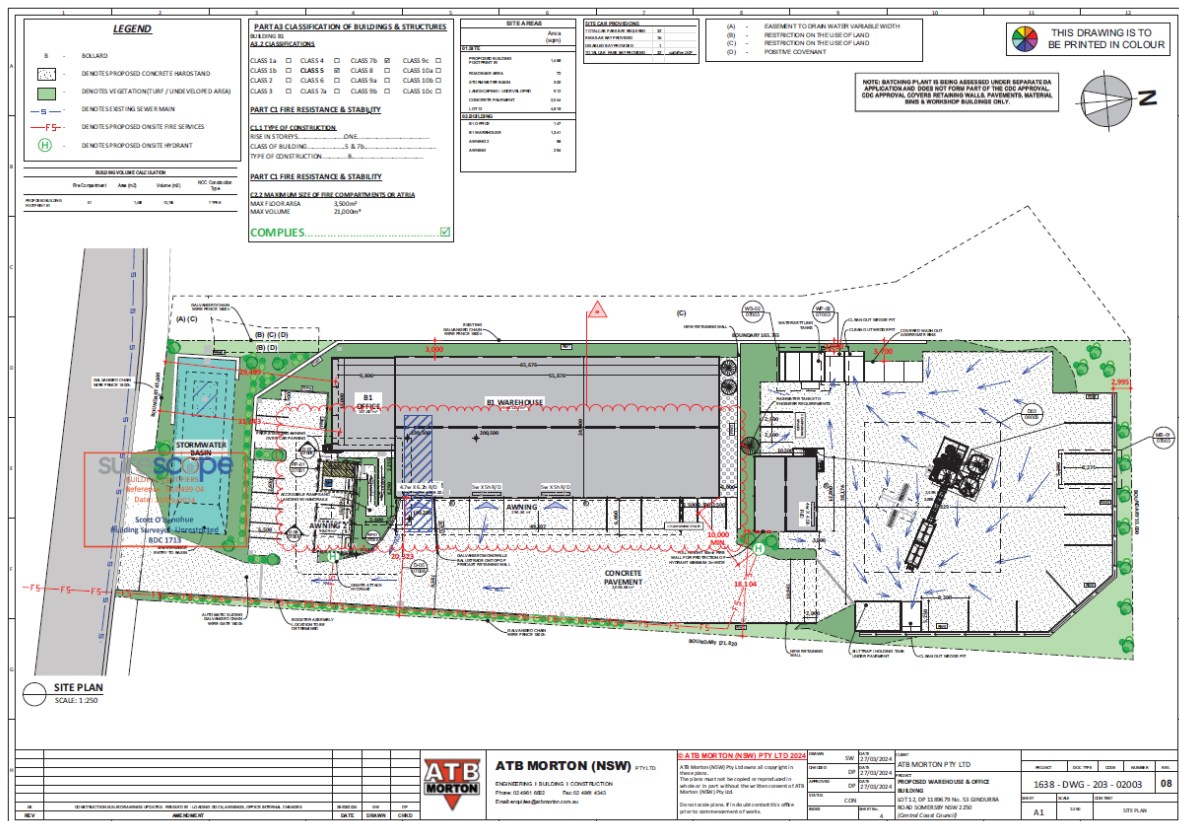
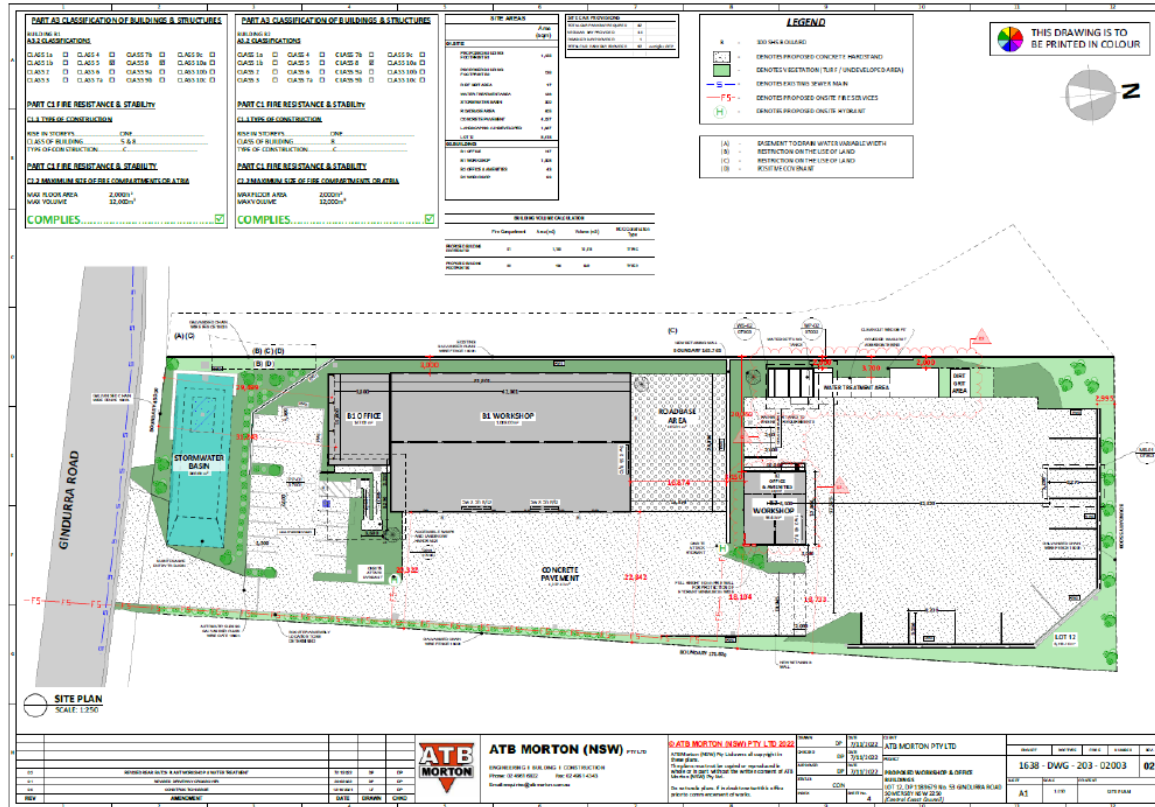


Figure 2-11: View of the site from 6 Chivers Road (Source: 6 Chivers Road)



Figure 2-12: View of distribution warehouse at 6 Chivers Road (Source: 6 Chivers Road)

3.1 DA/4341/2022 - 53 Gindurra Road, Somersby Designated Development Concrete Batching Plant (cont'd)



Site and application history

The Somersby to Erina Corridor Strategy (SECS) sets out a 20-year vision for the Somersby to Erina Corridor. The SECS was prepared to guide growth and investment in six centres namely Somersby, Mount Penang and Kariong, West Gosford, Gosford City Centre, East Gosford, and Point Frederick and Erina.

The proposal is consistent with the directions for the Somersby centres study which are to protect the Somersby Employment Area's history and landscape, including through the continued implementation of the draft Somersby Plan of Management, ensure the ongoing success of the Somersby Industrial Area, retention of jobs, as well as businesses and investment in the region and the Corridor. The proposal is consistent with the draft Plan of Management— Somersby Industrial Park 2005 and it will not adversely impact on the cultural or environmental heritage of the precinct.

The proposal will provide for employment generating industrial land uses and will not adversely impact on existing businesses within the area. Appropriate implementation of ongoing monitoring via recommended site specific and operational specific plans of management will ensure best practice and transparent communication between the operators, neighbouring development relevant government authorities.

The proposal will have a positive impact upon the key identified economic, ecological and Aboriginal heritage values of the Park. The proposal will add value as a long term and viable complementary business operation to the construction industry. ATB Morton (the applicant) produces and provides concrete, which is a particular product required for the construction industry for development of housing.

ATB Morton will also service the wider LGA's in NSW and interstate in supporting the delivery of housing via its concrete production operations.

Application Revised Reports

In response to Council's preliminary advice, in June 2025, the applicant provided an amended Noise and Vibration Impact Assessment to complement the already submitted Air Quality Impact Assessment, and Stormwater Drainage Infrastructure Operation and Maintenance Plan.

- The amended Noise and Vibration Impact Assessment (NVIA) prepared by RAPT Consulting has been reviewed by Council Environmental Health Officer (EHO). The NVIA amended the noise monitoring location for unattended background noise monitoring to a more suitable location in accordance with Section 2.6 of the *Noise Policy for Industry*. The NVIA has accurately provided calculations on Intrusiveness and Amenity Noise Criteria and derived a suitable Project Noise Trigger Level for both residential and commercial receivers.

3.1 DA/4341/2022 - 53 Gindurra Road, Somersby Designated Development Concrete Batching Plant (cont'd)

- The NVIA (June 2025) has modelled operations against Project Noise Trigger Levels and shown compliance is expected during construction and operation, provided recommendations are implemented including a three (3) metre acoustic barrier on the western boundary and a Noise Management Plan during construction. Additional conditions are recommended.
- The Air Quality Impact Assessment (13 March 2025, Revision 3) was not required to be amended and is considered satisfactory.
- The Stormwater Drainage Infrastructure – Operation and Maintenance Plan establishes a maintenance schedule for onsite stormwater, treatment devices and water quality monitoring. The Plan indicates a SPELpurceptor is to be installed as the triple interceptor treatment device. Conditions will be recommended.
- Provision for ongoing monitoring and testing of contaminants has been accounted for in the Northrop Stormwater Drainage Infrastructure - Operation and Maintenance Plan.
- The operator is required to implement the approved routine storm water quality monitoring program and submit monthly reports to Council for a minimum 3 months.
- The operator / applicant is to provide an operational water quality monitoring program that validates the stormwater treatment systems and provide routine ongoing monitoring and testing of the stormwater discharged from the site. All contaminants of concern are to be tested, samples are to be analysed at a NATA Accredited Laboratory and criteria/discharge limits are to be set in accordance with ANZECC Guidelines and *POEO Act 1997*. Testing frequency, reporting, contingency plan, and noncompliance protocol are to be included. *Note: This can be included in the Operational Environmental Management Plan.*

Unauthorised Works

On 6 March 2024, Council wrote to the applicant to advise Council is not in the position to determine the development application for unauthorised works and requested a schedule of approved works constructed as part of the CDC and those that remain unconstructed and proposed as part of the development application.

On 10 April 2025, the unauthorised development (silos) were lowered (see **Figure 2-15** and **Figure 2-16**).



Figure 2-15: View of the concrete slab with silos removed (Source: ATB Morton)



Figure 2-16: View of site and silos lowered (Source: ATB Morton)

Council's records show the below history of applications are relevant to the site and subject development application:

Application No.	Description	Decision	Decision Date
Complying Development Certificate	<p>Complying Development Certificate (CDC) Certificate No 20/0499-01 issued by Surescope Building Certifiers for construction of two industrial workshops, ancillary offices, associated hardstand areas, parking, stormwater infrastructure, and landscaping.</p> <p>December 2022, construction works commenced. It is noted, Council records (Content Manager) this approval as CDC/60744/2021 (Document D14563602). The CDC complements this development application as it included:</p> <ul style="list-style-type: none"> • Civil works • Stormwater infrastructure • Hardstand areas, buildings • Car parking areas • Landscaped areas • A driveway crossing to Gindurra Road • Service connections. <p>A CDC modification Certificate No 20/0499-01 and 20/0499-04 was issued by Surescope Building Certifiers on 12 March 2021 and 23 September 2024 respectively revising the design as shown in Figure 2-14; relocating 'Building 2', hardstand area, material storage bins, parking spaces, batching plant orientation, and proposing an impermeable stormwater basin adjacent to Gindurra Road.</p> <p>The suitability of the basin to accommodate run off from the hardstand area to be used in association with the batching plant</p>	Approved	22 February 2021

3.1 DA/4341/2022 - 53 Gindurra Road, Somersby Designated Development Concrete Batching Plant (cont'd)

	and storage of materials used in the production of concrete.		
Secretary's Environmental Assessment Requirements (SEARs) (Reference 1537)	Concrete Batching Plant	Approved	17 March 2021

PROPOSED DEVELOPMENT

The proposed Industrial Development seeks consent for the operation of a Concrete Batching Plant (Designated Development) located on the approved hardstand areas in the rear (northern) part of the site. The proposal seeks approval for new driveway to cement silos with access platform and ladders, aggregate material bins, feed conveyor and dual stump stand. The site is accessed from Gindurra Road existing entry along with secure boundary fencing.

Nine employees including 2 plant supervisors, 3 concrete batchers and 4 delivery drivers.

Hours of operation 6:00am to 6:00pm Monday to Friday, 6:00am to 12:00pm (midday) on Saturday.

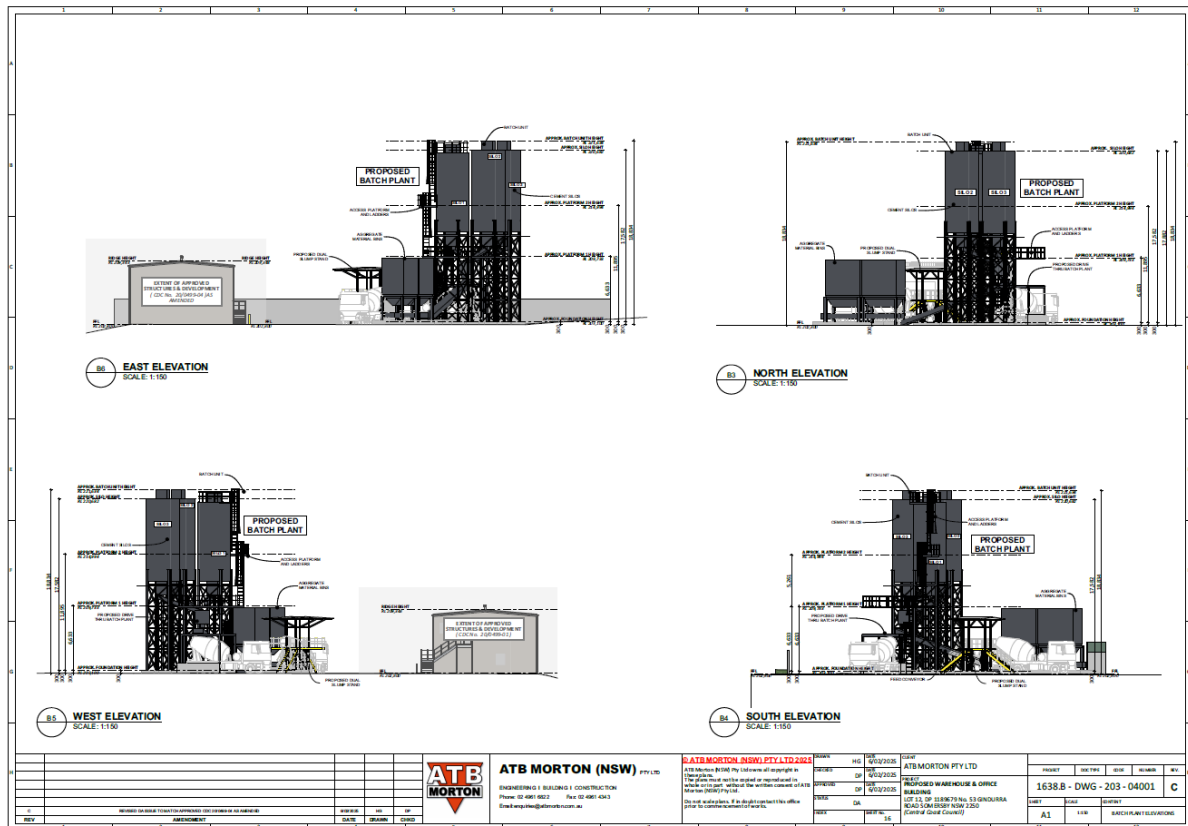


Figure 2-17: Batch Plant Elevations of silos

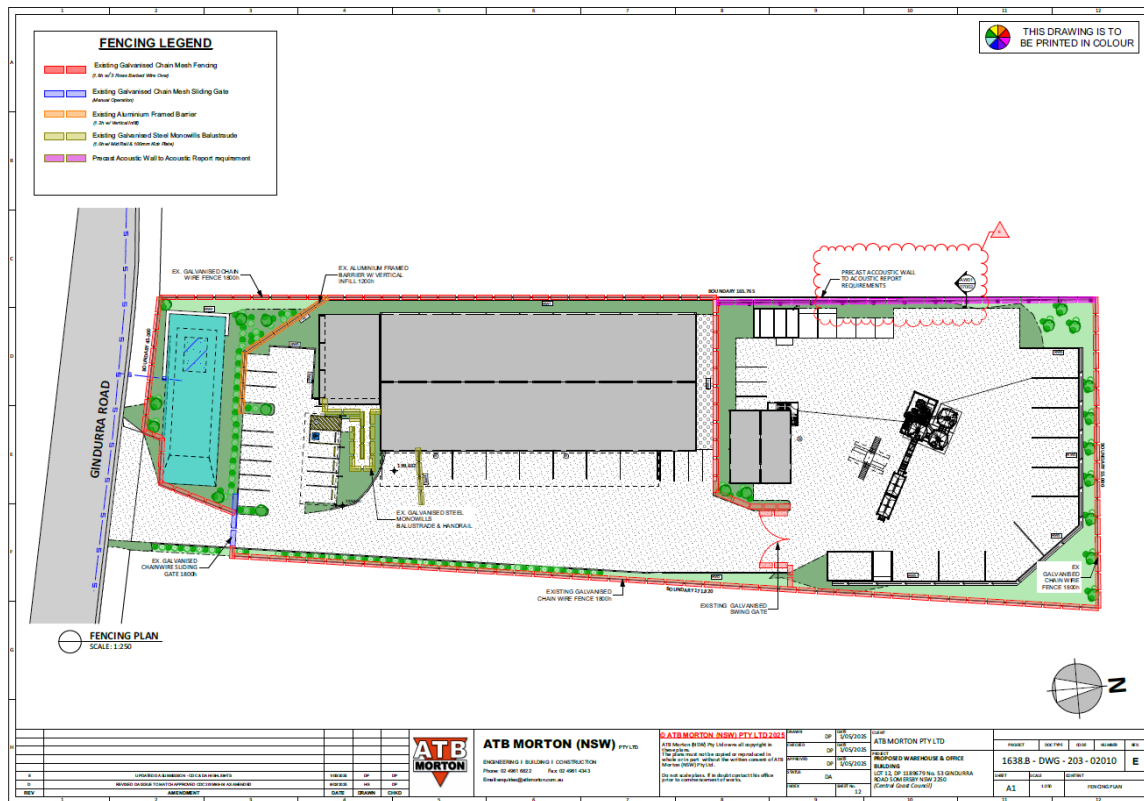


Figure 2-18: Proposed silos and indicative location indicated for future acoustic barrier

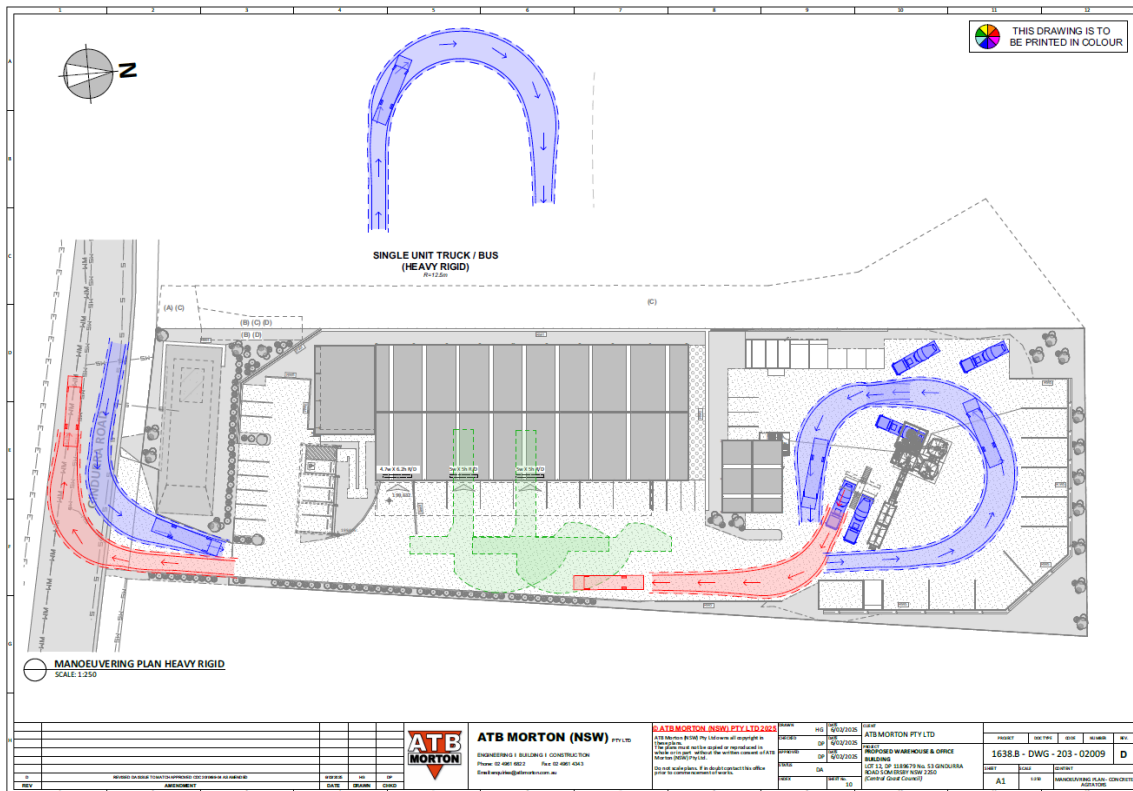


Figure 2-19: Draft manouevring plan for heavy rigid vehicles

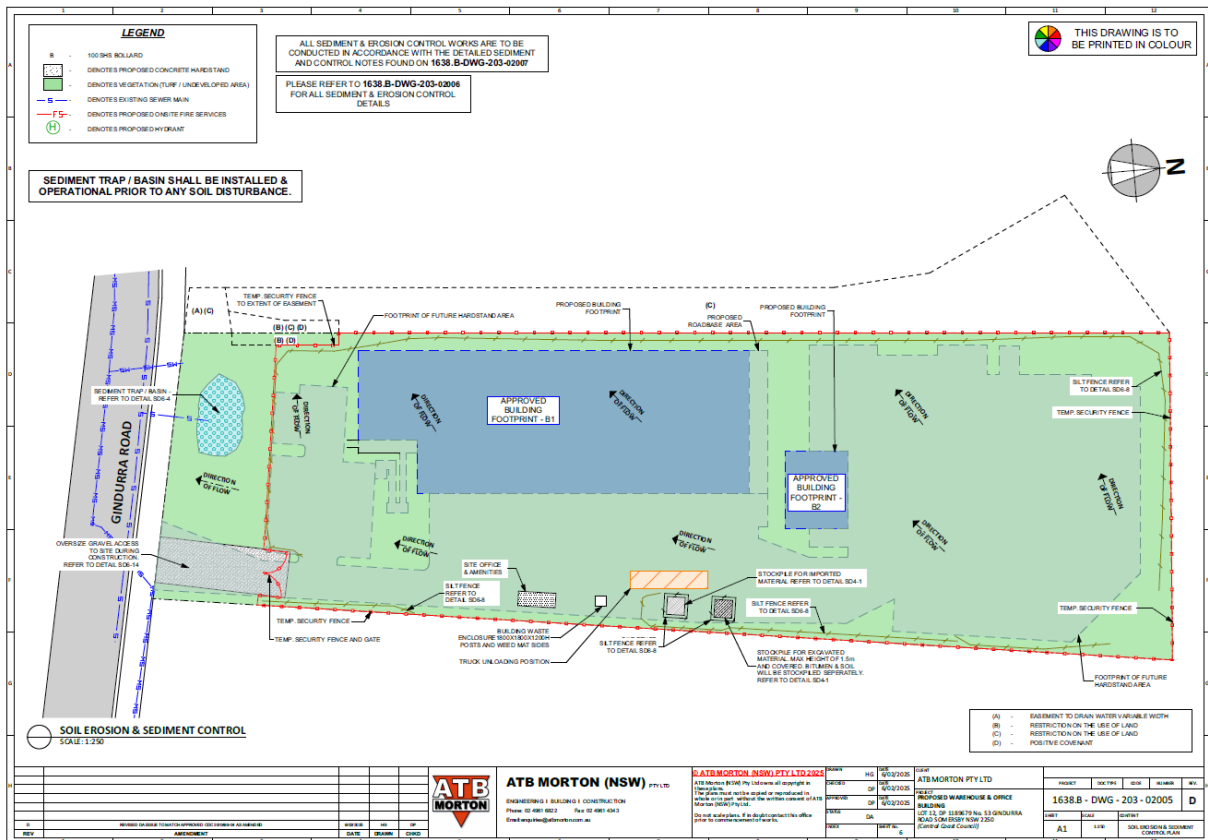


Figure 2-20: CDC approved development site layout

The plant will process up to 47,000 tonnes of concrete per annum and is therefore characterised as “Designated Development” under Clause 17 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2021* (EPA Regulation).

A request for the issue of Secretary's Environmental Assessment Requirements (SEARs) was sought on 15 December 2020, and the SEARs (Reference 1537) for the proposed development was issued on 17 March 2021. The Environmental Impact Statement (EIS) was prepared in accordance with the SEARs and requirements of sections 190 and 192 of Division 5 of the EPA Regulation.

Council records include an approval for two industrial workshops and ancillary offices, associated hardstand areas, parking, stormwater infrastructure and landscaping at the site by way of a Complying Development Certificate (CDC60744/2021) issued on 12 March 2021. This approval process also included approval issued pursuant to Section 138 of the Roads Act 1993. In December 2022, construction works commenced.

A further CDC modification Certificate No 20/0499-04 was issued by Surescope Building Certifiers on 23 September 2024 relocating 'Building 2', hardstand area, material storage bins, parking spaces, batching plant orientation, and proposing an impermeable stormwater basin adjacent to Gindurra Road. The CDC does not authorise any particular use of the building.

The proposed hours of operation for the plant are between 6:00am to 6:00pm, Monday to Friday, and 6:00am to 12:00pm on Saturdays. Raw materials would usually be received during weekday operations.

The proposal will utilise the existing site infrastructure (constructed under the approved CDC), with the exception of installation of the batching silos and minor changes to the approved stormwater regime. No external construction works, earthworks or vegetation clearing are proposed. The plant will be operated by Redicrete Pty Ltd, a subsidiary company of the ATB Morton Group.

Redicrete currently operates batching plants at Cameron Park, Tomago, Berkeley Vale, Dungog and Branxton. Subsequently, the proposal will contribute to the increasing demand for concrete and concrete products associated with continued growth in the Central Coast Region, and construction industry of the upper North Shore of Sydney.

The proposed concrete batching plant will be serviced by:

- Concrete hardstand area with paved vehicular access from Gindurra Road (suitable for access by semi trailer and heavy rigid vehicles)
- Three parking spaces
- External material storage bays
- 10,000L self-bunded fuel tank
- Water treatment area (comprising water settling tanks, clean out wedge pit and covered washout aggregate bins)
- Dirt grit area
- 93.42m² ancillary maintenance / administration space including an operations control room and staff amenities (Workshop B2).

Additional traffic generated by the concrete batching plant development will be a maximum of 5 vtpm in the AM peak and 6 vtpm in the PM peak with a maximum of 14 vtpm in the AM peak and 16 vtpm in the PM peak for the full site development. There will be no B-Double trucks used to transport raw materials as the use of B-Double trucks in Gindurra Road in general is prohibited unless a site-specific permit from the NHVR is obtained and is currently valid.

The swept path analysis details the manoeuvring and access arrangements for an articulated semi-trailer. The proposed vehicular access arrangements to the on-site car parking area and internal road system are consistent with the Australian Standard requirements. Notably, the development provides a total of 3 on-site car spaces in accordance with the requirements for private parking contained within *Australian Standard AS2890.1-2004 Parking Facilities – Off-street car parking*. The loading area and service delivery facilities are provided on-site.

**DA/4341/2022 - 53 Gindurra Road, Somersby Designated Development
Concrete Batching Plant (cont'd)**

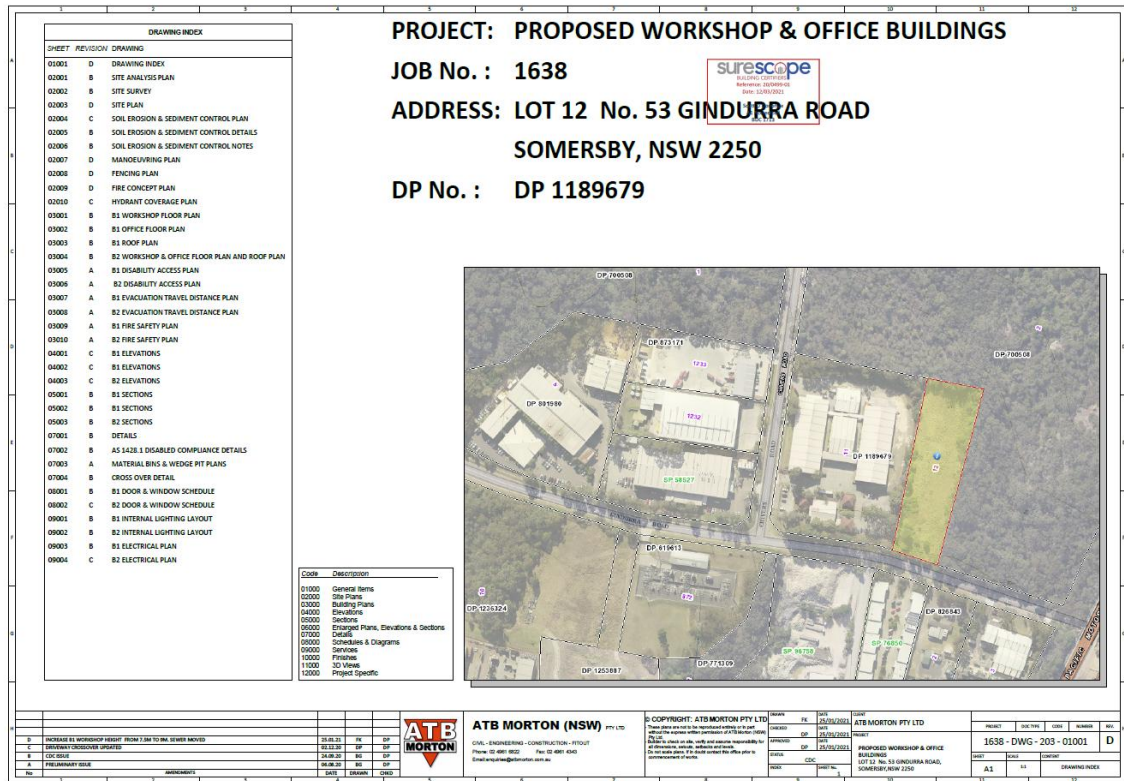


Figure 3-1: Surescope Approved Plans Cover Page Complying Development Certificate (CDC60744/2021) issued on 12 March 2021 also known as Complying Development Certificate (CDC) Certificate No 20/0499-01 (Source: ATB Morton)

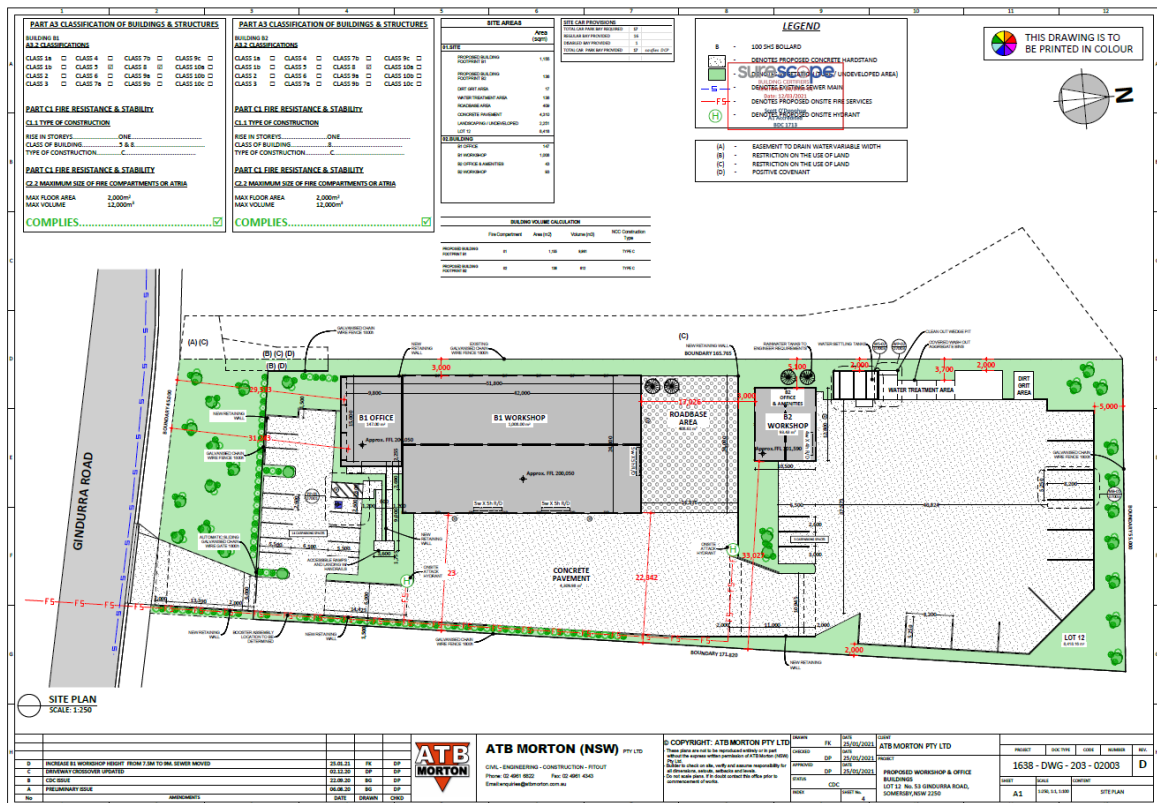


Figure 3-2: Site Layout plan (Source: ATB Morton)

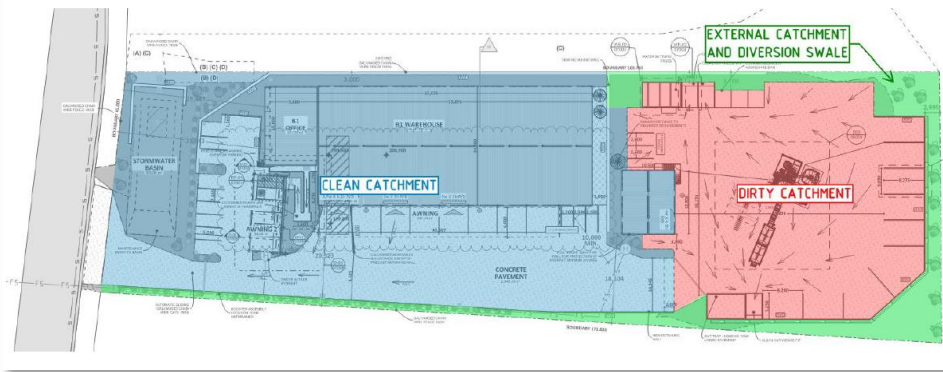


Figure 3-3: Site Catchment Separation Schematic (Source: Northrop)

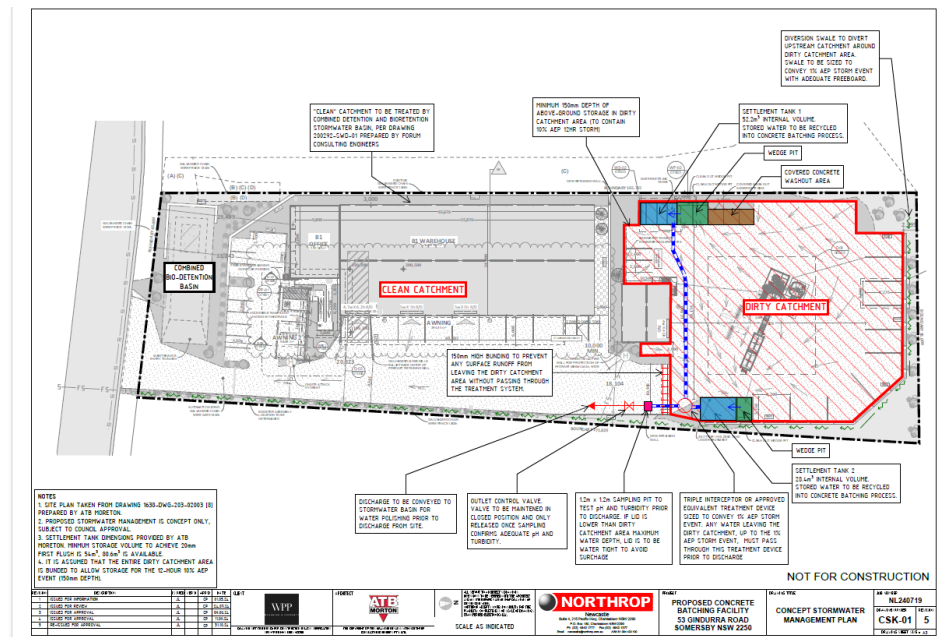


Figure 3-4: Concept Stormwater Treatment Train Schematic (Source: Northrop)

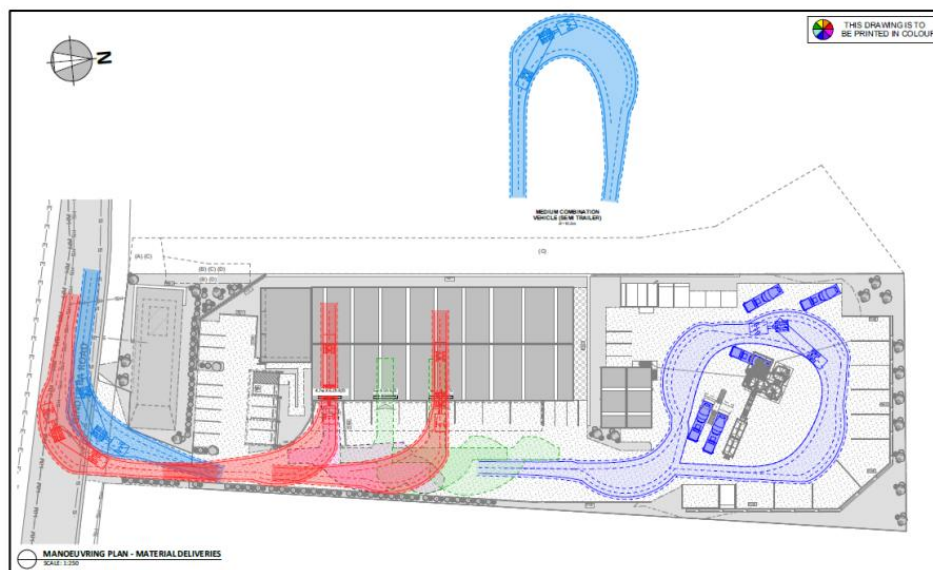


Figure 3-5: Swept Paths for material deliveries (Source: Northrop)

APPLICATION BACKGROUND

4.1 External and internal referrals

External referrals

The application was referred to the following agencies for comment / concurrence as required by the EP&A Act:

Table 4-1 External referrals

Category	Agency	Concurrence/ referral trigger	Comments	Response
Concurrence requirements (section 4.13 of the EP&A Act)				
Referral for consultation or other reason				
Bushfire Prone Area	NSW Rural Fire Service	Section 4.14 - <i>Environmental Planning and Assessment Act 1979</i> – Consultation and development consent—certain bush fire prone land	The proposal was accompanied bushfire level attack certificate prepared by Firebird ecoSultants Pty Ltd, dated 3 December 2020. The certificate assessed the site and proposal as BAL- 29 in accordance with Table A1.12.5 of PBP 2019.	On 12 April 2025 the proposal was referred to the Rural Fire Services (RFS) for comment. On 2 April 2025, RFS provided conditions relating to Asset Protection Zones, Construction Standards, Water and Utility Services, Emergency and Evacuation Planning.
Heritage conservation	Darkinjung Local Aboriginal Land Council (DLALC)	Non-Statutory Referral, dated 7 February 2023	An Archaeological Due Diligence Assessment report prepared by McCardle Cultural Heritage was submitted with the application. An ACHAR is not required. A search of the AHIMS	No comments provided. Council standard conditions recommended.

Category	Agency	Concurrence/ referral trigger	Comments	Response
			register indicate there are 97 known Aboriginal sites currently recorded within one and a half kilometres of the project area. No archaeological sites or Potential Archaeological Deposits (PADs) were identified during site survey.	
Integrated Development (section 4.46 of the EP&A Act)				
Environment protection	Environment Protection Authority (EPA)	<ul style="list-style-type: none"> Sections 43(a), 47, 55 – Protection of the Environment and Operations Act 1997(POEO Act) Scheduled development work Sections 43(d), 48, 55 – POEO Act Scheduled activity Sections 43(d), 55, 122 – POEO Act Non-scheduled water polluting 	EPA advised: <i>... proposal does not appear require an environment protection licence, as the production of pre-mixed concrete (concrete batching) is not included in the activities under Schedule 1 of the Protection of the Environment Operations Act 1997 (POEO Act). Consequently, this application is not considered an Integrated Development under the Environmental Planning and Assessment Act 1979...</i>	See Attachment F -EPA comments

Internal referrals

The application was referred internally in Council to the following technical areas:

Technical area	Conclusion
Engineering	Supported, subject to conditions
Engineering – Water and Sewer	Supported, subject to conditions

3.1 DA/4341/2022 - 53 Gindurra Road, Somersby Designated Development Concrete Batching Plant (cont'd)

Engineering – Traffic and Transport	Supported, subject to conditions
Ecology	Supported, subject to conditions
Waste Management	Supported, subject to conditions
Environmental Health	Supported, subject to conditions

4.2 Notification of development proposals

The proposed development was advertised and notified in accordance with Schedule 1 clause 8 of the *Environmental Planning and Assessment Act 1979*, between 17 February 2023 and 21 March 2023 and re-advertised/notified between 24 January 2025 and 26 February 2025 for a minimum period of 28 days.

A submission was received from Sparkes Helmore Lawyers acting on behalf of their client known as Chivers Road Investments Pty Ltd. A further unique submission was received from the owner of 6 Chivers Road, Somersby which shares a boundary with 53 Gindurra Road. 6 Chivers Road is known as CRI Property and is tenanted by commercial distribution warehouses and offices.

The submitter claims that the proposal is inconsistent with the uses taking place on 6 Chivers Road and will potentially have an unacceptable impact on the property and associated tenancies. Further, advised plans of management should be required to ensure ongoing best practice in accordance with the EPA guidance.

The submitter has requested to attend and speak at the Local Planning Panel meeting which is to be held on 14 August 2025.

The key matters raised in the submissions are as follows:

Table 4-2: Summary of matters raised in submissions

Issue	Comments
Request for Plans of Management and ongoing monitoring and reporting for noise, air quality and water quality	<p>A Plan of Operational Management is to be submitted to address plant activities and operations and provide mitigation measures where required, to ensure neighbouring and any sensitive receivers are protected under the appropriate guidelines. Provision for monitoring and improvement of the protection and mitigation measures will ensure that impacts on the environment are minimised.</p> <p>The plan is to be reviewed and where appropriate updated on an annual basis. It is noted that in June 2025, RAPT provided updated Noise and Vibration Assessment. Further testing was undertaken between 6 June 2025 and 13 June 2025. Ongoing noise monitoring is recommended in the Plan of Management.</p> <p>The Air Quality Impact Assessment, prepared by Advitech demonstrates that the development meets the appropriate air quality standards. Council</p>

	<p>Environmental Health unit are satisfied with the proposal. Ongoing monitoring will be required as per the recommended POM.</p> <p>Mitigation measures proposed to address environmental impact will have the effect of bringing the air quality impacts from the proposed development within acceptable levels. It is considered that with the incorporation of management practices the potential impacts could be managed. Suitable conditions are recommended for ongoing monitoring of noise, air, and water quality.</p>
<p>Notification – the neighbour states a notification letter was not received. Neighbour objects to re-notification:</p> <ul style="list-style-type: none"> • Generally; and • On the basis that there is no environmental assessment of the proposed amendments. 	<p>The proposed development was advertised and notified in accordance with Schedule 1 clause 8 of the <i>Environmental Planning and Assessment Act 1979</i>, between 17 February 2023 and 21 March 2023 and re-advertised/notified between 24 January 2025 and 26 February 2025 for a minimum period of 28 days.</p> <p>A submission was received from the owner of 6 Chivers Road, Somersby which shares a boundary with 53 Gindurra Road. 6 Chivers Road is known as CRI Property and is tenanted by five commercial distribution warehouses and offices.</p> <p>The submitter claims that the proposal is inconsistent with the uses taking place on 6 Chivers Road and will potentially have an unacceptable impact on the property and associated tenancies further advised plans of management should be required to ensure ongoing best practice in accordance with the EPA guidance.</p> <p>Council has undertaken ongoing consultation with the neighbouring holder. The neighbouring landholder revised submission states that there is no objection to the project if it was demonstrated that and that any consent included conditions to the effect that noise/vibration goals for the operation of the batching plant are will during the operation of the development those applicable under EPA standards and any consent includes an Environmental Management Plan.</p> <p>The submitter states:</p> <p><i>The substance of that objection and submission is that there would be no objection.</i></p> <p><i>to the project if it was demonstrated that and that any consent included conditions to the effect that:</i></p> <ul style="list-style-type: none"> • <i>noise/vibration goals for the operation of the batching plant are will during the operation of the development those applicable under EPA standards (from time to time) to a 'sensitive' 'commercial receptor';</i> • <i>EPA 'Best Practices' from time to time are applied at all times in the operation of the development:</i>

	<ul style="list-style-type: none"> • EPA 'Best Practices' mitigation measures from time to time for concrete batching plant are implemented, and applied at all times during the operation of the development; <p>Any consent includes an Environmental Management Plan:</p> <ul style="list-style-type: none"> • applying the above principles and updated EPA requirements from time to time in accordance with EPA Best Practices • requiring environmental monitoring during hours of operation; and • reporting to Council and owner of Property 6 Chivers Road. <p><i>It is noted that the 'Re- Notification' is triggered by what is really a 'variation, to the original application without any environmental planning assessment of the changes or of the operation of the proposed development as proposed to be changed</i></p> <p>Furthermore, the applicant undertook consultataion in accordance with the SEARS Requirement. During the preparation of the EIS, you must consult the relevant local, State and Commonwealth government authorities, service providers and community groups, and address any issues they may raise in the EIS including:</p> <ul style="list-style-type: none"> • Department of Planning, Industry and Environment, specifically the: • Environment, Energy and Science Group • Water Group • Environment Protection Authority • Transport for NSW • Fire & Rescue NSW • NSW Rural Fire Service • WaterNSW • Darkinjung Local Aboriginal Land Council • Central Coast Council • the surrounding landowners and occupiers that are likely to be impacted by the proposal. <p>Please see consultation plan below.</p>
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	<div data-bbox="587 235 831 262" data-label="Text"> <p>Designated Development Application – Consultation Overview Proposed Concrete Batching Plant – 53 Gindurra Road, Somersby</p> </div> <div data-bbox="1276 235 1417 262" data-label="Text"> <p>WPP PLANNING & PROPERTY</p> </div> <div data-bbox="587 286 751 300" data-label="Caption"> <p>Figure 1 - Extent of Landowner's Original Consultation</p> </div> <div data-bbox="587 304 1257 804" data-label="Image"> </div> <div data-bbox="587 826 930 840" data-label="Caption"> <p>Consultation Overview – Designated Development Application – 53 Gindurra Road, Somersby</p> </div> <div data-bbox="539 840 1422 1048" data-label="Text"> <p>Council has engaged with the submitter to advise of the history of the site works in part being approved under CDC. Approval for two industrial workshops and ancillary offices, associated hardstand areas, parking, stormwater infrastructure and landscaping. Note this approvals process also included approval issued pursuant to Section 138 of the Roads Act 1993.</p> </div> <div data-bbox="539 1052 1426 1335" data-label="Text"> <p>The development application, which is the subject of this assessment is for construction and operation of a batching plant at the site, which is intended to process more than 30,000 tonnes of concrete per annum (up to 47,000 tonnes or 20,000m³). The new plant is proposed to be located on the approved hardstand areas in the rear (northern) part of the site. As provided in the plans attached, the plant will comprise of a 'drive thru' area, overhead cement silos with access platform and ladders, aggregate material bins, feed conveyor and dual stump stand.</p> </div> <div data-bbox="539 1335 1415 1440" data-label="Text"> <p>Council has advised the applicant of their responsibilities in relation the requirements of the ongoing plans of management and monitoring of air quality, noise, and vibration as well as water quality.</p> </div> <div data-bbox="539 1440 1136 1473" data-label="Text"> <p>Suitable conditions of consent are recommended.</p> </div>
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4.3 Political donations

Table 4-3: Political donations declared

Political donation declared	Disclosure of political donation
No	No political donations have been declared by the applicant, applicant's consultant, owner, objectors and/or residents.

ASSESSMENT

Having regard for the matters for consideration detailed in section 4.15 of the EP&A Act, and other relevant statutory requirements, the following section provides an assessment against relevant provisions and identifies the key issues of this application.

5.1 Section 4.14(1) of the EP&A Act – Certain bushfire prone land

In accordance with section 4.14(1) of the EP&A Act, the following table outlines the proposal's compliance with any bushfire considerations.

Bushfire prone land	Matters for consideration
Yes	<p>In accordance with Section 4.14(1)(a) of the EP&A Act 1979, the consent authority is satisfied that the development conforms to the specifications and requirements and meets the aim and objectives of Planning for Bush Fire Protection 2019. A Bushfire Attack Level Certificate (BALC) was prepared for the approved CDC by Firebird ecoSultants Pty Ltd dated 3 December 2020.</p> <p>The Bushfire Attack Level Certificate (BALC) confirms that the CDC complies with the relevant Bush Fire Protection Measures as outlined in Planning for Bushfire Protection (PBP). The proposal does not involve a change in building class from the approved buildings and does not increase the bushfire risk at the site. Accordingly, the assessment and mitigation measures outlined in the BALC are considered to remain relevant to the current proposal.</p>

5.2 Section 4.15(1)(a)(i) of the EP&A Act – Provisions of Environmental Planning Instruments (EPIs)

State Environmental Planning Policies (SEPPs)

In determining a development application, the following relevant SEPPs are taken into consideration:

Table 5-1 Relevant State Environmental Planning Policies

EPI	Matters for consideration	Compliance
State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)	<p>Chapter 3 Hazardous and offensive development</p> <ul style="list-style-type: none"> Chapter 3 applies to any proposals which fall under the definition of 'potentially hazardous industry', defined as: A development for the purposes of an industry which, if the development were to operate without employing any measures to reduce or minimise its impact in the locality or on the existing or likely future development on other land, 	<p>Yes</p> <p>The applicant provided updated reports in</p>

	<p>would pose a significant risk in relation to the locality; To human health, life, or property; or To the biophysical environment. And includes a hazardous industry and a hazardous storage establishment.</p> <p>The NSW DPIE guideline lists activities that are likely to be potentially hazardous and provides a risk screening procedure to help determine whether the proposed development is 'potentially hazardous development' and therefore subject to the provisions of Chapter 3.</p> <p>If SEPP 33 is triggered under the screening test, the development must be supported by a Preliminary Hazard Analysis (PHA).</p> <p>A development may also be potentially hazardous if the Transportation Screening Thresholds are exceeded for vehicular movements to and from the site. From Table 2 of 'Applying SEPP33', the screening value for cumulative vehicle movements is as follows:</p> <ul style="list-style-type: none"> • More than 500 vehicle movements for Class 2.1; and • More than 500 vehicle movements for all Class 8. <p>Chapter 3 would also apply where a development is a 'potentially offensive industry', which is defined as follows:</p> <ul style="list-style-type: none"> • Potentially offensive industry means a development for the purposes of industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (including, for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and an offensive storage establishment. <p>In deciding if a proposal is a 'potentially offensive industry', it is necessary to consider whether, in the absence of safeguards, the proposal would emit a polluting discharge which would cause a significant level of offence. Generally, a development may be classified as potentially offensive where, either:</p> <ul style="list-style-type: none"> • A licence is required under pollution control legislation; or 	<p>relation to the EPA comments (see Attachment F – NSW EPA Recommended Conditions, dated 9 March 2023 and 24 February 2025)</p>
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	<ul style="list-style-type: none"> Where no such licence is required, the proposal has the potential to cause offence having regard to the sensitivity of the surrounding environment. <p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> The subject site has not been used for industrial or commercial purposes, nor is the site listed on Council records as contaminated. Council is therefore satisfied that the land is suitable for the purpose for which development consent is sought. 	Please see discussion below.
<p>State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)</p>	<p>Chapter 2 – Vegetation in non-rural areas</p> <ul style="list-style-type: none"> Chapter 2 of SEPP (Biodiversity and Conservation) 2021 aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. Chapter 2 applies to land described in Clause 2.3 of the SEPP, which includes land zoned IN1 General Industrial, and thus applies to the site. Clause 2.6 outlines that a person must not clear vegetation in any non rural area without either an authority conferred by a permit granted by the relevant Council under Part 2.3 of the Vegetation SEPP, or where clearing exceeds the biodiversity offsets scheme threshold an authority conferred by an approval of the Native Vegetation Panel under Part 2.4 of the SEPP. <p>Chapter 4: Koala habitat protection 2021</p> <ul style="list-style-type: none"> There is no approved koala plan of management which applies to the site and no koalas are recorded to have occurred on the site. <p>In accordance with section 4.9(3) of the Biodiversity and Conservation SEPP, the proposed modification is considered to have no impact on koalas or koala habitat.</p>	<p>Yes</p> <p>The proposed development footprint has been cleared under previous approvals, and no vegetation removal is proposed as part of this application.</p> <p>Yes</p>

Resilience and Hazards SEPP

The relevant provisions of the SEPP are addressed as follows:

Chapter 2: Coastal Management

The Resilience and Hazards SEPP applies to land within the coastal zone. The Coastal Management Areas are defined on maps issued by the NSW Department of Planning and Environment. The site is not located within a mapped coastal management area. No further consideration is required in this regard.

Chapter 3: Hazardous and Offensive Development

The Resilience and Hazards SEPP applies to potentially hazardous or potentially offensive industry. The objective of Chapter 3 of the SEPP is to link the permissibility of an industrial proposal to its safety and pollution control performance. It aims to ensure that the merits of proposals are properly assessed in relation to off-site risk and offence before being determined.

As required by the Resilience and Hazards SEPP, a preliminary hazard analysis was provided as part of the application by Advitech Pty Ltd. The report assesses the proposed materials that are to be stored on site against relevant screening thresholds.

The proposal has been assessed as both 'potentially hazardous development' and 'potentially offensive industry'. The report makes the following key findings:

- Risk Screening: The report finds that none of the screening thresholds were triggered by the proposal.
- Transportation Screening Thresholds: The report notes that, provided the vehicle movements are below the cumulative vehicle movements for each class, the potential risk is unlikely to be significant. In this respect, it is noted that that vehicle movements generated by the proposal will be well below the cumulative vehicle movements for each class.
- Amenity Screening: In considering whether the proposal is offensive, the report notes that, due to the location and with consideration to the overall area, it is unlikely for the proposed development to be deemed 'offensive' or considered to cause offense to sensitive receptors. It is noted that separate assessments of the air quality and noise and vibration have also been completed. These assessments considered the relevant impact criteria based on legislative requirements and determined that the project would meet the relevant amenity criteria throughout the life of the project if mitigation measures are implemented (where applicable). On this basis, the project is not considered to be potentially offensive.

A Noise and Vibration Impact Assessment (NVIA), prepared by RAPT Consulting, dated February 2025 was reviewed by Council Environmental Health Officer (EHO) who recommended that the attended noise measurements were taken from a similar project on 12 January 2022 at Branxton Concrete Batching Plant. This operation has a similar acoustic environment with industrial and rural properties surrounding. The assessment concluded that compliance is expected to be achieved for this proposal at all sensitive receivers.

The applicant provided a further updated NVIA, prepared by RAPT in June 2025. This updated report provided supplementary noise monitoring assessment to complement the monitoring

previously undertaken. The NVIA recommends that a Noise Management Plan is to be submitted to the satisfaction of Council and an acoustic wall as (indicatively only) shown below in **Figure 3-6** is to be provided as a boundary treatment. This mitigation measure is to be subject to further detail and to the satisfaction of Council (please see draft Condition 1.5 and Condition 7.9).

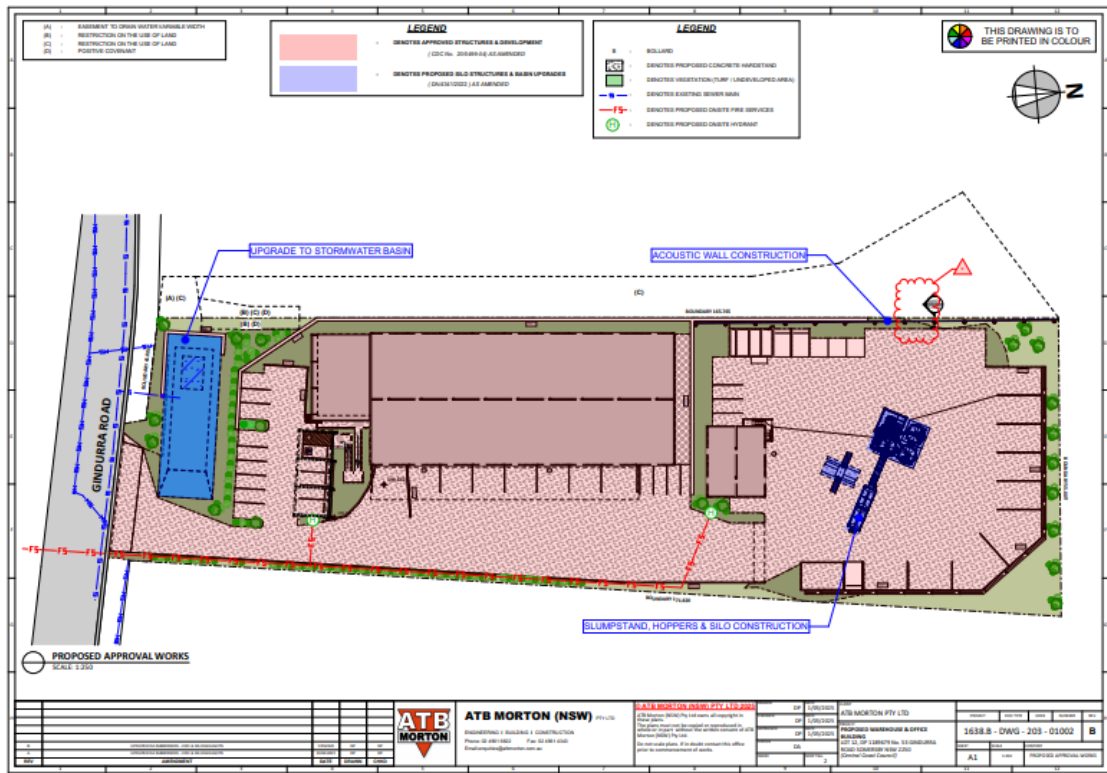


Figure 3-6: Indicative only location of acoustic wall treatment subject to Council approval (see Conditions 1.5 and 7.9)

In addition to the above, the Air Quality Impact Assessment (AQIA), prepared by Advitech, dated 13 March 2025 was reviewed by Council Environmental Health officer who advised that with the incorporation of management practices the potential impacts can be managed.

A Stormwater and Groundwater Management, prepared by Northrop dated 12 November 2024 was provided. The site is proposing three (3) catchments – External, Clean and Dirty. There is provision for ongoing monitoring and testing of contaminants of concerns. The applicant will be required to provide an Operational Environmental Management Plan including a Water Cycle Management. The Northrop Stormwater Drainage Infrastructure - Operation and Maintenance Plan will be implemented for the civil construction and ongoing operation of the plant.

The groundwater impacts are not anticipated to be significantly affected as the proposed is entirely situated upon impervious hardstand. A water consumption report will be required to be provided detailing the annual water demand (in KL) and peak day water demand (in KL)

required to be provided within the water consumption report. There is no excessive cut/fill allowed within the water and sewer main for the driveway/access purpose.

Recommended conditions of consent which include the submission of appropriate plans of management, which require the ongoing management of the concrete batching plant in line with best practice and requirements of the NSW EPA. The development is not considered to be hazardous or offensive development.

Chapter 4: Remediation of Land

The Resilience and Hazards SEPP applies to any land defined in section 4.3 (1)(a) or (b).

The provisions of Section 4.6 have been considered in the assessment of the development application and consideration has been given as to whether the land is contaminated, and if the land is contaminated, the consent authority is satisfied that the land is suitable in its contaminated state (or will be made suitable, after remediation) for the purpose for which the development is proposed to be carried out.

Council's records indicate that the site has not previously been used for industrial land uses. There is no evidence or record to suggest potential contamination at the project area based on a desktop evaluation of Council and EPA records. Contaminated material has not been encountered during excavation works associated with the CDC.

There is no history of other land-use such as industrial and chemical works or storages or land filling activities which are activities commonly associated with contamination (DUAP and EPA 1998) at the site.

While there are historical and ongoing industrial and quarrying related activities in the locality which are listed as a potentially contaminating activity, the likelihood of contamination resulting from these activities on the subject site is considered low.

Field testing has not been undertaken, however there has been desktop investigation and works undertaken as part of the CDC and this preliminary investigation concludes there is no material evidence of contamination and, therefore, the project area is considered suitable for its intended use as a concrete batching plant.

In accordance with s.4.6, the consent authority can be satisfied that the land is suitable for the proposed development and that a formal preliminary site investigation is not required in this instance, and that based on information before council, the land has not been previously used for a purpose referred to in Table 1 of the contaminated land planning guidelines, nor is there any history of contamination on the site.

Nonetheless, it is recommended that, if evidence of contamination is encountered during the construction phase of works (such as stained or odorous soil or demolition debris), advice should be sought from an appropriately qualified environmental consultant. In addition, the

construction phase of works should be undertaken in a manner that ensures no contamination is introduced to the project area. This process is most appropriately documented in the form of an unexpected finds protocol.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021
(Biodiversity and Conservation SEPP)**

The site adjoins high quality vegetation, including areas identified as Coastal Upland Swamp in the Sydney Basin Endangered Ecological Community (EEC). The potential for hydrological impacts on the adjoining Coastal Upland Swamp EEC, both surface water and groundwater has been considered.

A Biodiversity Assessment, prepared by MJD Environmental dated March 2025, assessed the likelihood of the proposal having a significant impact on any threatened species, populations or ecological communities listed under the NSW *Biodiversity Conservation Act 2016* (BC Act). Preliminary assessment was also made with regard to those threatened entities listed under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

Under the *Biodiversity Conservation Act*, the development does not trigger the NSW Biodiversity Offsets Scheme (BOS); there is no impact on vegetation on land included on the NSW Biodiversity Values Map, and the area clearing threshold of 0.5 hectares is not triggered (Section 7.1 of the BC Regulation).

The Tests of Significance required by Section 7.3 of the BC Act have been provided for Coastal Upland Swamp EEC, and Councils Principal Ecologist is satisfied that the proposal will not have a significant impact on any threatened species, populations or communities or their habitats. A Biodiversity Development Assessment Report (BDAR) is not required to be submitted in this circumstance.

The site has previously been cleared, and the remnant vegetation is not consistent with any native Plant Community Types (PCTs). No Threatened Ecological Communities (TECs), flora or fauna listed under the BC Act and / or EPBC Act were recorded on site during survey.

The proposal seeks to remove a maximum of 0.024 ha of disturbed vegetation. The report gives adequate regard to the proposed stormwater management measures observing that:

...run off captured from the batching plant area on an impervious hardstand which is then conveyed to a combined detention and bioretention basin that is to be lined with an impermeable liner material, to prevent any egress of dirty water to stormwater drains, groundwater sources and receiving waters.

And concludes that:

Providing such arrangements form part of the project approval, the proposal is unlikely to have an indirect impact on the adjacent Coastal Upland Swamp TEC. Following an assessment via a Test of Significance (BC Act) and assessment of Matters of National Environmental Significance (BC Act), MJD Environmental conclude that the proposal is unlikely to have a significant impact on the threatened entities assessed.

Providing such arrangements form part of the project approval; the proposal is unlikely to have an indirect impact on the adjacent Coastal Upland Swamp TEC. No hollow bearing trees will be impacted under this proposal.

The assessment concluded that the proposal was unlikely to have a significant impact on the threatened entities assessed. The EPA, Council Environmental Health, Ecologist and Engineer are satisfied that the additional stormwater and ground water information submitted address the previous concerns. The EEC impacts have been satisfactorily addressed in a revised Biodiversity Assessment Report (MJD Environmental, Final Version 2 dated 26 March 2025).

Compliance with the mitigation measures outlined in the Biodiversity Assessment Report and Environmental Impact Statement (EIS) prepared by WPP dated 23rd December 2022 has been conditioned.

Conditions are recommended that at least temporary 1.8 metre high man proof fencing be in place prior to commencement of any works, and the permanent fence be constructed along property boundaries prior to issue of Occupation Certificate to prevent encroachment adjoining sensitive EEC during construction and operation.

Transport and Infrastructure SEPP

5.2.1.1 Chapter 2 – Infrastructure

Chapter 2 of SEPP (Transport and Infrastructure) 2021 aims to facilitate the effective delivery of infrastructure across NSW. Clause 3.58 of the ISEPP refers to traffic-generating development as listed in Column 1 of Schedule 3.

The proposal does not constitute 'traffic generating development'. Existing traffic volumes on the local and state road network are well below the two-way midblock capacity of the existing road network indicating the existing local and state road network has significant spare capacity to cater for development in the area.

The proposed vehicular access arrangements to the on-site car parking area and internal road system are considered capable of compliance with the Central Coast Council and Australian Standard requirements and are deemed suitably safe.

Central Coast Local Environmental Plan 2022 (CCLEP 2022)

The relevant local environmental plan applying to the site is the CCLEP 2022.

Zoning and permissibility

The site is zoned E4 General Industry.



Figure 5-1: Land zoning map (Source: Council GIS Mapping)

The objectives of the E4 General Industry zone are:

- *To provide a range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*
- *To ensure that retail, commercial or service land uses in industrial areas are of an ancillary nature.*
- *To support and protect industrial land for industrial uses.*

The proposal concrete batching plant land use is permissible in zone and is a viable use of the industrial land whilst providing employment opportunities.

General controls and development standards (Parts 4, 5, 6 and 7)

The CCLEP 2022 contains controls relating to development standards, miscellaneous provisions, and local provisions. The relevant controls to the proposal are set out in the table below.

Clause 2.7 Demolition

No demolition is proposed.

Development provisions	Requirement	Development proposal	Compliance
Part 5 Miscellaneous provisions			
Heritage conservation (clause 5.10)	<i>(4) The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</i>	Aboriginal Cultural Heritage has been a consideration. An Archaeological Due Diligence Assessment prepared by Penny McCardle of MCH, dated 7 April 2022. A search of the AHIMS register indicate there are 97 known Aboriginal sites currently recorded within one and a half kilometres of the project area. No archaeological sites or Potential Archaeological Deposits (PADs) were identified during site survey. The consent authority can be satisfied that the relevant considerations of this Clause have been satisfied.	Yes Conditions recommended to ensure construction and maintenance activities address the statutory legislation protecting sites and places of significance.
Part 7 Additional local provisions			
Acid sulfate soils (clause 7.1)	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been— <i>(a) prepared for the proposed works in accordance with the Acid Sulfate Soils Manual, and (b) has been provided to the consent authority.</i>	The site is not identified as Acid Sulfate Soils on Councils online mapping. The consent authority can be satisfied that the relevant considerations of this Clause have been satisfied.	N/A
Essential services	Development consent must not be granted unless the	The proposed development has adequate essential	Yes

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Development provisions	Requirement	Development proposal	Compliance
(clause 7.6)	<p>following services that are essential for the development are available or that adequate arrangements have been made to make them available when require:</p> <p>(a) <i>the supply of water,</i> (b) <i>the supply of electricity,</i> (c) <i>the disposal and management of sewage,</i> (d) <i>stormwater drainage or on-site conservation,</i> (e) <i>suitable vehicular access,</i> (f) <i>the collection and management of waste.></i></p>	<p>servicing available to the development having regard for water, sewer, electricity, stormwater drainage, waste collection and vehicular access.</p> <p>The consent authority can be satisfied that the relevant considerations of this Clause have been satisfied.</p>	

5.3 Section 4.15(1)(a)(ii) of the EP&A Act – Draft Environmental Planning Instruments (EPIs)

There are no draft EPIs that are relevant to the proposed development.

5.4 Section 4.15(1)(a)(iii) of the EP&A Act – Development Control Plans

Central Coast Development Control Plan (CCDCP 2022)

Chapter 2.9 Industrial Development

The proposal is generally consistent with the provisions in Chapter 2.9 Industrial Development, as detailed in the compliance table provided at **Attachment A**.

Chapter 2.17 Character and Scenic Quality

5.4.1 Matters for Consideration

OBJECTIVES

- *Provide guidance in the assessment of development applications with regard to character and scenic value considerations.*
- *Maintaining the character and scenic quality of an area while considering the desired and likely future character of the area*

The site is immediately surrounded by industrial and commercial land uses. It is bounded by a large undeveloped and vegetated allotment to the north and east, Gindurra Road to the

south, and existing industrial warehouse development to the west. Light industrial units are found to the immediate south of the site, also fronting Gindurra Road.

As the proposal will utilise approved infrastructure, its potential visual impact will be limited to the installation of plant and equipment, most notably 22 metre high concrete batching plant silos which will be positioned centrally within the development area. Furthermore, due to the size and scale of the approved warehouse in the southern part of the site, only obscured views of the plant will be available from the street. Although visible from the adjoining western property at 6 Chivers Road, the majority of any view corridors are not obscured.

Subsequently, due to the highly industrialised setting within which the project is proposed, and the relatively non-obtrusive nature of the proposed works, visual amenity impacts from the proposal are considered negligible.

5.5 Section 4.15(1)(a)(iia) of the EP&A Act – Planning agreements under section 7.4 of the EP&A Act

There are no planning agreements or draft planning agreements entered into or proposed for the site. No further consideration is required in this regard.

5.6 Section 4.15(1)(a)(iv) of the EP&A Act – Provisions of regulations

The *Environmental Planning and Assessment Regulation 2021* applies to all development applications regarding such items as compulsory contributions, notification of development applications and a range of many other details regarding development application requirements.

A development application is required to be accompanied by the written consent of the owner of the land to which a development application relates in accordance with Section 23(1) of the EP&A Regulation. The relevant owner's consent has been obtained.

Schedule 3 Designated provisions

The proposed concrete batching plant will process more than 30,000 tonnes of concrete per annum and is therefore classed as 'Designated Development' under Clause 17 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2021* (EPA Regulation). A request for the issue of Secretary's Environmental Assessment Requirements (SEARs) was sought on 15 December 2020, and the SEARs (Ref 1537) for the proposed development were issued on 17 March 2021.

An Environment Impact Statement (EIS) has been prepared by WPP Pty Ltd on behalf of ATB Morton Pty Ltd in accordance with the Secretary Environmental assessment Requirements (SEARs) 1537 issued for the project on 17 March 2021.

The proposal meets the minimum form and content requirements in clauses 190 and 192 of Division 5 of the EPA Regulation. The proposed development is defined as:

17 Concrete works

(1) Development for the purposes of concrete works is designated development if the works have an intended production capacity of more than--

- (a) 150 tonnes per day, or*
- (b) 30,000 tonnes per year.*

(2) Development for the purposes of concrete works is designated development if the works—

- (a) have an intended production capacity of more than 500 tonnes per year, and*
- (b) are located within--*
 - (i) 100 metres of a natural waterbody or wetland, or*
 - (ii) 250 metres of a residential zone, or*
 - (iii) 250 metres of a dwelling not associated with the development.*

(3) This section does not apply to concrete works located on or adjacent to a construction site exclusively providing material to the development carried out on the site--

- (a) for a period of less than 12 months, or*
- (b) if the environmental impacts were previously assessed in an environmental impact statement prepared for the development.*

(4) In this section--

"concrete works" means works that produce pre-mixed concrete or concrete products.

The proposed concrete batching plant will process more than 30,000 tonnes of concrete per annum and is therefore classed as 'Designated Development' under Clause 17 of Schedule 3.

5.7 Section 4.15(1)(b) of the EP&A Act – Likely impacts of development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to EPIs outlined above.

The consideration of environmental, social, and economic impacts in the locality includes the following:

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- Context and setting – The proposed development is situated within an industrial zone comprising complementary and ancillary Industrial land uses immediately adjacent on Wisemans Ferry Road and Gindurra Road, Somersby.
- Public Domain – The proposal has a sensitive interface with the public domain.
- Utilities – The site can be serviced by essential services, utilities, and infrastructure.
- Heritage – Aboriginal Cultural Heritage has been a consideration. An Archaeological Due Diligence Assessment prepared by Penny McCardle of MCH, dated 7 April 2022. A search of the AHIMS register indicate there are 97 known Aboriginal sites currently recorded within one and a half kilometres of the project area. No archaeological sites or Potential Archaeological Deposits (PADs) were identified during site survey. Appropriate conditions are recommended to ensure that the persons responsible for the management of onsite works will ensure that all staff, contractors, and others involved in construction and maintenance related activities are made aware of the statutory legislation protecting sites and places of significance.
- Water, soil, and air impacts – The clearing of the site and construction of the industrial development will be subject to appropriate conditions to ensure there will be no environmental impacts. Ongoing operational management of the site activities and mitigation measures is required. Council Environmental Health Unit reviewed the Air Quality Impact Assessment (13 March 2025, Revision 3) which has been considered satisfactory.
- Flora and fauna impacts – Vegetation management planning aligns with the intended protection of the high biodiversity values of the site and surrounds in relation to presence of EEC on the adjoining lot.
- Noise and vibration – The clearing of the site and construction of the industrial development will be subject to appropriate conditions to ensure there will be no environmental impacts. Ongoing operational management of the site activities and mitigation measures is required. Conditions recommended include ongoing monitoring to ensure compliance.

A Plan of Operational Management is to be submitted to address operations and mitigation measures where required. Provision for monitoring and improvement of the protection and mitigation measures will ensure that impacts on the environment are minimised. The plan is to be reviewed and where appropriate updated on an annual basis. The site induction will refer to the plan. All personnel will be required to attend the environmental site induction. Copies of the plan will be kept on-site for ready access by all personnel.

Operation of the development is to be in accordance with EPA recommended conditions. A Noise Management Plan is to be submitted to deal with the unlikely

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occurrence of excessive noise emanating from operations and address RAPT Noise and Vibration Assessment Version 2.

- Natural hazards – There are no known natural hazards at the site. The clearing of the site and construction of the industrial development will be subject to appropriate conditions to ensure there will be no environmental impacts.
- Safety, security, and crime prevention – The site will be secured with appropriate fencing, lighting, CCTV and signage which will be subject to Council approval.
- Social impact – The proposal has addressed the social benefits for the future securing long term employment.
- Economic impact – The future land use will provide important local industrial employment to the area.
- Construction – Any clearing of the site and construction of the industrial development will be subject to appropriate conditions to ensure there will be no environmental impacts.
- Cumulative impacts – The proposal will have a positive cumulative economic impact to the local and broader economy.

Accordingly, it is considered that the proposed development will not result in any significant adverse impacts in the locality as outlined above.

5.8 Section 4.15(1)(c) of the EP&A Act – Suitability of the site

In accordance with section 4.15(1)(c) in determining a development application the suitability of the site for the proposed development is to be considered.

Having regard to the assessment above, it is considered that the proposed development is suitable for the site given:

- The proposed development will not have an environmental impact upon the site and surrounds.
- The application is for an industrial land use consistent with the surrounding land uses and operational activities. Operation management includes mitigation and ongoing reporting measures.

Surrounding land uses are compatible with the industrial land use.

5.9 Section 4.15(1)(d) of the EP&A Act – Any submissions made

Submissions made in accordance with the EP&A Act or Regulations are considered in Section 4 and the body of this report.

5.10 Section 4.15(1)(e) of the EP&A Act – Public interest

Approval of the proposed development is in the public interest for the following reasons:

- The proposal respects the cultural heritage and biodiversity of the site and surrounds.
- The design sensitively addresses the site constraints.
- Vegetation management will ensure appropriate buffers to the site and surrounds.
- Asset protection zones are accommodated for in the bushfire planning.
- There will be no material environmental impact as a result of the development which is an industrial low impact land use consistent with the surrounding land uses and operational activities. Operational management includes mitigation and ongoing reporting measures.
- Plans of management and acoustic treatments are to be provided and ongoing monitoring of noise, air quality and water is required with mitigation measures imposed upon a need basis. The applicant will provide the details of the monitoring of site and data collected as public information which will be available on a site-specific company website.
- The proposal is an employment generating land use.
- The proposal is in the public interest and aligns with the aims of the draft Somersby Plan of Management.

DEVELOPMENT CONTRIBUTIONS

Development Contribution Plan	Total contributions
The site is within the Somersby Industrial Park/Estate area which was rezoned and affected landowners were required to enter into a legal agreement which required them to pay contributions for roads, water and sewer, and dedicate certain land. Council records indicate that this site has paid contributions in accordance with the aforementioned legal agreement, and	Nil

therefore there are no further contributions required under Section 7.11 or 7.12 for development of this site.	
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CONCLUSION

The proposed development has been assessed using the heads of consideration under section 4.15 of the *environmental planning and assessment act 1979*. It is considered the proposed concrete batching plant is suitable for the site and within the broader locality. Accordingly the Panel can be satisfied of the following:

- The proposal has been assessed against the relevant matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is deemed acceptable.
- The consent authority is satisfied the assessment has had regard for the relevant provisions in Chapter 4 and Chapter 3 of *State Environmental Planning Policy (Resilience and Hazards) 2021*. The site is not deemed contaminated but is suitable for the intended use. The site is not mapped Coastal.
- The proposal is satisfactory having regard for the relevant environmental planning instruments, plans and policies.
- The proposal is permissible in, and consistent with the objectives of, the E4 General Industrial zone as per the Land Use Table of the *Central Coast Local Environmental Plan 2022*.
- The proposal complies with the relevant development standards in Part 4 of the *Central Coast Local Environmental Plan 2022*.
- Having regard for the prerequisites to the grant of consent under the *Central Coast Local Environmental Plan 2022*, the consent authority can be satisfied that:
 - Clause 5.10 – Heritage Conservation

Aboriginal Cultural Heritage has been a consideration. An Archaeological Due Diligence Assessment prepared by Penny McCardle of MCH, dated 7 April 2022. A search of the AHIMS register indicate there are 97 known Aboriginal sites currently recorded within one and a half kilometres of the project area. No archaeological sites or Potential Archaeological Deposits (PADs) were identified during site survey. Appropriate conditions are recommended.
 - Clause 7.6 – Essential services

All services essential for the proposed development remain available to the subject site.

- The proposal is consistent with the relevant objectives of the *Central Coast Development Control Plan 2022*.
- The proposal respects the ecological values of the site addressed by the Construction Environmental Management Plan (CEMP) which is to include the mitigation measures outlined in the Revised Biodiversity Assessment Report, Final Version. 2, by MJD Environmental, dated 26 March 2025 and the Environmental Impact Statement (EIS) by WPP, dated 23 December 2022.
- The proposal will not result in unreasonable impacts on the local built or natural environment, nor any unreasonable social or economic impacts on the locality. The design sensitively addresses the site constraints, topography, view corridors and significant sightlines. Appropriate vegetation buffers to the site will be maintained and protected outside of the property boundary.
- Asset protection zones, construction methodologies, water and utility services are accommodated for in a bushfire planning strategy.
- Fencing will both provide a secure facility for the employees whilst protecting the Endangered Ecological Community and retained bushland on the adjoining lands. This is to include placement of temporary 1.8m high man proof fencing along the northern and eastern property boundaries prior to any works, if the permanent fencing shown in the plans is not installed.
- There will be no adverse environmental impact as a result of the development which is an industrial low impact land use consistent with the surrounding land uses and operational activities.
- Environmental management planning will ensure ongoing responsible management of the site as addressed within the EIS. Plans of management will be required to be prepared to the satisfaction of Council prior to the operation of the plant facility.
- The proposal (concrete batching plant) is an employment generating land use.
- Noise and Vibration Impact Assessment has addressed the requirements of the NSW Noise Policy for Industry (EPA, 2017). Compliance is expected to be achieved for this proposal at all sensitive receivers. The consent requires that the operator maintain the western boundary noise barrier fence as a 3 metre solid acoustic noise barrier, the barrier is to be free of any visible air gaps.
- Groundwater impacts are not expected as the site is situated upon impervious hardstand (Stormwater and Groundwater Management prepared by Northrop, dated 12 November

2024). Provision for ongoing monitoring and testing of contaminants has been accounted for in the Northrop Stormwater Drainage Infrastructure - Operation and Maintenance Plan.

- The operator is required to implement the approved routine storm water quality monitoring program and submit monthly reports to Council for a minimum 3 months.
- The proposal will not result in unreasonable impacts on the local built or natural environment, nor any unreasonable social or economic impacts on the locality.
- All likely impacts to surrounding properties, including any submissions made, have been addressed in Council's assessment report and are deemed acceptable.
- The site is suitable for the proposed development.
- The proposal is in the public interest.

RECOMMENDATION

- A. That Development Application No. 4341/2022 for concrete batching plant, at 53 Gindurra Road, SOMERSBY, be APPROVED pursuant to section 4.16(1) of the EP&A Act subject to the draft conditions attached to this report at Attachment B and for the following reasons.
- B. The applicant be advised that the approved amendment/s to the condition/s do not extend the terms of the original consent.
- C. The objector(s) be notified of Council's decision.
- D. The External Referral(s) be notified of Council's decision.

The following attachments are provided:

- Attachment A – CCDCP 2022 Assessment Chapter 2.9 Industrial Development (Content Manager D16916138)
- Attachment B – Environmental Impact Statement (EIS) (Content Manager D15497341)
- Attachment C – Architectural Plans (Content Manager D15497329)
- Attachment D - Dust Supression Plan (Content Manager D16553394)
- Attachment E - Surescope Building Certifiers Reference: 20/0499-01 Complying Development Certificate (CDC), dated 12 March 2021 (Content Manager D15497357) and Surescope Building Certifiers Reference: 20/0499-04 Complying Development Certificate (CDC), dated 23 September 2024 (Content Manager D16553387)

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- Attachment F – NSW EPA General Terms of Approval and Recommended Conditions, dated 9 March 2023 and 24 February 2025 (Content Manager D16704738, D16704739)
- Attachment G – Air Quality - 22207 WPP Somersby Batch Plant AQIA Rev4.pdf (Content Manager D16819125)
- Attachment H – Biodiversity Assessment Report (Content Manager D16842521)
- Attachment I – Noise and Vibration Impact Assessment Revision 2 (Content Manager D16921492)
- Attachment J – Bushfire Certificate (Content Manager D15497334)
- Attachment K - NSW Rural Fire Service (Content Manager D16766491)
- Attachment L - Archaeological Due Diligence Assessment (Content Manager D15536973)
- Attachment M - Public Submission (Content Manager D16638854)
- Attachment N – Planning Secretary's Environmental Assessment Requirements (SEARS 1537), dated 17 March 2021 (Content Manager D15536978)
- Attachment O – Northrop Stormwater Drainage Infrastructure - Operation and Maintenance Plan (D16847637)
- Attachment P – Draft Notice of Determination (Content Manager D16901141)

REASONS FOR DECISION

Attachment A - Chapter 2.9 Industrial Development

Chapter 2.9 Industrial Development

Requirement	Proposal	Complies?
2.9.1.2 Objectives of this Chapter		
To encourage employment generating development	Employment of plant operators, ground staff, office management and transport. Nine (9) employees including 2 plant supervisors, 3 concrete batchers and 4 delivery drivers. The development will provide opportunities for future employment generating activities.	Yes
To ensure the efficient use of urban land by maximising the development potential of land and infrastructure.	The land has been developed within the constraints enforced regarding Aboriginal cultural heritage, environmental Impacts by way of noise, odour, vibration, and ecology.	
To promote quality industrial development by identifying Council's expectations and requirements relating to design and construction	The plant is proposed in accordance with best practice standards for construction. The design and construction will be of high quality construction.	Yes
To control environmental impacts arising from industrial development	Plans of Management are recommended. Environmental impacts will be controlled with restrictions on the development and ongoing monitoring.	Yes
2.9.2 Industrial Site Development Design Elements		
2.9.2.1 Floor Space Ratio		

All activities and processes associated with the industrial use of the site are accommodated on the site in buildings of acceptable bulk and scale.	The application does not involve the erection of a building.	N/A
Unless otherwise indicated on the Floor Space Ratio Map, a maximum Floor Space Ratio of 0.8:1 is applicable to industrial development on any land.	As above.	N/A
2.9.2.2 Site Coverage		
The extent of built and hardstand areas on site is to be minimised.	No additional hardstand is proposed under the subject application.	N/A
The development footprint is to be augmented by the design, implementation and maintenance of soft landscape works.	No additional landscaping works are proposed under the subject application.	N/A
2.9.2.3 Setbacks		
<p>a. Front:</p> <ul style="list-style-type: none"> i. 20m if on a State Road (Main or Arterial) ii. 10 metres on any other road, except: <ul style="list-style-type: none"> • Manns Road, West Gosford: 18m • Barralong Road, Erina: 15m • As otherwise specified in Part 6: Location Specific Development Provisions. <p>A minimum five (5) metre wide landscaped area must be provided within the above setback except for vehicle access. Suitable landscaping would comprise tree planting incorporating mulch beds in preference to often neglected grass lawns and poorly maintained shrubs.</p>	The proposal will not result in any changes to established setbacks within the site.	N/A
b. On corner lots, the setback to the other road shall be not less than 5 metres.	The site is not a corner allotment. The proposal will not result in any changes to established setbacks within the site.	N/A
<p>c. Side and Rear: Nil, Provided:</p> <ul style="list-style-type: none"> i. the proposed building meets the requirements of the BCA ii. any requirements for bushfire protection are met iii. any site specific requirements for setbacks and landscaping are met. 	The proposal will not result in any changes to established setbacks within the site.	N/A


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Concrete Batching Plant (cont'd)**

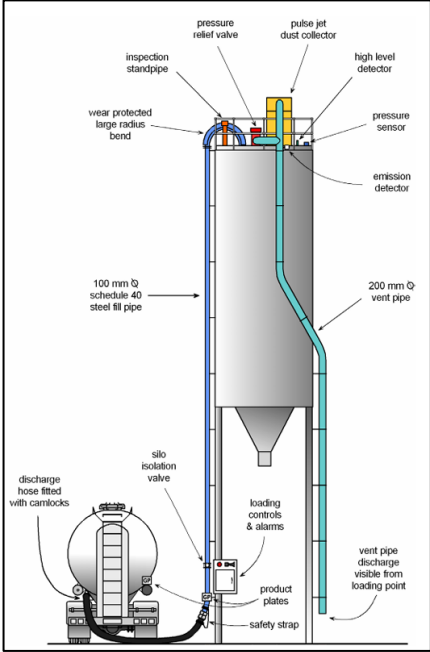
d. Where side or rear setbacks are proposed or required: i. narrow and inaccessible setbacks are to be avoided. ii. other than area used specifically for access, side and rear setbacks are to be appropriately landscaped.	The proposal will not result in any changes to established setbacks within the site.	N/A
e. Where a creek, river or lagoon adjoins or traverses the site, the building(s) are required to be set-back six (6) metres from the top of the bank.	The proposal will not result in any changes to established setbacks within the site.	N/A
f. Where the industrial allotment adjoins or abuts rural, residential or open space land the development is not to be carried out within five (5) metres of the boundary of the allotment adjoining or abutting that land.	The proposal will not result in any changes to established setbacks within the site.	N/A
2.9.2.4 Design and Appearance of Buildings		
a. A building with acceptable bulk and scale: i. does not excessively overshadow outdoor staff facilities of adjoining development; ii. retains sufficient area in the curtilage of the building(s) to cater for landscape works, setbacks, car parking and access, outdoor staff facilities, outdoor industrial activities, fire radiation zones and other ancillary uses; iii. takes account of the landform of the site and minimises cut, fill and retaining works; iv. takes account of the general bulk and scale of adjoining development; v. includes architectural treatment of the facades of the building(s) to diminish the apparent height and length of walls, particularly on elevations with street frontage.	No buildings are proposed under the subject application.	N/A
b. The design of buildings is to be as architecturally attractive as possible by selective use of materials of suitable texture and colour.	No buildings are proposed under the subject application. The batching silos are to be finished in muted natural tones.	N/A

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c. Buildings should be sited to avoid the destruction of any prominent landscape features, such as stands of large trees, etc	No buildings are proposed under the subject application.	N/A
d. The building(s) should not project above the skyline and detract from the natural landscape when viewed from a distance.	No buildings are proposed under the subject application.	
e. Buildings should be constructed of high quality, durable, UV stabilised / resistant building materials.	No buildings are proposed under the subject application.	N/A
f. The office component of industrial buildings is to be of masonry and glass construction.	No buildings are proposed under the subject application.	N/A
g. The reflectivity index for glass used externally in construction of a building shall not exceed 20%.	No buildings are proposed under the subject application.	N/A
h. Corrugated iron shall not be used for the predominant wall cladding under any circumstances.	No buildings are proposed under the subject application.	N/A
i. All other metal cladding shall be suitably painted.	No buildings are proposed under the subject application.	N/A
j. Long blank walls on street frontages are to be avoided. Where this is not possible, they are to be screened by appropriate landscaping or incorporate design features into the walls.	No buildings are proposed under the subject application.	N/A
k. Important parts of the building such as corners, entrances, the building base and the roof should be articulated. Corners should not be unduly emphasised but should respond to their particular context and the characteristics of the two (2) streets they may address	No buildings are proposed under the subject application.	N/A
l. No service plumbing or pipes, other than downpipes for the conveyance of roof water, shall be external to the building where visible from any public place	No buildings are proposed under the subject application.	N/A
m. Applicants will be required to indicate on the Development Application plans, building materials and colours proposed. The development is encouraged to draw upon colours and materials that are sympathetic to the surrounding natural and cultural landscape.	No buildings are proposed under the subject application.	N/A
n. Articulated parapets and cornice lines should emphasise the top of the building combining to create a cohesive design	No buildings are proposed under the subject application.	N/A

and an appropriate scale for the overall façade.		
o. Air conditioning units, roof top pergolas, lift over-runs, telecommunications devices and other roof mounted equipment, which protrude above the general roof line of the building, will not be permitted (refer s.2.25).	No buildings are proposed under the subject application.	N/A
2.9.2.5 Car Parking and Manoeuvring		
a. Developments are to comply with the relevant provisions of Chapter 2.13 – Transport and Parking.	<p>Council's DCP provides the following parking rates relevant to the development:</p> <ul style="list-style-type: none"> ○ Factory – 1 space per 100m2 GFA ○ Ancillary Office – 1 space per 40m2 GFA ○ Disabled Park Space – 1 per 4 to 100 car parking spaces. <p>Based on the DCP rates, a total of two on-site parking spaces are required for the development.</p> <p>The proposal provides 3 on-site car spaces and an accessible space in the southern carpark, 1 space in excess of DCP car parking requirements. There are areas available for any small overflow of light vehicle parking which may occur during large orders, and truck drivers are also able to park their cars adjacent to the agitators.</p>	Yes
2.9.2.6 Off-Street Loading/Unloading		
a. All loading and unloading is to take place within the curtilage of the building	Adequate arrangements for loading and unloading of all vehicles has been made and demonstrated through submission of swept path analysis for all required vehicles.	Yes
b. Developments are to comply with the requirements identified within Chapter 2.13 – Transport and Parking and Australian Standards 2890.1 and 2890.2.	A review of the proposed car park design indicates that it would comply with the minimum design dimensions for a private car park provided within AS2890.1-2004.	Yes
c. If loading areas are undercover, no stormwater pits shall be located in the area and all surface drainage shall be diverted away from the area.	Loading and unloading areas are not proposed within covered areas.	N/A

<p>d. All loading and unloading facilities are to be screened from the street with suitable evergreen shrubs and trees (such screening to be indicated upon the submitted landscape plan) and are to be designed so as not to transmit excessive noise to adjacent residential areas.</p>	<p>Loading and unloading areas will be generally obscured from the street by other improvements (e.g buildings) within the site.</p> <p>Measures (e.g. acoustic wall) form part of the proposal to mitigate noise generated from the proposed operations. The effectiveness of such measures has been addressed in a Noise Impact Assessment.</p>	<p>Yes</p>
<p>e. Loading/unloading and parking areas are to be separated so as not to cause conflict</p>	<p>The swept path analysis submitted demonstrates that adequate separation is provided to avoid conflict between loading areas and parking.</p>	<p>Yes</p>
<p>f. If the proposal involves the loading/unloading of dangerous goods or hazardous materials, appropriate bunding must be provided.</p>	<p>Appropriate arrangements to allow for the safe unloading of goods associated with the batching process, including separation of clean and dirty water areas.</p> <p>Cement and Fly Ash will be transported to the site in enclosed trucks consistent with the image below:</p>  <p>Product will be transferred from the bulk carriers to the silo via an enclosed pipe system with camlocks, isolation valves and high level alarms and the like to prevent spillage of product onto hardstand areas or into the atmosphere. The handling of cement and fly ash will be generally in accordance with the industry reference Guidelines for Delivery of Bulk Cementitious Products to Premixed Concrete Plants (Cement Concrete and Aggregates Australia, 2018)</p> <p>The below schematic plan shows the typical components for a silo loading system.</p>	<p>Yes</p>

		
2.9.2.7 Flooding and Stormwater Management		
<p>a. All developments shall comply with requirements detailed within Council's Civil Works Specification and Chapter 3.1 – Floodplain Management.</p>	<p>A detailed watercycle management plan has been submitted. The proposal is capable of satisfying Council's Civil Works Specifications.</p> <p>The site is not subjected to flooding.</p>	<p>Yes</p>
2.9.2.8 Earthworks and Retaining Walls		
<p>a. Full details of any proposed cut and fill of the site are to be provided together with materials, height and drainage for any proposed retaining walls</p>	<p>No cut, fill or retaining is proposed under this application.</p>	<p>N/A</p>
<p>b. Retaining walls shall be constructed of brick or masonry.</p>	<p>No cut, fill or retaining is proposed under this application.</p>	<p>N/A</p>
<p>c. Retaining walls in excess of 900mm or those subject to significant loads shall be designed by a suitably qualified engineer.</p>	<p>No cut, fill or retaining is proposed under this application.</p>	<p>N/A</p>
<p>d. Retaining walls located on boundaries shall not undermine or adversely impact upon the structural integrity of existing retaining wall systems on adjacent sites.</p>	<p>No cut, fill or retaining is proposed under this application.</p>	<p>N/A</p>
2.9.2.9 Building Over and Adjacent to Sewer Mains		
<p>a. Where a proposed building is permitted to be located over a sewer main, the main must be encased with reinforced concrete. The encasement is to be in accordance with Council requirements, with the full cost of design</p>	<p>No works are proposed over or in the zone of influence of any sewer main.</p>	<p>N/A</p>

and construction to be borne by the owner.		
b. Any footing to be located within the zone of influence of the sewer main trench will require a structural engineer's report. The building foundation system is to be designed so that pressure from the foundation is not transferred to the main. The design must also consider the effect of the sewer main and trench on the building foundations.	No works are proposed over or in the zone of influence of any sewer main.	N/A
c. Outbuildings of light construction erected on a concrete slab may be located over or near a sewer main. Such buildings may contain brickwork to a maximum height of one (1) metre.	No works are proposed over or in the zone of influence of any sewer main.	N/A
d. Concrete slab/footing construction of such outbuildings shall be in accordance with Council's Civil Works Specification.	No works are proposed over or in the zone of influence of any sewer main.	N/A
e. It is the responsibility of the owner or builder to determine the location of a sewer main, which may affect or be affected by the proposed building.	No works are proposed over or in the zone of influence of any sewer main.	N/A
f. All proposals shall comply with the requirements of the <i>Water Management Act 2000</i> .	No works are proposed over or in the zone of influence of any sewer main. No approval is required under the Water Management Act 2000.	N/A
2.9.2.10 Thematic Links		
a. Where the site is part of an industrial estate development, the design of the building(s), external fixtures (such as lighting), signs and landscaping matches or complements adjacent buildings and the overall theme of the estate.	The proposal is of a nature and scale that is compatible with the broader industrial aesthetic and established composition of land uses found in the locality.	N/A
2.9.2.11 Site Landscape Works		
a. Significant vegetation is to be identified by an appropriately qualified person and incorporated into the landscape design.	Landscaping works are not proposed or required as part of the subject application.	N/A
b. The development is designed to optimise retention and survival of significant, threatened and endangered vegetation.	The likely impacts of the proposal on nearby endangered ecological communities has been assessed in a flora and fauna assessment prepared by a suitably qualified consultant. The likely impacts will be minimal. As such the retention and survival of the EEC will not be compromised by the proposed development.	Y

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c. Where possible bushland corridors are maintained or created across the estate.	The proposal will not impact on the maintenance or creation of bushland corridors.	N/A
d. Presentation of the building façade to the street is to be complemented by appropriate landscaping.	No building facades are proposed under the subject application.	N/A
e. Landscaping must be provided across the frontage of a site having a minimum depth of five (5) metres except in the case of corner allotments where the secondary street frontage shall have a minimum depth of two (2) metres. Earth mounding should be considered within this setback area. The earth mounding should not be steeper than a 1:3 grade in order for satisfactory maintenance of the mound.	Landscaping works are not proposed or required as part of the subject application	N/A
f. Planting within car park areas is designed to provide shade, ameliorate views of large expanses of paved areas and parked cars, and to identify entrances to car parks.	Landscaping works are not proposed or required as part of the subject application	N/A
g. A Landscape Design Report and associated plan(s), is to be prepared by a suitably qualified landscape	Landscaping works are not proposed or required as part of the subject application	N/A
h. Landscaping style and species selection should match or complement the landscaping theme approved for the estate.	Landscaping works are not proposed or required as part of the subject application	N/A
i. Landscape works within side and rear setbacks should be planted with trees of appropriate size at maturity to mitigate the scale of the industrial building(s). Trees should be selected from the Keystone Species List within Chapter 3.5 – Tree and Vegetation Management.	Landscaping works are not proposed or required as part of the subject application	N/A
j. The provision/retention of buffer areas adjacent to wetlands in accordance with the provisions of Chapter 5.46 – Northern Wetlands Management (where applicable) and the requirements of the Department of Planning and Environment in relation to <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> .	The likely impacts of the proposal on the nearby EEC (groundwater dependent ecosystem) has been assessed by a suitably qualified ecologist. The proposal is unlikely to have a significant impact on this EEC.	Yes

2.9.2.12 Storage Areas		
a. External storage areas are located and/or screened so as not to be visible from outside the site particularly from areas accessible to the public, e.g., railway lines, roads and residential areas.	Material storage bins are situated to the rear of the site and are screened from the public domain.	Yes
2.9.2.13 Design for Safety		
a. Clear sightlines are to be maintained over public and private spaces.	Works associated with the proposal will not obscure any sightlines between the public and private domain.	Yes
b. There is effective lighting of key points.	A lighting plan has been submitted which indicates there will be sufficient levels of illumination across the site.	Yes
c. Landscaping does not provide potential offenders with places to hide.	No landscaping works are proposed as part of the application.	N/A
d. Landscaping channels pedestrians into target areas.	No landscaping works are proposed as part of the application.	N/A
e. There is clear transition and boundaries between public and private spaces.	Measures such as fencing and existing elements, including driveway crossings and existing landscaped areas assist to define and distinguish the private and public realm.	Yes
g. Appropriate security is provided as part of any development, which may include security cameras in parking areas and the provision of security guard patrols, to ensure safety of staff and the public.	Provision can be made for security cameras. Fencing and gates will provide an appropriate level of deterrence when the site is not operational and can be supplemented by security cameras.	Yes
h. Care is taken to ensure that public spaces are not made into secluded spaces through gates and enclosures.	No public spaces will be affected by the proposal	N/A
2.9.2.14 Security Fencing		
a. Details of security fencing and other visible security devices are to be included in the Development Application	A fencing plan detailing heights and materials forms part of the application.	Yes
b. Security fencing is to be integrated with the site landscaping and the overall design of the building.	Security fencing is proposed to the perimeter of the batching plant site.	Yes
2.9.2.15 Lighting		
a. Lighting details shall be provided with the Development Application.	A lighting plan forms part of the application.	Yes
b. Lighting is to be designed so as to not cause light spill onto adjoining sites.	The lighting plan generally indicates that lighting will be directed to spaces within the site.	Yes
c. Lighting powered by solar batteries or other renewable energy sources is encouraged.	N/A	Yes

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2.9.2.16 Site Signs		
a. Signs are used to clearly identify industrial premises without visually dominating the appearance of the development.	No signage is proposed under the current application.	N/A
b. Signs are to be constructed of high quality, durable materials.	No signage is proposed under the current application.	N/A
c. Any sign is to be contained wholly within the subject site.	No signage is proposed under the current application.	N/A
d. Sites are restricted to one sign identifying the name of the occupants and/or products manufactured or produced on site.	No signage is proposed under the current application.	N/A
e. All signs shall comply with the provisions of Chapter 2.15 – Signage and Advertising, and SEPP (Exempt and Complying Development Codes) 2008.	No signage is proposed under the current application.	N/A
f. Where factory units are proposed, each factory unit development should have a directory board within or near the entry landscape area listing each firm and their unit number within the complex.	No signage is proposed under the current application.	N/A
2.9.2.17 Encouraging Energy Efficient Construction and Development		
a. Developments are to be designed and constructed having regard to available energy efficient materials, lighting, heating and cooling.	Where appropriate the proposal allows for the reuse of materials (e.g.) water.	Yes
b. New buildings are to be orientated as much as possible so that they make best use of solar energy and prevailing winds to lower heating and cooling costs.	No new buildings are proposed.	N/A
c. Glazing on north facing facades is encouraged to maximise solar access in winter and glazing to the west is to be minimised to reduce excessive summer solar access.	No new buildings are proposed.	N/A
d. Building materials and insulation are to be used which assist in thermal performance and maintain internal comfort levels.	No new buildings are proposed.	N/A
e. The use of top star rated energy smart rated appliances and lighting is required.	No new buildings are proposed.	N/A
f. It is advisable that larger developments (buildings exceeding 4,000m ² in area) utilise renewable energy resources for all lighting on site and a statement is to be included with the development	No new buildings are proposed.	N/A

application addressing this requirement for the consideration of Council.		
2.9.2.18 Air Quality and Odour Control		
a. Industrial development likely to generate air pollution and odours is to be located away from residential areas.	<p>The proposal is situated in an established industrial area separated from land zoned for residential purposes.</p> <p>The likely air quality impacts of the proposal in the nearest residential receivers has been evaluated in a comprehensive Air Quality Impact Assessment.</p>	Yes
b. Best practice techniques are used to reduce the level of risk and degree of impact at the point of production and the point of discharge.	The AQIA assesses and includes measures to mitigate emissions from the proposed batching activities. The consent will require the inclusion of such measures and other ongoing management arrangements to minimise the likelihood of any exceedances.	Yes
c. Where the development proposed will release odours, an odour impact assessment shall be undertaken and submitted to council with the development application.	N/A	N/A
d. Where air polluting industries are permissible, no point of pollution discharge is within 300m of the nearest dwelling.	The nearest residential receiver is situated over 300m away on the eastern side of the Pacific Motorway.	Yes
e. Industrial development shall comply with the "Technical Framework: Assessment and Management of Odour from Stationary Sources in NSW", issued by the EPA in November 2006.	An evaluation of the proposed development against the relevant EPA guidelines has been provided in a comprehensive AQIA.	Yes
f. Where the assessment indicates that a facility will exceed the odour performance criteria prescribed by the EPA, then additional design, management and control strategies for odour mitigation are to be investigated by the proponent and incorporated within the development.	N/A	N/A
2.9.2.19 Noise Generation		
a. Acoustic design principles are to be incorporated into the development design. In this regard, industrial noise shall be controlled so that it does not impact upon the amenity of the nearest residential dwelling.	A noise impact assessment has been prepared which considered the likely impacts of the proposal on the nearest residential receivers. Mitigation measures are incorporated into the proposal to ensure the development does not cause	Yes

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DA/4341/2022 - 53 Gindurra Road, Somersby Designated Development Concrete Batching Plant (cont'd)

	unreasonable impacts on the amenity of nearby residential receivers.	
b. Industrial development shall comply with the requirements of the Noise Policy for Industry produced by the EPA in 2017.	The noise impact assessment has been prepared giving adequate regard to the applicable EPA guidelines.	Yes
c. An Acoustic Report shall be submitted with the Development Application for any industrial development proposal located within 50 metres of a residential property boundary (other than a Manager's residence on an adjacent industrial site).	The nearest residential receiver is located over 300 metres to the east.	N/A
2.9.2.20 Fire Mitigation and Control		
a. All buildings on land adjoining bushland are designed and located to minimise potential damage due to bushfire.	No buildings are proposed under the subject application.	Yes
b. Practical measures are implemented to achieve the appropriate level of fuel management and bushfire hazard reduction on the site.	The proposal will not contribute to fuel loads nor require any specific bushfire hazard reduction measures on site.	N/A
c. Access for emergency vehicles including fire trucks is provided and easily identified.	The swept path analysis submitted indicates adequate arrangements can be made for emergency vehicles to manoeuvre within the site.	Yes
d. Water hydrants are clearly marked and accessible.	Provision is made for fire safety measures within the site including hydrants and hose reels	Yes
e. Flammable and other materials likely to act as fire accelerants are located and stored in a manner to minimise the risk of contact with fire.	Provision can made for the storage of small quantities of flammable goods within the existing workshop building. Fuel storage on site no longer forms part of the proposal	Yes
f. Flammable materials shall be stored in accordance with relevant guidelines produced by the Department of Planning and Infrastructure and WorkCover requirements.	The proposal is capable of complying with this requirement.	Yes
2.9.2.21 Waste Minimisation and Disposal		
a. Waste storage and disposal is to be carried out in accordance with a site and use specific Waste Management Plan which shall be prepared and submitted with the Development Application.	Waste management arrangements shall be formalised as part of a comprehensive OEMP.	Yes
b. The requirements for a Waste Management Plan are identified in Chapter 2.14 – Waste Management and Council's Waste Control Guidelines		

c. Reference should be made to "Specification for Supply of Recycled Material for Pavements, Earthworks and Drainage" produced by Department of Environment, Climate Change and Water in April 2010.	To be observed.	Yes
2.9.2.22 Contaminated Sites		
a. The level of risk from potentially contaminated land or contaminated land is to be accurately determined and an appropriate treatment is determined and implemented in conjunction with	N/A	N/A
b. Any application for industrial development shall comply with the provisions of <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> .	Consideration has been given to SEPP (Resilience and Hazards) 2021 in the EIS.	Yes
2.9.2.23 Disabled Access		
a. Access ways are provided to and within a building to enable people with disabilities safely, equitably and with dignity: <ul style="list-style-type: none"> i. to approach the building from the road boundary and from any car parking spaces associated with the building; and ii. to access work and public spaces and facilities for personal hygiene. 	The proposal does not seek to alter existing arrangements or accessible facilities within the site.	Yes
b. Car parking spaces for use by people with disabilities must be provided to the degree necessary to give equitable access for car parking and be designated and easy to find.	Accessible spaces are provided within the site. No changes are proposed as part of the subject application.	Yes
c. Any inbuilt communication system for entry, information or for provision of service must be suitable for occupants who are hearing impaired.	No inbuilt communication system is proposed.	N/A
d. Development is to comply with the relevant provisions of AS1428.1 – Design for access and mobility and the Disability (Access to Premises – Buildings) Standards 2010	The existing site arrangements have been designed and constructed to comply with AS1428.1	Yes
2.9.2.24 Communications Infrastructure		
a. Where possible, all electricity and telecommunications supply to the development and throughout the site is to be placed underground.	N/A	N/A

b. A precautionary approach is to be adopted to the placement of communication infrastructure having regard to community concerns regarding the potential effect of Electro-magnetic Frequency Radiation	N/A	N/A
c. Full details of all proposed communication infrastructure proposed to be located on the site or attached to buildings on the site shall be provided with the Development Application.	N/A	N/A
d. Communication infrastructure such as radio towers, satellite dishes and roof mounted equipment which protrude above the general roof line of the building shall not be permitted except where: <ul style="list-style-type: none"> i. the building is not visible from adjoining residential development or major viewing points such as major roads; ii. it is appropriately integrated into the design of the building so as not to detract from the appearance of the development or dominate the skyline; iii. any communications infrastructure which is proposed as Exempt or Complying Development should comply with State Environmental Planning Policy (Transport and Infrastructure) 2021. 	N/A	N/A
2.9.2.25 Ancillary Retail	N/A	
2.9.2.26 Ancillary Residential	N/A	

Attachments

Nil.

Item No: 3.2
Title: DA/1009/2024 - 264-266 Booker Bay Road, Booker Bay - Proposed Subdivision
Department: Environment and Planning

Central Coast
Local Planning Panel

14 August 2025 Local Planning Panel Meeting

Reference: DA/1009/2024 - D16956525
Author: Jenny Tattam, Senior Development Planner. Employment and Urban Release
Manager: Emily Goodworth, Section Manager Employment and Urban Release
Executive: Andrew Roach, Unit Manager Development Assessment

Summary

An application has been received for a Two Lot Torrens Title Subdivision at 264-66 Booker Bay Road, Booker Bay. The application has been examined having regard to the matters for consideration detailed in section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The application has been referred to the Central Coast Local Planning Panel for determination because the proposal seeks to vary Clause 4.1.c(4)(b) of *Central Coast Local Environmental Plan 2022*, the minimum lot size for land for dual occupancies by 81.15%.

Recommendation

- 1. The Panel reach a state of satisfaction that the document setting out the grounds for a contravention to the development standard for the minimum lot size for dual occupancies demonstrates that compliance with the standard is unreasonable and unnecessary in the circumstances of the case because the proposal is consistent with the objectives for the standard, and there are sufficient environmental planning grounds to justify contravening the development standard.***

Further, the Panel is satisfied the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the R1 General Residential and W2 Recreational Waterways zones in which the development is proposed to be carried out.

- 2. That the Local Planning Panel grant consent to DA/1009/2024 at 264-266 Booker Bay Road, Booker Bay for Two Lot Torrens Title Subdivision of an Existing Detached Dual Occupancy subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.***

3.2 DA/1009/2024 - 264-266 Booker Bay Road, Booker Bay - Proposed Subdivision (cont'd)

Key Issues

- Variation to the maximum lot size for an existing dual occupancy (Clause 4.1.C(4)(b) of CCLEP 2022). A written document has been provided in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*.

1. Executive Summary

DA number	DA/1009/2024
Lodgment date	24 September 2024
Applicant	Michael Ball
Owner	Joy and Michael Ball
Application type	Local development
Proposed development	Two Lot Torrens Title Subdivision of Existing Dual Occupancy (Detached)
Employment generating	No
Estimated value	\$36,300
Applicant	Michael Ball
Disclosure of political donations and gifts	No
Scheduled meeting date	14 August 2025
Author	Jenny Tattam, Senior Development Planner
Date of report	11 July 2025
Delegation level	Central Coast Local Planning Panel
Reason for determination by Local Planning Panel	The proposal contravenes a development standard imposed by the Central Coast Local Environmental Plan 2022 by more than 10%.
Recommendation	Approval
Conflict of interest	The staff responsible for the preparation of the report, recommendation, or advice to any person with delegated authority to deal with the application have no pecuniary conflict of interest or non-pecuniary conflict of interest to disclose in respect of the application.

Property details			
Property address		264-266 Booker Bay Road, Booker Bay	
Property title description		Lot 396, DP1207480	
Site area		1,452m²	
Existing use		Residential (Existing Dual Occupancy – Detached)	
Precis			
Zoning		R1 General Residential and W2 Recreational Waterways under the provisions of the <i>Central Coast Local Environmental Plan 2022</i> (CCLEP 2022)	
Permissibility		The proposed development is defined as a Subdivision, which is permissible with consent in the zone.	
Relevant legislation		The following planning instruments, plans and policies are relevant to the development and were considered as part of the assessment: <ul style="list-style-type: none">☒ EP&A Act – sections:<ul style="list-style-type: none">○ 4.15 (evaluation) and sections☒ EP&A Regulation 2021☒ <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>☒ Central Coast Local Environmental Plan 2022 (CCLEP 2022)☒ Central Coast Development Control Plan 2022 (CCDCP 2022)	
Clause 4.6 requests		Yes	
Number of total & unique submissions		N/A – application not notified.	
Key issues		Variation to the maximum lot size for an existing dual occupancy (Clause 4.1.C(40(b) of CCLEP 2022). Clause 4.6 variation provided.	
Variations to policies			
Clause	Standard	Departure	Conclusion
CCLEP 2022	Clause 4.1.C(4)(b)	81.15%	Departure acceptable - refer to assessment in body of report.

2. Site Context

2.1 Site and locality

The site is located on the southern side of Booker Bay Road and within a residential area mainly consisting of dwellings and dual occupancies.

The site is rectangular in shape. The site is currently occupied by a detached dual occupancy development which was approved under development consent 55079/2018.

The site adjoins residential development to the north, east and west. Brisbane Waters is located to the south.

The site is not affected by bushfire prone land, however it is identified as being in a flood planning area.

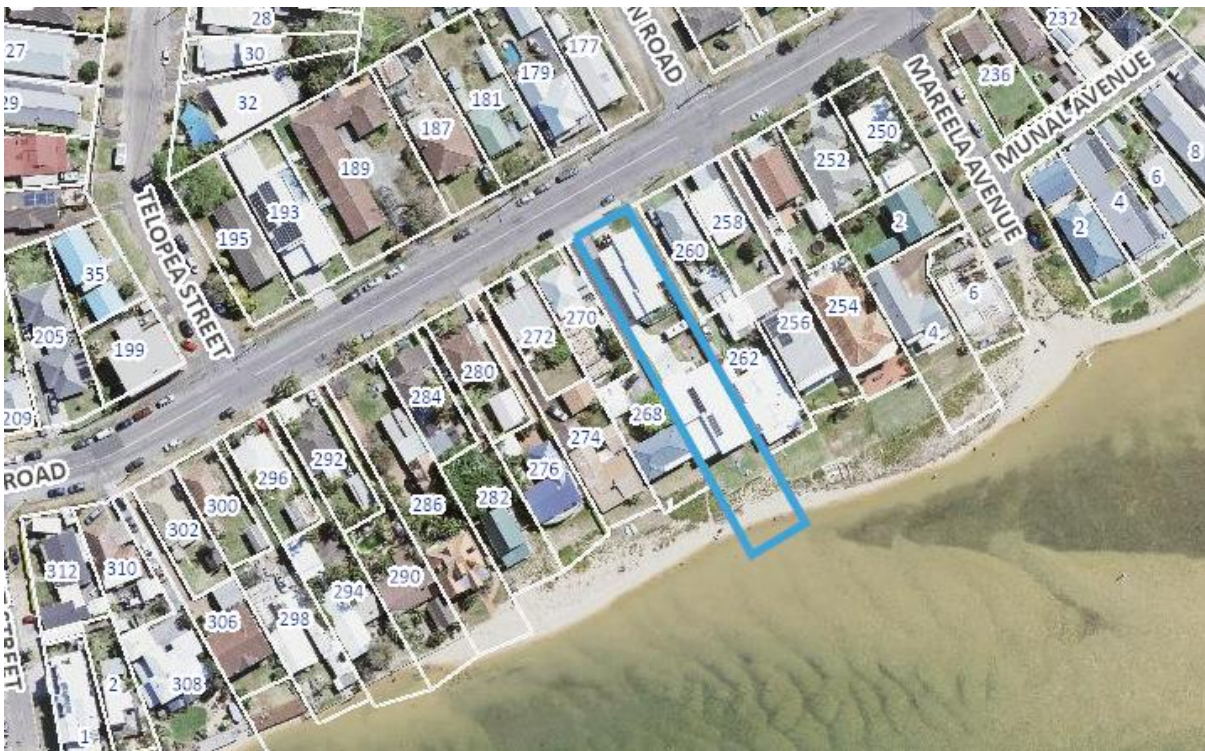


Figure 2-1 Site context (Source: Geocortex)



Figure 2-2 Existing building viewed from Booker Bay Road *(Source: site inspection photo)*



Figure 2-3 Existing building at the rear of the site *(Source: site inspection photo)*



Figure 2-4 Area of the site subject to easement for public access (Source: site inspection photo)

2.2 Site and application history

Council's records show the following history of applications relevant to the site:

Application No.	Description	Decision	Decision Date
DA/1061/2024	Torrens Title Subdivision	Cancelled	13/07/2024
OCP/55079/2018A	Dual Occupancy Detached	Approved	22/06/2020
OCP/55079/2018	Dual Occupancy Detached	Approved	11/12/2019
ROADS/55079/2018	Civil Works Within Road Reserve	Approved	13/03/2019
DA/55079/2018	Dual Occupancy Detached	Approved	10/01/2019

3. Proposed development

The proposed development comprises a two lot Torrens title subdivision of the existing dual occupancy (detached).

3.2 DA/1009/2024 - 264-266 Booker Bay Road, Booker Bay - Proposed Subdivision (cont'd)

- The following two lots are proposed:
 - Proposed Lot 1 – 455.7m²
 - Proposed Lot 2 – 996.3m²

There are separate service connections for each dwelling including water, sewer, NBN and electricity, and existing access and stormwater arrangements are already in place. Accordingly, there is no work required for the proposed subdivision.

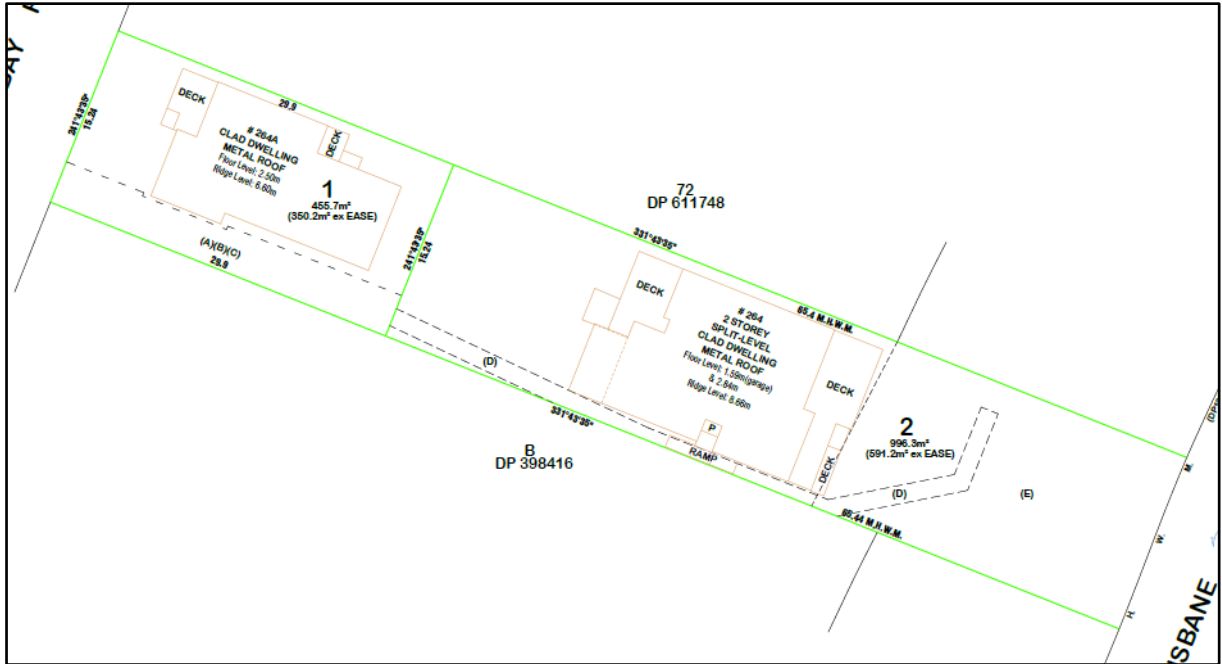


Figure 3-1 Proposed Plan of Subdivision (Source: Clarke Dowdell & Associates)

4. Application background

4.1 External and internal referrals

External referrals

The application was not referred to any external agencies.

Internal referrals

The application was referred internally to the following technical areas:

Technical area	Conclusion
Engineering	Supported, subject to conditions
Engineering – Water and Sewer	Supported, subject to conditions
Engineering – Flood Engineer	Supported, subject to conditions

Ecology	Supported, no conditions required
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4.2 Notification of development proposals

The proposed development was not required to be notified in accordance with Clause 1.2.2.3 of Chapter 1.2 Notification of Development Proposals of the CCDCP 2022.

4.3 Political donations

Table 4-3 Political donations declared

Political donation declared	Disclosure of political donation
No	No political donations have been declared by the applicant, applicant's consultant, owner, objectors and/or residents.

5. Assessment

Having regard for the matters for consideration detailed in section 4.15 of the EP&A Act, and other relevant statutory requirements, the following section provides an assessment against relevant provisions and identifies the key issues of this application.

5.1 Section 4.15(1)(a)(i) of the EP&A Act – Provisions of Environmental Planning Instruments (EPIs)

State Environmental Planning Policies (SEPPs)

In determining a development application, the following relevant SEPPs are taken into consideration:

Table 5-1 Relevant State Environmental Planning Policies

EPI	Matters for consideration	Compliance
State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)	<p>Chapter 2: Coastal Management</p> <ul style="list-style-type: none"> The site is located within a coastal mapped area. The provisions of Resilience and Hazards SEPP require Council to consider the aims and objectives of the SEPP when determining an application within the Coastal Management Area. The Coastal Management Area is an area defined on maps issued by the NSW Department of Planning & Environment and the subject property falls within this zone. The relevant matters have been considered in the assessment of this application. The application is 	Yes

	<p>considered consistent with the stated aims and objectives.</p> <p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> • The subject site has never been used for industrial or commercial purposes, and nor is the site listed on Council records as contaminated. • Council is therefore satisfied that the land is suitable for the purpose for which development consent is sought. 	
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Resilience and Hazards SEPP

The relevant provisions of the SEPP are addressed as follows:

Chapter 2: Coastal Management

The Resilience and Hazards SEPP applies to land within the coastal zone.

The site is located within the Coastal Use Area and the Coastal Environment Area and is therefore subject to the provisions of sections 2.10 and 2.11 of Chapter 2.

The development proposal is consistent with the relevant provisions of section 2.10 in respect of the Coastal Environment Area as it will not have an adverse impact on the following matters for consideration (s. 2.10(1)).

Matters for consideration	Compliance
<i>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</i>	The proposal is not likely to cause adverse impacts on the biophysical, hydrological, or ecological environment.
<i>(b) coastal environmental values and natural coastal processes,</i>	The proposal will not impact on the geological and geomorphological coastal processes.
<i>(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014) the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</i>	The proposal will not result in an adverse impact on the water quality of the marine estate and does not drain to a sensitive lake contained in Schedule 1.
<i>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands, and rock platforms,</i>	The proposal will not result in an adverse impact on native vegetation or fauna, undeveloped headlands, and rock platforms.
<i>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	The site includes an easement for access along the foreshore which is being retained. On this basis there are no adverse impacts on safe access to and along the foreshore area.

Matters for consideration	Compliance
<i>(f) Aboriginal cultural heritage, practices, and places,</i>	There are no identified aboriginal cultural heritage items on the site including a clear AHIMS search.
<i>(g) the use of the surf zone.</i>	The proposal will not result in any adverse impacts to the surf zone.

In accordance with s.2.10(2), the consent authority must be satisfied that –

- (a) the development is designed, sited, and will be managed to avoid an adverse impact referred to in subsection (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited, and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Further the development proposal is consistent with relevant provisions in section 2.11 in respect of the Coastal Use Area in that it is not likely to cause an adverse impact on the following matters for consideration.

Matters for consideration	Compliance
<i>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—</i>	
<i>(a) has considered whether the proposed development is likely to cause an adverse impact on the following—</i>	
<i>(i) existing, safe access to and along the foreshore, beach, headland, or rock platform for members of the public, including persons with a disability,</i>	The site includes an easement for access along the foreshore which is being retained. On this basis there are no adverse impacts on safe access to and along the foreshore area.
<i>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</i>	The proposal will not cause an adverse impact on access, overshadowing, wind funnelling, or view loss from public places to any foreshore.
<i>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</i>	The proposal does not impact the visual amenity or scenic quality of the coast.
<i>(iv) Aboriginal cultural heritage, practices, and places,</i>	There are no known objects, areas, or items of heritage significance on the land, and no potentially adverse impacts on cultural or environmental heritage have been identified.
<i>(v) cultural and built environment heritage, and</i>	There are no known objects, areas, or items of heritage significance on the land, and no potentially adverse impacts on cultural or

Matters for consideration	Compliance
	environmental heritage have been identified. AHIMS search / mapping is clear.
<i>(b) is satisfied that—</i>	
<i>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</i>	There have been no adverse impacts identified in the consideration of section 2.11(1) that would engage the further considerations under section 2.11(2) of the Resilience and Hazards SEPP.
<i>(c) has considered the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</i>	The bulk and scale of the proposed development is considered satisfactory for its type and location.

Section 2.11 requires the consent authority to consider those matters outlined in s.2.11(1)(a)(i)-(v) as discussed in the table above, and be satisfied that (s.2.11(1)(b))-

- (i) the development is designed, sited, and will be managed to avoid an adverse impact referred to in paragraph (a), or
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited, and will be managed to minimise that impact, or
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact

In addition, the consent authority can be satisfied that the bulk, scale and size of the proposed development is acceptable on the surrounding coastal and built environment (s.2.11(1)(c)).

The relevant matters have been considered in the assessment of this application and the application is consistent with the stated aims, objectives, and relevant provisions in Chapter 2 of the SEPP.

Chapter 4: Remediation of Land

Clause 4.6 (1) (a) of *SEPP Resilience and Hazards (2021)* Chapter 4 Remediation of Land requires the Consent Authority to consider whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purposes for which the development is proposed to be carried out.

The current use of the site is for residential purposes and there are no known previous uses that would lead to the site being contaminated or unsuitable for the proposed use.

Central Coast Local Environmental Plan 2022 (CCLEP 2022)

The relevant local environmental plan applying to the site is the CCLEP 2022.

Zoning and permissibility

The site is zoned R1 General Residential and W2 Recreational Waterways under the CCLEP 2022.

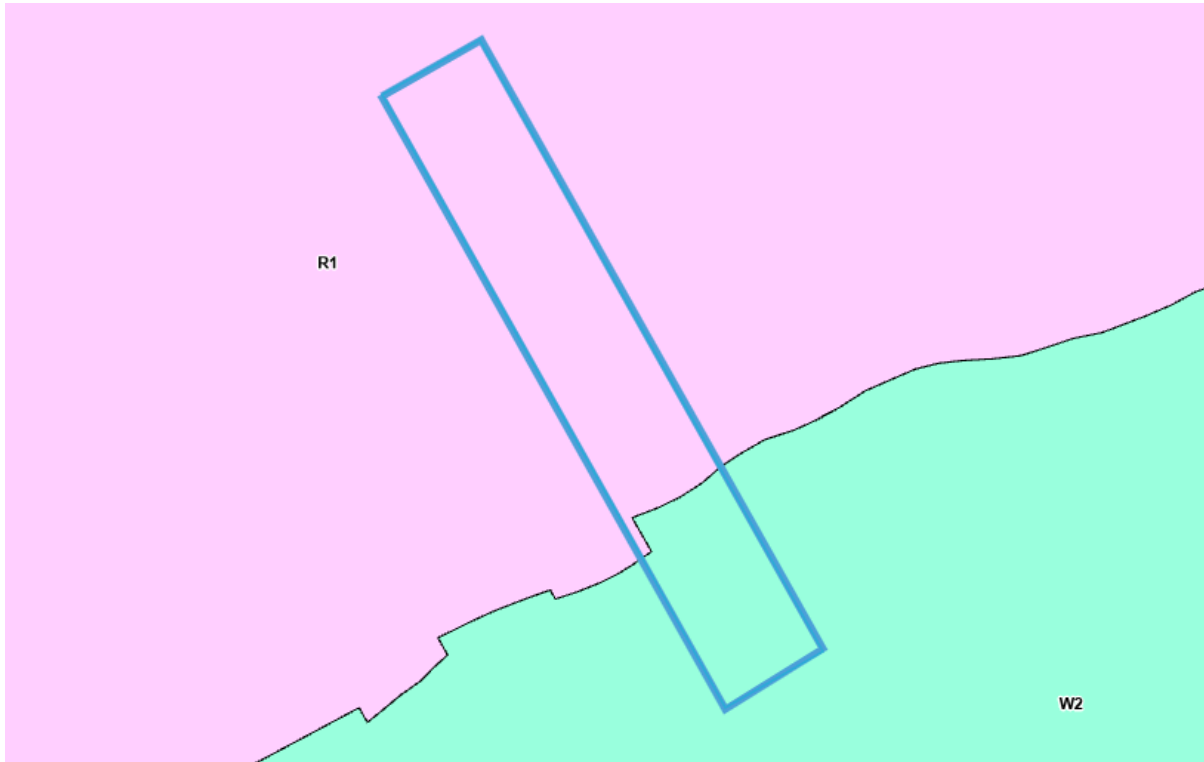


Figure 5-1 Land zoning map (Source: Geogortex)

The objectives of the R1 General Residential zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To promote best practice in the design of multi dwelling housing and other similar types of development.*
- *To ensure that non-residential uses do not adversely affect residential amenity or place unreasonable demands on services.*

The objectives of the W2 Recreational Waterways zone are as follows:

- *To protect the ecological, scenic and recreation values of recreational waterways.*

3.2 DA/1009/2024 - 264-266 Booker Bay Road, Booker Bay - Proposed Subdivision (cont'd)

- *To allow for water-based recreation and related uses.*
- *To provide for sustainable fishing industries and recreational fishing.*
- *To encourage the continuous public access to and along the foreshore and to reinforce the foreshore character and respect for existing environmental conditions.*

The development is defined as subdivision. The land to which CCLEP applies may be subdivided with development consent.

The proposal is consistent with the objectives of the R1 General Residential zone for the following reasons:

- The proposal will continue to provide housing for the community.
- The proposal will not result in any adverse impact on the residential amenity of the area.

The proposal is consistent with the objectives of the W2 Recreational Waterways zone for the following reasons:

- The proposal will have no impact on the ecological, scenic and recreation values of the waterways.
- The proposal will not impact the ability for water-based recreation and related uses including fishing.
- The site includes an existing easement for public access that is proposed to remain.

General controls and development standards (Parts 4, 5, 6 and 7)

The CCLEP 2022 contains controls relating to development standards, miscellaneous provisions, and local provisions. The relevant controls to the proposal are set out in the table below.

Development standards	Requirement	Development proposal	Compliance
Part 4 Principal development standards			
Minimum subdivision lot size (Clause 4.1)	550m ²	The proposed lot sizes are: <ul style="list-style-type: none"> • Proposed Lot 1 – 455.7m² • Proposed Lot 2 – 996.3m² 	No
Exceptions to minimum lot sizes for dual occupancies (Clause 4.1C)	(3) A single development consent may be granted for development on land to which this clause applies if the development	The application is relying on subclause (4). The proposal complies with subclause (a) because a dual occupancy has been lawfully erected on the land. Approval for a dual occupancy (detached) was	No - Variation request submitted. Refer to Clause 4.6

	<p>application is for both of the following—</p> <p>(a) the erection of a dual occupancy,</p> <p>(b) the subdivision of the land into 2 lots that are both smaller than the minimum size shown on the Lot Size Map.</p> <p>(4) Development consent may also be granted to the subdivision of land to which this clause applies if—</p> <p>(a) a dual occupancy has been lawfully erected on the land, and</p> <p>(b) the subdivision will result in 2 lots that are both smaller than the minimum size shown on the Lot Size Map.</p>	<p>approved on 10 January 2018 under DA/55079/2018.</p> <p>In regard to subclause (b) the proposal seeks consent for the creation of two lots. One with an area of 455.7m² which is smaller than the minimum size shown on the Lot Size Map for the land under Clause 4.1 (i.e., 550m²). The second proposed lot has an area of 996.3m² which is not smaller than the minimum size shown on the Lot Size Map. Therefore, the proposal represents a variation to Clause 4.1C(4)(b) of 81.15% for lot 2.</p>	<p>assessment below.</p>
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Clause 4.6 – Exception to development standards

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Clause 4.6 provides flexibility in applying certain development standards. The applicant has made a written request to vary Clause 4.1C (Exceptions to minimum lot sizes for dual occupancies) and in particular subclause (4)(b) which requires the subdivision of the dual occupancy to result in two lots that are both smaller than the minimum size shown on the Lot Size Map.

The non-compliance relates to proposed Lot 2 which has an area of 996.3m². The area of this lot is greater than 550m² (the minimum lot size shown on the Lot Size Map) by 446.3m² which represents a variation to Clause 4.1C(4)(b) of 81.15%.

In accordance with Clause 4.6(3) development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

A copy of the applicant's written request is provided as **Attachment 3** to this report.

Clause 4.6(3)(a) – Compliance with the development standard is unreasonable or unnecessary

An established way to demonstrate that compliance with the standard is unreasonable or unnecessary is to use one or more of the five justifications identified in *Wehbe v Pittwater Council [2007]*. The applicant has provided a Clause 4.6 written request (**Attachment 3**) that provides the applicant's reasons why strict compliance with the Clause 4.1C(4)(b) is unreasonable or unnecessary. These reasons include that the development achieves the objectives of the development standard notwithstanding non-compliance with the standard (first Wehbe justification).

The objectives of Clause 4.1C (Exceptions to minimum lot sizes for dual occupancies) are as follows:

- (a) to provide opportunities for affordable housing in appropriate locations,*
- (b) to encourage housing diversity without adversely affecting residential amenity.*

The applicant has addressed the objectives of Clause 4.1C as follows:

- *The approved dual occupancy design has ensured that the building footprint, bulk and scale is compatible with the adjoining building footprints and building forms.*
- *The protection of the amenity of adjoining dwellings has been previously considered.*
- *The act of subdividing the land does not alter the current situation yet encourage housing diversity by making separate title available to both lots for future owner/occupiers.*
- *The proposed subdivision is consistent with previously approved adjoining subdivisions.*
- *Foreshore access is still maintained as the substantial portion of the area of proposed Lot 2 remains as an "Existing Easement for Public Access" of variable width and would remain unavailable for buildings/development.*
- *It will ensure a more flexible development with separate title for each dwelling compared to that which would otherwise be provided should strict adherence to the LEP standard be applied.*

Comment: Having regard for the reasons advanced in the applicant's clause 4.6 submission, it is considered that the applicant has demonstrated that compliance with the standard is unreasonable and unnecessary because the proposal will contribute to the diversity of housing in the area, and it won't result in any adverse effects on residential amenity.

Clause 4.6(3)(b) – There are sufficient environmental planning grounds to justify the contravention of the development standard

3.2 DA/1009/2024 - 264-266 Booker Bay Road, Booker Bay - Proposed Subdivision (cont'd)

The applicant has provided the following grounds/reasons for the proposed variation to the development standard:

- *Proposed Lot 2 comprises a substantial portion of its area that is denoted as E = Existing Easement for Public Access (variable width) totalling 405m². This portion of the property is unavailable for buildings/development with the effective developable area being 591m² which would represent a departure from the standard of 16.6% rather than 81.15% if the easement area was included.*
- *It reflects the continuing subdivision trend along the Brisbane Water foreshore and the Booker Bay residential catchment where large allotments have been previously subdivided to accommodate standard residential subdivision or detached dual occupancy developments.*

Comment: The consent authority is required to be satisfied that the written document has demonstrated the environmental planning grounds are sufficient "to justify contravening the development standard". In this regard, the matters identified must relate to the aspect or element of the development that contravenes the development standard, not of the development, and why that contravention is justified on environmental planning grounds. This has clearly been established through the caselaw of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] and *Four2Five Pty Ltd v Ashfield Council* [2015].

In this case the environmental planning grounds being argued by the applicant are the nature of the lot itself containing a large easement, and consistency with the prevailing subdivision pattern in the area.

It is considered that the justification provided is specific to the aspect of the development that is the subject of the proposed contravention – i.e., the size of proposed Lot 2 which includes 405.1m² identified as an easement. This area of the lot cannot be built upon, so effectively the developable area is 591.2m². This area still represents a variation to the minimum lot size of 550m² or 7.5% which is considered minor and acceptable given the prevailing pattern of subdivision in the area.

The proposal is subdividing an existing built form which is adequately catered for in terms of amenity and services. The proposal will not result in any adverse impacts on neighbours or the locality.

It is considered that the proposal does not result in any adverse or unsatisfactory planning outcomes and that the applicant has demonstrated that:

- compliance with the development standard is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify the contravention of the development standard.

In this regard, it is considered the Panel, as the consent authority, can reach a state of satisfaction that the proposed variation to the minimum lot size for proposed lot two is reasonable in this circumstance.

Development provisions	Requirement	Development proposal	Compliance
Part 5 Miscellaneous provisions			
Flood planning (Clause 5.21)	<p>Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the development:</p> <p>(a) <i>Is compatible with the flood function and behaviour on the land, and</i></p> <p>(b) <i>Will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</i></p> <p>(c) <i>Will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</i></p> <p>(d) <i>Incorporates appropriate measures to manage risk to life in the event of a flood, and</i></p> <p><i>Will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.</i></p> <p>The consent authority has considered the following matters:</p>	<p>There is an existing approved dual occupancy on the site. The proposed subdivision does not represent any increase in flood risk compared to what has already been approved onsite.</p>	Yes

Development provisions	Requirement	Development proposal	Compliance
	<p>(a) <i>the impact of the development on projected changes to flood behaviour because of climate change,</i></p> <p>(b) <i>the intended design and scale of buildings resulting from the development,</i></p> <p>(c) <i>whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</i></p> <p>(d) <i>the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</i></p>		
Part 7 Additional local provisions			
Acid sulfate soils (clause 7.1)	<p>Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been—</p> <p>(a) <i>prepared for the proposed works in accordance with the Acid Sulfate Soils Manual, and</i></p> <p>(b) <i>has been provided to the consent authority.</i></p>	The site is identified as Class 2 Acid Sulfate Soils on Councils online mapping. Based on the nature of the proposed development, there are no works below the natural ground surface or works by which the water table is likely to be lowered.	Yes
Essential services (Clause 7.6)	<p>Development consent must not be granted unless the following services that are essential for the development are available or that adequate arrangements have been made to make them available when require:</p> <p>(a) <i>the supply of water,</i></p> <p>(b) <i>the supply of electricity,</i></p> <p>(c) <i>the disposal and management of sewage,</i></p> <p>(d) <i>stormwater drainage or on-site conservation,</i></p>	The proposed development has adequate essential servicing available to the development having regard for water, sewer, electricity, stormwater drainage, waste collection and vehicular access.	Yes

3.2 DA/1009/2024 - 264-266 Booker Bay Road, Booker Bay - Proposed Subdivision (cont'd)

Development provisions	Requirement	Development proposal	Compliance
	(e) suitable vehicular access, (f) the collection and management of waste.		

The application has satisfied the following jurisdictional provisions of the CCLEP 2022:

- Clause 5.21 Flood planning
- Clause 76 Essential services

5.2 Section 4.15(1)(a)(ii) of the EP&A Act – Draft Environmental Planning Instruments (EPIs)

There are no draft EPIs that are relevant to the proposed development.

5.3 Section 4.15(1)(a)(iii) of the EP&A Act – Development Control Plans

Central Coast Development Control Plan (CCDCP 2022)

Chapter 2.4 - Subdivision

The proposal is consistent with the relevant requirements of this Chapter. The proposed subdivision is provided with adequate services, and the application was accompanied by a proposed plan of subdivision.

Chapter 2.17 – Character and Scenic Quality

Requirement	Proposed development	Complies
Development applications are to demonstrate their consistency or compatibility where applicable with: i the Character and Scenic Quality Statements incorporated as Related Documents to this DCP. ii endorsed Council Masterplans included as Related Documents to this DCP. iii-character considerations contained within the chapters of this DCP, relevant to the proposal. iv the relevant Planning Principles of the NSW Land and Environment Court.	The site is located within the <i>Booker Bay 1: Mixed Density Foreshores – Existing</i> Scenic Quality Statement area. This area is characterized as established, predominantly low-density residential subdivisions on low-lying foreshore land. The existing dual occupancy development has been developed in accordance with the existing character statement and the proposed subdivision is consistent with the prevailing pattern of subdivision in the area.	Yes

5.4 Section 4.15(1)(a)(iiia) of the EP&A Act – Planning agreements under section 7.4 of the EP&A Act

There are no planning agreements or draft planning agreements prepared for the site. No further consideration is required in this regard.

5.5 Section 4.15(1)(a)(iv) of the EP&A Act – Provisions of regulations

The *Environmental Planning and Assessment Regulation 2021* applies to all development applications regarding such items as application type, compulsory contributions, notification of development applications and a range of many other details regarding development application requirements.

A development application is required to be accompanied by the written consent of the owner of the land to which a development application relates in accordance with Section 23(1) of the EP&A Regulation. Owner's consent was obtained from the land owners of the subject site.

Under section 35B (2), the development application is accompanied by a written document that sets out the grounds on which the applicant seeks to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify the contravention of the development standard. It is considered the Panel can reach a state of satisfaction in relation to the proposed contravention.

5.6 Section 4.15(1)(b) of the EP&A Act – Likely impacts of development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to EPIs outlined above.

The consideration of environmental, social, and economic impacts in the locality includes the following:

Context and setting

It is considered that the proposal is consistent with the prevailing subdivision pattern in the area.

Public Domain

There are no impacts on the public domain as a result of the proposal. The site includes an easement for public access to the foreshore which is being maintained.

Utilities

The existing development is already provided with separate water meters, sewer junctions and electricity meters. The site does not need to be disturbed to install services.

Accordingly, it is considered that the proposed development will not result in any significant adverse impacts in the locality as outlined above.

5.7 Section 4.15(1)(c) of the EP&A Act – Suitability of the site

In accordance with section 4.15(1)(c) in determining a development application the suitability of the site for the proposed development is to be considered.

Having regard to the assessment above, it is considered that the proposed development is suitable for the site given it does not represent any increase in flood risk compared to what has already been approved onsite.

Surrounding land uses are compatible with the proposal.

5.8 Section 4.15(1)(d) of the EP&A Act – Any submissions made

Submissions made in accordance with the EP&A Act or Regulations are considered in Section 4 and the body of this report.

5.9 Section 4.15(1)(e) of the EP&A Act – Public interest

Approval of the proposed development is in the public interest for the following reasons:

- The proposal will not result in any adverse impacts to the natural or built environment.
- The proposal is a subdivision of an existing built form that is already catered for in terms of amenity and services.
- The proposal is consistent with the pattern of subdivision in the area.

6. Development contributions

Development Contribution Plan	Total contributions
Housing Productivity Contributions	\$8,626.54

7. Conclusion

The proposed development has been assessed using the heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposed contravention of the development standard for minimum lot sizes for dual occupancy development, as per the provisions of clause 4.1C of the CCLEP 2022 is considered reasonable and warranted in this instance.

It is generally considered the proposed development is suitable for the site and will represent a positive opportunity to provide additional residential land in the locality. Accordingly, the Panel can be satisfied of the following:

- The proposal has been assessed against the relevant matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is deemed acceptable.
- The consent authority can be satisfied the assessment has had regard for the relevant provisions in Chapters 2 and 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021*.
- The proposal is satisfactory having regard for the relevant environmental planning instruments, plans and policies.
- The proposal is consistent with the objectives of, the R1 General Residential and W2 Recreational Waterways zones as per the Land Use Table of the *Central Coast Local Environmental Plan 2022*.
- In respect of clause 4.1C(4)(b) of the *Central Coast Local Environmental Plan 2022*, the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.
- Having regard for the prerequisites to the grant of consent under the *Central Coast Local Environmental Plan 2022*, the consent authority can be satisfied that:
 - Clause 5.21 – Flood Planning
The proposed development:
 - a) Is compatible with the flood function and behaviour on the land, and
 - b) Will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
 - c) Will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and

- d) Incorporates appropriate measures to manage risk to life in the event of a flood and
 - e) Will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.
 - Clause 7.1 – Acid sulfate soils
An acid sulfate soils management plan is not required in this instance.
 - Clause 7.6 – Essential services
All services essential for the proposed development remain available to the subject site.
- The proposal is consistent with the relevant objectives of the *Central Coast Development Control Plan 2022*.
 - The proposal will not result in unreasonable impacts on the local, built or natural environment, nor any unreasonable social or economic impacts on the locality.
 - The site is suitable for the proposed development.
 - The proposal is in the public interest.

8. Recommendation

- A. That Development Application No. DA/1009/2024 for Two Lot Torrens Title Subdivision of an Existing Dual Occupancy Detached at 264-266 Booker Bay Road, Booker Bay be approved pursuant to section 4.16(1) of the EP&A Act subject to the draft conditions attached to this report as an attachment

Attachments

- | | | |
|----------|---|-----------|
| 1 | Draft conditions/reasons - 264-266 Booker Bay Road, BOOKER BAY NSW 2257 - DA/1009/2024 - Draft conditions/reasons - Central Coast Council | D16977329 |
| 2 | Portal Doc - 264-266 Booker Bay Road, BOOKER BAY NSW 2257 - DA/1009/2024 - Survey plan - 17808C-PROPOSED SUBrevA.pdf - | D16709237 |
| 3 | Portal Doc - 264-266 Booker Bay Road, BOOKER BAY NSW 2257 - DA/1009/2024 - Clause 4.6 variation request - cl4.6 Submission (REV B) 21.07.25.pdf - | D16977684 |

Item No: 4.1
Title: DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5
Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton
Beach - 5 Storey Mixed Use Development
Department: Environment and Planning

Central Coast
Local Planning Panel

14 August 2025 Local Planning Panel Meeting

Reference: DA/1904/2023 - D16988630
Author: Emma Brown, Senior Development Planner
Section Manager: Emily Goodworth, Section Manager Employment and Urban Release
Unit Manager: Andrew Roach, Unit Manager Development Assessment

Summary

An application has been received for a five storey mixed use development composed of two buildings (Site 1 and Site 2) comprising 91 residential apartments, six serviced apartments, nine retail tenancies, gymnasium, two levels of basement parking accessed from a double width vehicular cross-over, driveway and graded ramp on Kantara Road.

Three pedestrian entrances are proposed on the Beach Parade, Kantara Road and Crossingham Street frontages. Communal open space (1010m²) provides deep soil zones (815m²). Sixty two trees are proposed to be cleared of which eight trees are rated as high value retention. No demolition or subdivision is proposed as part of this application.

The application has been examined having regard to the matters for consideration detailed in section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The application is required to be referred to the Local Planning Panel for determination in accordance with Schedule 2 (point 4(c) of the *Local Planning Panels Ministerial Directions* (dated 6 March 2024). The development seeks to vary the 16 metre development standard for maximum building height control permitted by Clause 4.3 of the Central Coast Local Environmental Plan 2022.

A Clause 4.6 written request seeking to vary the development standard has been submitted. Site 1 proposed height is 18.7 metres (16.2% variation) and Site 2 is 18.6 metres (16.8% variation). The lift overruns exceed the height limit by 2.9 metres (18.1% variation) and 3.8m (23.75% variation) respectively. The proposed FSR of 1.5:1 (9523.2m² GFA) includes an overall area/volume of non-compliant GFA on level 4 which protrudes above the allowable height plane. This equates to 1,797m² or 18% of the overall development.

The Clause 4.6 request has not demonstrated that the proposal in its current form is suitable for the site. The proposal is deemed an overdevelopment which will cause environmental impact. The design has excessive built form (height, bulk, and scale), building depth and

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)

inadequate building separation and setbacks which are required to maintain privacy, amenity, reduce overlooking and overshadowing.

Two public submissions by way of objection were received during the notification period of 23 November 2023 to 1 December 2023.

The application is recommended for refusal. The proposal is non-compliant with relevant SEPPs, Housing SEPP, Apartment Design Guide, and the provisions of the Central Coast Local Environmental Plan 2022 (CLEP 2022), Central Coast Development Control Plan 2022 (CDCP 2022).

Applicant	Universal Group Pty Ltd
Owner	Canton Shore Pty Ltd
Application No	DA/1904/2023
Description of Land	9,10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, CANTON BEACH, Lot 312 and Lot 313 DP755266, Lot 318 to 321 DP755266, Lot 315 to Lot 317 DP755266.
Proposed Development	Five storey mixed use development (Site 1 and Site 2) comprising 91 residential apartments, six serviced apartments, nine retail tenancies, gymnasium, two levels of basement parking accessed from a double width vehicular cross-over, driveway and graded ramp from Kantara Road, pedestrian entrances on Beach Parade, Kantara Road and Crossingham Street. Communal open space (1668.1m ²) at ground and rooftop and deep soil zones (815m ²). 62 trees cleared. No subdivision nor demolition.
Site Area	6349m ²
Zoning	SP3 Tourism
Existing Use	Nine single storey dwellings and detached ancillary development
Employment Generation	Yes
Estimated Value	\$88,360,897.56

Recommendation

That Council:

- 1 That the Local Planning Panel refuse the application DA/1904/2023 at 9,10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, CANTON BEACH subject to the reasons for refusal detailed in this report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.***
- 2 That Council advise those who made a written submission of the Panel's decision.***

3 That Council advise AUSGRID of the decision.

Key Issues

- Variation to the performance requirements of Clause 4.3 – Height of Buildings under the *Central Coast Local Environmental Plan 2022* (CCLEP 2022). The height exceedance is not considered consistent with the underlying intent of the control and the variation is not considered appropriate in this circumstance, further coupled with the other ADG non-compliances.

The resulting built form is unacceptable outcome and will set an undesirable precedent. There are insufficient environmental planning grounds provided to justify a contravention to the development standard.

- Technical non-compliances with the requirements of the Apartment Design Guide (ADG) resulting in an overdevelopment of the site with unpalatable envelopes, density and built form (height, bulk, scale). The design has excessive building depth and inadequate building separation and setbacks which are required to maintain privacy, amenity and reduce overlooking and overshadowing.

The external appearance is not articulated; where composition should include vertical, horizontal, recessing, and protruding elements that vary the scale, materiality and colour to create visual interest. The resulting building form and scale fail the character test of Clause 4.6; the objectives of which are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development.

The request does not demonstrate that a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the circumstances of this application. As the request does not demonstrate a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the circumstances of this application, the request is not supported.

The proposal does not demonstrate that compliance with the height for the site which would not be unreasonable or unnecessary in the circumstances of this case and there are not sufficient environmental planning grounds to justify the variation. Further, the proposal is not in the public interest because it is inconsistent with the objectives of the development standard and the SP3 zone.

The character expressed by the architectural language is mundane when viewed from all street frontages. The buildings and architecture read as two independent yet divorced volumes, which follows the topographical constraints but provides no visual interest in the choice of textures which frame the building's elements.

The proposal does not satisfy the desired future locality character test. Consideration of the present proposal must be undertaken in a slightly broader context as to compatibility and permissibility rather than one of strict conformity to the existing development pattern.

The proposal has aimed to reflect only the future character of the streetscapes without respecting consistency with the existing future character. The proposed development does not provide adequate amenity or visual interest.

Council considers that the proposal does not demonstrate that compliance with the 16 metre height standard for the whole of the site is unreasonable and there are insufficient environmental planning grounds to justify the variation to the prescribed height. Further, the proposal is not in the public interest because it is inconsistent with the objectives of the development standard and the SP3 zone for the site.

- Retail/commercial parking shortfall to that required by CCDCP 2022 Chapter 2.13, Section 2.13.3.11. The Traffic Impact Assessment does not provide adequate justification.
- The proposal is an overdevelopment and not in the public interest.
- Insufficient and inaccurate information has been provided to accurately assess the application including:
 - Submission of an inadequate Design Verification Statement
 - Inconsistent arboricultural assessment. The Preliminary Tree Assessment report by Paul Monaco does not align with Team 2 Architectural and Landscape Plans.
 - Incorrect Estimated Development Cost (EDC) which ordinarily would have required the application to be referred to the Hunter and Central Coast Regional Planning Panel (RRP) for determination.

Precis:

Proposed Development	<p>Five (5) storey mixed use development composed of two buildings (Site 1 and Site 2) comprising 91 residential apartments, six (6) serviced apartments, nine (9) retail tenancies, gymnasium, two (2) levels of basement parking accessed from a double width vehicular cross-over, driveway and graded ramp from Kantara Road, three (3) pedestrian entrances on Beach Parade, Kantara Road and Crossingham Street frontages. Sixty two (62) trees are proposed to be cleared. No demolition or subdivision is proposed.</p> <p>The mixed use development will comprise a total site area of 6,348.8m² and 9523.2m² GFA/1.5:1 FSR composed of:</p> <ul style="list-style-type: none"> • 131.7m² GFA ground floor gymnasium • 676m² GFA ground floor retail tenancies • 91 residential apartments on levels 1-4 (8157.5m² GFA): 10 x 1 bedroom, 59 x 2 bedroom, 22 x 3 bedroom. • 6 serviced apartments on level 1 (557.9m² GFA): 5 x 2 bedroom, 1 x 3 bedroom to permit short term accommodation. • Four lifts and 4 stairwells per residential level. • Two (2) levels of basement parking: 195 spaces (19 accessible spaces) comprised of 112 residential parking spaces (including 6 for serviced apartments and 1 for staff), 20 visitor parking spaces, 63 commercial parking spaces (10 for staff), 6 lifts and 6 stairwells per basement level. • Communal open space (1668.1m²) at ground and rooftop area is comprised of barbeque with seating, open lawns, children's play areas, roof top gardens. Deep soil zones (815m²) proposed includes roof top level which should be discounted as deep soil zones are areas of soil not covered by buildings or structures within a development. They exclude basement car parks, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways and roof areas.
Permissibility and Zoning	SP3 Tourism Zone under the Central Coast LEP 2022. Surrounding land is zoned Residential (R1, R2, R3). Mixed

	use development and subdivision are permissible in the zone.
Relevant Legislation	<p>The following planning policies and control documents are relevant to the development and were considered as part of the assessment:</p> <ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979 (EP&A Act)</i> • <i>Biodiversity Conservation Act 2016</i> • <i>State Environmental Planning Policy (BASIX)</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure)</i> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Housing) 2021 Chapter 4 Design of Residential Apartment Development</i> • <i>Apartment Design Guide</i> • <i>Central Coast Local Environmental Plan 2022 (CCLEP 2022)</i> • <i>Central Coast Development Control Plan 2022 (CCDCP 2022)</i>
Current Use	Nine (9) single storey residential dwellings, detached ancillary development, 62 trees (8 high to very high tree retention value)
Integrated Development	No
Submissions	Two submissions received including one letter from David Harris MP, Member for Wyong

Variations to Policies

Clause	4.3 Height of buildings
Standard	Maximum building height = 16 metres
SEPP/LEP/DCP	CCLEP 2022
Departure basis	<p>Numerical.</p> <p>>10% variation sought across two buildings (Site 1 and Site 2) with maximum heights 18.7 metres/16.2% variation (Site 1) and 18.6 metres/16.8% variation (Site 2). Lift overruns exceeding the height limit by 2.9 metres (18.1% variation) and 3.8 metres (23.75% variation) respectively.</p>

Clause	Part 2B Building Envelopes Part 2C Building Height Part 2E Building Depth Part 2F Building Separation
---------------	--

	Part 2G Street Setbacks Part 2H Side and Rear Setbacks Part 3F Visual Privacy Part 4A Solar and Daylight Access Part 4G Storage Part 4M Facades
Standard	<p>Building Height: Central Coast LEP 2022 Clause 4.3 MBH 16 metres. Building Depth: Requires 12 metres to 18 metres.</p> <p>Building Separation: Requires minimum 12 metres to 25 metres.</p> <p>Street setbacks: Central Coast DCP 2022, Chapter 2.3 Residential Flat Buildings and Shop Top Housing, Clause 2.3.4.1 Setbacks for Residential Flat Buildings required 6 metres.</p> <p>Side and Rear Setbacks: Central Coast DCP 2022 Chapter 2.3 Residential Flat Buildings and Shop Top Housing, Clause 2.3.4.1 Setbacks for Residential Flat Buildings required 6 metres to 9 metres.</p> <p>Visual privacy: Objective 3F1 – Adequate building separation shared equitably for external and internal visual privacy.</p> <p>Objective 3F2 – Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p> <p>Solar and daylight access: Objective 4A1 – Optimise apartments receiving sunlight to habitable rooms, primary windows, and private open space. Objective 4A2 – Daylight access maximised. Courtyards, skylights and high-level windows only as a secondary light source.</p> <p>Objective 4A3 – Design for shading and glare control.</p> <p>Storage: Objective 4G1 – Adequate, well-designed storage provided in apartments.</p> <p>Facades: Objective 4M1 – Provide visual interest, respect local character. Objective 4M2 – Building functions are expressed by the façade. Central Coast DCP 2022, Chapter 2.3 Residential Flat Buildings and Shop Top Housing Clause 2.3.5.1 – Facades and Articulation Requirements.</p>
SEPP/LEP/DCP	Housing SEPP/Chapter 4 Design of Residential Apartment Development/ADG/CCDCP 2022.
Departure basis	Numerical non-compliances. Discussion within the body of the report.

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Clause	Section 2.13.3.11 Car Parking Requirements
Standard	To allow applicants the ability to reduce parking numbers where a dual or complementary use of facilities within a development is proposed.
SEPP/LEP/DCP	CCDCP 2022
Departure basis	Numerical non-compliance with the required commercial and retail parking. The Traffic Impact Assessment states residents using the onsite retail offerings will not require parking. Council does not encourage reliance upon on-street carparking.

The Site

The site is located at 9,10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach. The site is bounded by Beach Parade, Kantara Road and Crossingham Street.

The site has an area of 6,349m².

The site consists of nine allotments legally described as Lot 312 and Lot 313 DP755266, Lot 318 to 321 DP755266, Lot 315 to Lot 317 DP755266. The site contains nine single story residential dwellings with detached ancillary development.

The site supports 63 trees of which 8 are considered to have a high to very high retention value, 8 trees are situated in close proximity to essential services and the proposed development footprint.

The site is predominantly mapped as 'Precinct 3: Flood Storage', with a section mapped 'Precinct 4: High Hazard'.

The road network is comprised of:

- Central Coast Highway – a State Road and arterial route which runs through Noraville to the east connecting Gosford and Doyalson.
- Main Road – a State Road and part of a sub-arterial route connecting between the Noraville and Warnervale.
- Crossingham Street / Moss Avenue – a local road.
- Evans Road/Wallis Avenue/Kantara Road – a local road.

Crossingham Street in the vicinity of the site has one traffic lane in each direction and comprises kerbside parking lanes. Beach Parade has a single lane roadway with 45-degree angle parking on the western side.

The traffic controls on the road system in the vicinity of the site comprise:

- Traffic control signals along Main Road including the Evans Road, Victoria Avenue and Street intersections.

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)

- Roundabouts at the Beach Parade and Crossingham Street intersection.
- 50 km/hr speed restriction on the local road system.
- One-way south restriction along Beach Road south of Crossingham Street.
- Sections of 45-degree angle parking along Beach Parade.

Bus services are provided by Bus Ways (Routes 29, 90, 91, 92 and 93) which operate along Main Road with Route 91 also travelling along Crossingham Street and Route 90, 92 and 93 along Evans Road. Bus stops for these routes are located approximately 500m east on Crossingham Street and 850m east on Evans Road.

The site elevation ranges between 3.0 metres AHD and 5.4 metres AHD. Along Crossingham Street and Kantara Road, the site is set lower than the road level.

Most of the site grades gradually northwards towards Crossingham Street although set below road level which causes ponding. The south-western section of the site slopes towards Beach Parade.

Kerb and guttering are present along the Beach Parade and Crossingham Street frontage. There is no kerb and guttering along the site's frontage onto Kantara Street.

Wallis Avenue is a sealed carriageway, with no kerb and guttering.

The avenue has a generally unformed Low Profile grassed verge, and overhead and underground utilities and services (including a combined power/light/street signage pole at the southern end of the site frontage (at the intersection between Wallis Avenue and Kantara Road) and a power pole toward the northern end of the frontage).

Kantara Road has a sealed carriageway, and no kerb and guttering other than for a kerb return off the Crossingham Street intersection at the northern end, generally unformed Low Profile grassed verge, a street tree (toward the southern end of the frontage), a letterbox inlet pit (near the intersection with Wallis Avenue), and overhead and underground utilities and services (including a power pole south of the centre of this frontage).

The site is zoned SP3 Tourist under the *Central Coast Local Environmental Plan (CCLEP 2022)* 2022. 'Food and Drink Premises', 'Recreational Facilities (indoor)', 'Shop Top Housing', and 'Tourist and Visitor Accommodation' are permissible with consent in the SP3 Tourist zone.

The development site is permitted a maximum building height of 16 metres, and a maximum floor space ratio (FSR) of 1.5:1, demonstrating that the site is earmarked for future higher density development.



Figure 1: Aerial maps of the site and the local Canton Beach context (Source: Council GIS Mapping)

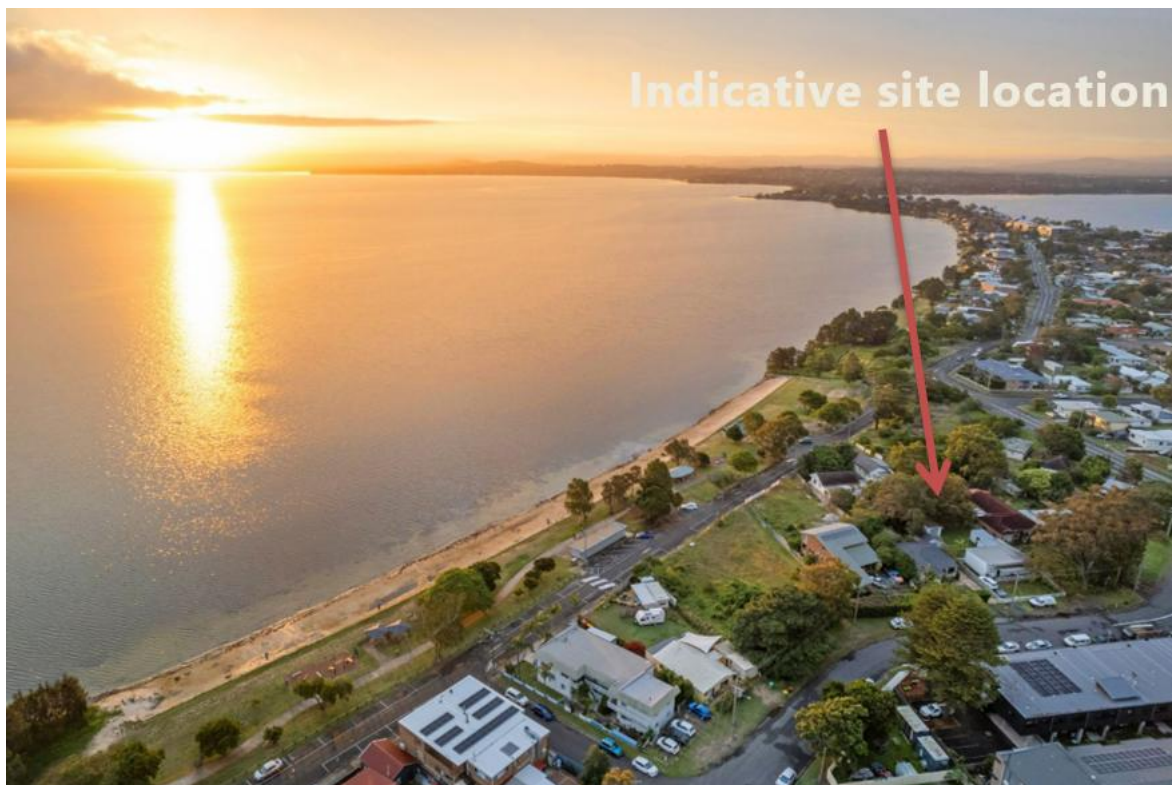


Figure 2: Aerial view north of the site (Source: Google)



Figure 3: Site as viewed from the north east from the Crossingham Street intersection

Surrounding Development

The immediate surrounding locality comprises predominantly of older style 1-2 storey low density housing, interspersed by commercial land uses and older style tourist and visitor accommodation.

The site is separated by Beach Parade from Canton Beach and foreshore area.

Beach Parade currently has 3 speed humps between Crossingham Street and Belbowrie Street.

The site is within the wider vicinity of Toukley commercial precinct along Main Road, which provides the essential services to the locality.

Canton Beach is subject to transitional development with relevant and adjoining development and modification applications discussed below.



Figure 4: Canton Beach (Tuggerah Lake) public foreshore open space opposite the site



Figure 5: Canton Beach Foreshore (Tuggerah Lake) public open space and toilet blocks

On 3 October 2024, **DA/4077/2022** for 12 Beach Parade was refused by the Local Planning Panel. The proposal sought approval for removal of one tree and construction of a five storey, mixed use shop top housing development including a basement car park, one ground

level retail tenancy (food and drink premises), at grade parking comprising one disabled parking space and one café loading/parking space, and four dwellings on the four levels above the ground floor. The proposed floor space ratio was 1.249:1.



Figure 6: DA/4077/2022 Montage of 12 Beach Parade, Canton Beach refused on 3 October 2024 by the Local Planning Panel.

DA/1691/2021 for 8 Kantara Road approved a Residential Flat Building (14 Units) on 2 August 2022 including the Wallis Avenue and Kantara Road intersection upgrade works; SCC/25/2023 approval issued on 28 February 2023, with approved amended plans issued 6 September 2023; approved by Local Traffic Committee (LTC) 20 September 2023.

Completed in June 2024, the two-storey complex comprises 14 units, offering a mix of social, affordable and market-rate rental units. The complex was constructed by Skope Constructions and offers a high standard of living for its residents. This development received \$1.92M in grant funding under the NSW Department of Communities and Justice (DCJ) program known as the Community Housing Innovation Fund (CHIF) which will ensure six units will be used for social housing allocations, addressing the critical need for more affordable housing on the Central Coast. All apartments in Pacific Lakes are architecturally designed, featuring private terraces and courtyards on the ground floor and balconies on the upper floor.



Figure 7: DA/1691/2021 Montage of 8 Kantara Road, Canton Beach



Figure 8: Image of DA/1691/2021 Pacific Lakes at 8 Kantara Road, Canton Beach (Source: Pacific Link)



Figure 9: Aerial Image of DA/1691/2021 Pacific Lakes at 8 Kantara Road, Canton Beach (Source: Pacific Link)

On 14 December 2017, Deferred Development Consent was issued by Hunter and Central Coast Regional Planning Panel for **DA/7/2017** seeking a 'Mixed use, shop top housing development including food and drink premises (4 tenancies), 36 residential dwellings and basement parking' at 5-8 Beach Parade. This application is adjoining the site's north eastern boundary.

This application is adjoining the subject site's north eastern boundary. This application was subject to *Wyong Local Environmental Plan 2013* (WLEP 2013) not the *Central Coast Local Environmental Plan 2022*. This site was identified as a 'key site' under WLEP 2013 key site maps. The proposal did not rely on the provisions of Clause 7.11 of WLEP 2013 which allow for a bonus building height of 23 metres (rather than 16 metres) which was the subject to the provision of significant public benefit to the community.

The approved design exceeded the height limit at 18.41 metres (21.83 AHD) or 2.41 metres / 15% above the standard. A 22% parking variation was supported where 83 parking spaces were required and 68 spaces were provided at basement level along with five at-grade parking spaces. The consent was due to lapse on 31 May 2025 if physical commencement had not occurred.

DA/7/2017/A: A modification application was sought amending the basement level design, ground floor and upper-level floor layouts including the addition of four units, unit mix and associated changes. Changes also included five additional parking spaces in the approved basement level in lieu of residential storage areas.

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This application was determined by the Regional Planning Panel. The modification was assessed against the matters for consideration under Section 4.15 of the Act and found to be satisfactory.



Figure 10: DA/7/2017 Aerial site plan of 5-8 Beach Parade, Canton Beach (Source: Council GIS Mapping)

The site has previously been identified as part of a “Key Site” under Wyong former planning controls.



Figure 11: Wyong Local Environmental Plan 2013 Key Site



Figure 12: DA/7/2017 Montage of 5-8 Beach Parade, Canton Beach lapsing 31 May 2025.



Figure 13: DA/7/2017/A Montage of 5-8 Beach Parade, Canton Beach lapsing 31 May 2025.



Figure 14: DA/7/2017/A Montage of 5-8 Beach Parade, Canton Beach lapsing 31 May 2025

On 3 March 2017, **DA/243/2015** was approved at 11 Beach Parade for a shop top housing comprising basement car parking, two commercial tenancies and seven residential units including demolition of existing structures.

The development complied with the height provisions as required by the WLEP 2013 albeit sought a 27% variation to the minimum number of parking spaces required, providing 11 out of the 15 total residential parking spaces wholly contained within the basement level. Construction Certificate No. CC/242/2024 was approved on 29 February 2024.



Figure 15: DA/243/2015 Montage of 11 Beach Parade, Canton Beach approved on 3 March 2017 for shop top housing with basement parking

The Proposed Development

The subject development application seeks consent for construction of a 5 storey mixed use development with basement level parking at 9, 10 Beach Parade, 1, 3, 5 Crossingham Street and 1, 3, 5, 7 Kantara Road, Canton Beach.

The application proposes the removal of 62 trees resulting in an irregular shaped site with a total site area of 6,348.8m². Vehicular access to the site is via a new double width vehicular cross-over, driveway and graded ramp from Kantara Road in the north eastern side of the site.

Pedestrian entries are provided on all three street frontages (Beach Parade, Kantara Road and Crossingham Street). No subdivision is proposed as part of this development application.

Specifically, the proposal seeks consent for:

- Two x five storey buildings (Site 1 and Site 2) divided by a central pedestrian thoroughfare / 'eat street'.
- Ground floor gymnasium (131.7m² GFA).
- 9 ground floor retail tenancies in Site 2 (676m² GFA).
- 91 residential apartments on levels 1- 4 (8157.5m² GFA).

- 6 serviced apartments on level 1 (557.9m2 GFA).

The apartment (residential and serviced) mix includes:

- 6 serviced comprised of 5 x 2 bedroom and 1 x 3 bedroom to permit short term accommodation.
- 91 residential comprising 10 x 1 bedroom, 59 x 2 bedroom and 22 x 3 bedroom.

Communal open space (1668.1m2) at ground and rooftop area is comprised of barbeque with seating, open lawns, children's play areas, roof top gardens and deep soil zones (815m2). Deep soil zones (815m2) proposed includes roof top level which should be discounted. It is expected that a minimum 50% of the required soft landscaped area of the site at ground level shall be a deep soil zone. This may be achieved by optimising the retention provision of consolidated deep soil zones within a site by the design of basement and sub-basement car parking, so as not to fully cover the site and the use of front and side setbacks for deep soil planting.

The car parking requirement is 186 spaces and a total provision of 195 car spaces complies with the RMS and DCP requirement. Two (2) levels of basement parking: 195 spaces (19 accessible spaces) comprised of 112 residential parking spaces (including 6 for serviced apartments and 1 for staff), 20 visitor parking spaces, 63 commercial parking spaces (10 for staff), 6 lifts and 6 stairwells per basement level.

All deliveries are proposed via a loading dock bay managed by a Property Management Company Dock Management Plan. It is noted that the subject site could have formed a more refined development if amalgamated with Site O, which was approved at 5-8 Beach Parade (DA/7/2017, lapsing on 31 May 2025). See **Figure 16 - Figure 20** below.



Figure 16: 3D render of the approved DA at 5-8 Beach Parade (lapses 31 May 2025) and the proposed development as they will be viewed from the public domain (Source: Think Planners)

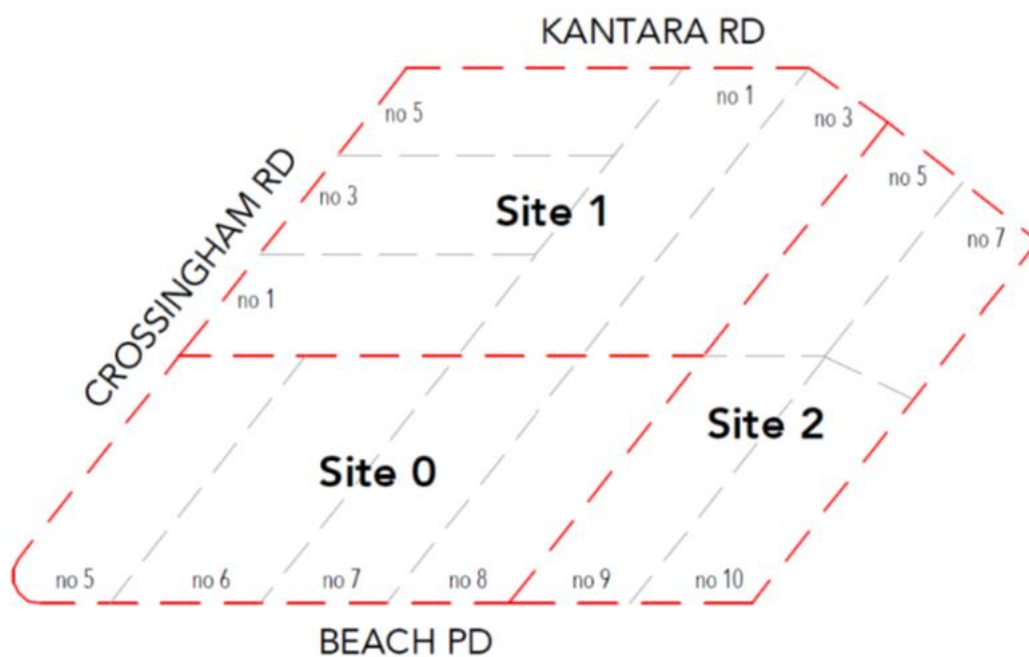


Figure 17: Site plan of proposed development site amalgamation of the subject site (Site and Site 2) and Site 0 (5-8 Beach Parade) (Source: Think Planners)

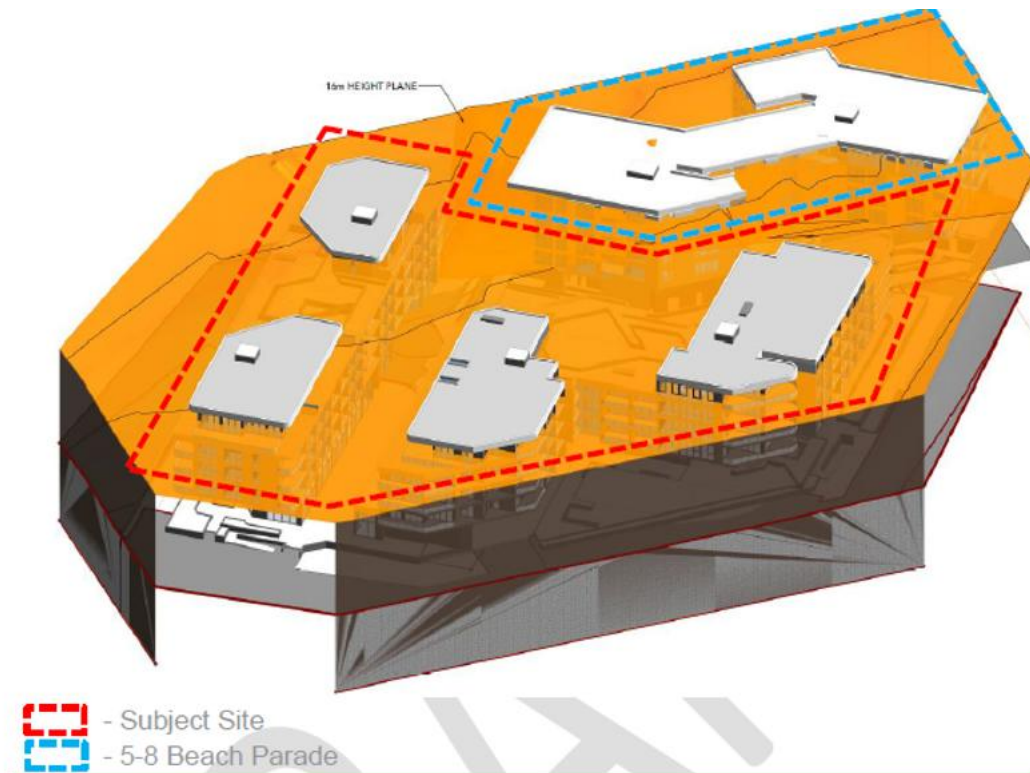


Figure 18: Team 2 Architects 3D Height Plane showing the subject site (Site 1 and Site 2) and Site O (5-8 Beach Parade) (Source: Think Planners)



Figure 19: Team 2 Architects Montage of the proposed development from Beach Parade

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DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)



Figure 20: Team 2 Architects Montage of the proposed development from Beach Parade

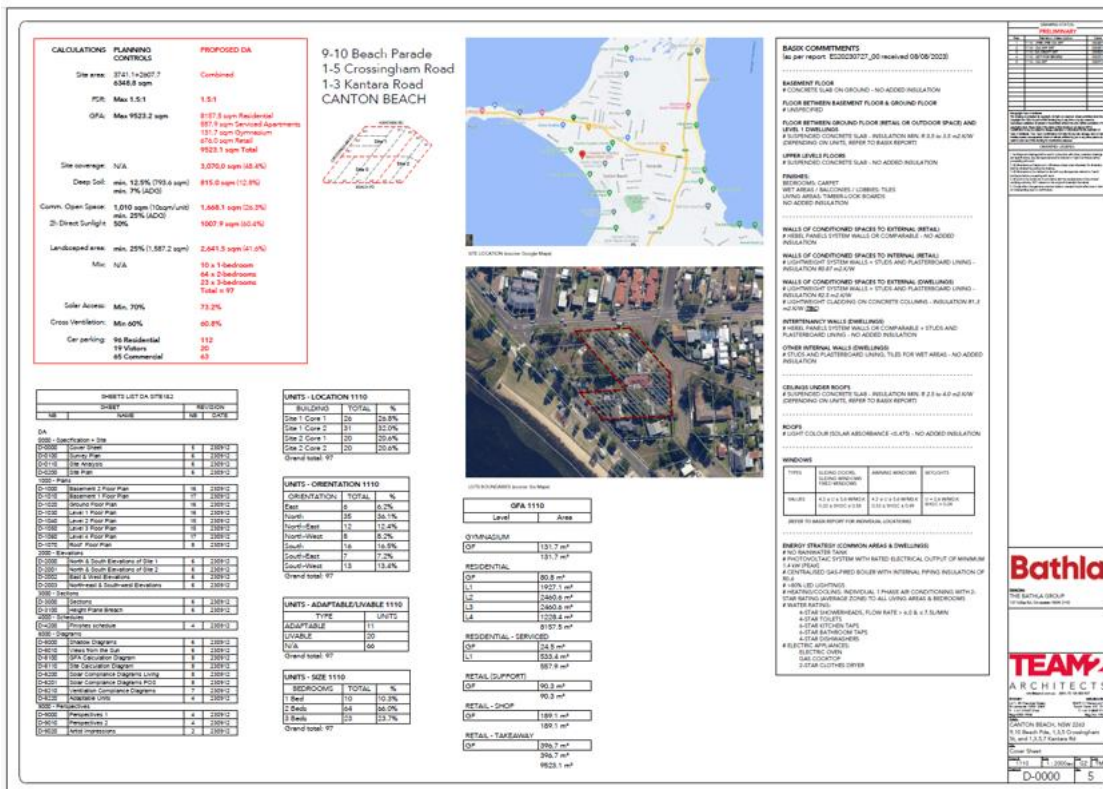


Figure 21: Team 2 Architects Cover Sheet



Figure 22: Team 2 Architects Site Survey

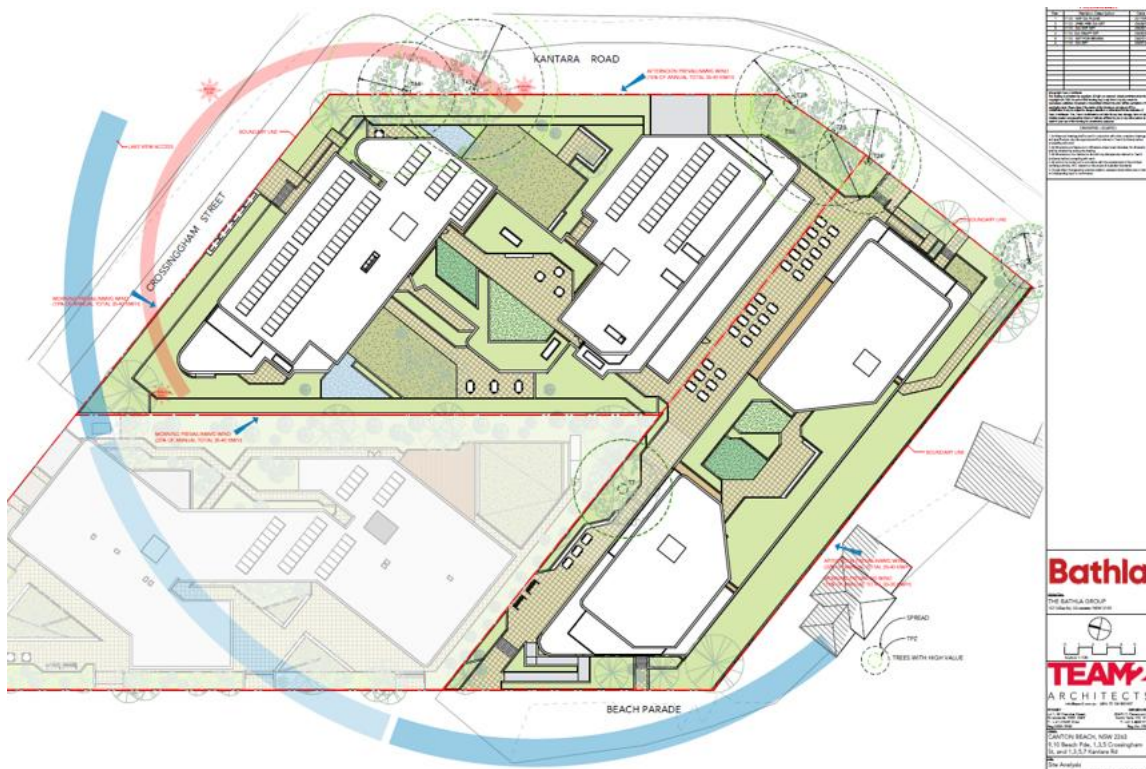


Figure 23: Team 2 Architects Site Analysis



Figure 24: Team 2 Architects Site Plan



Figure 25: Team 2 Architects Demolition Plan

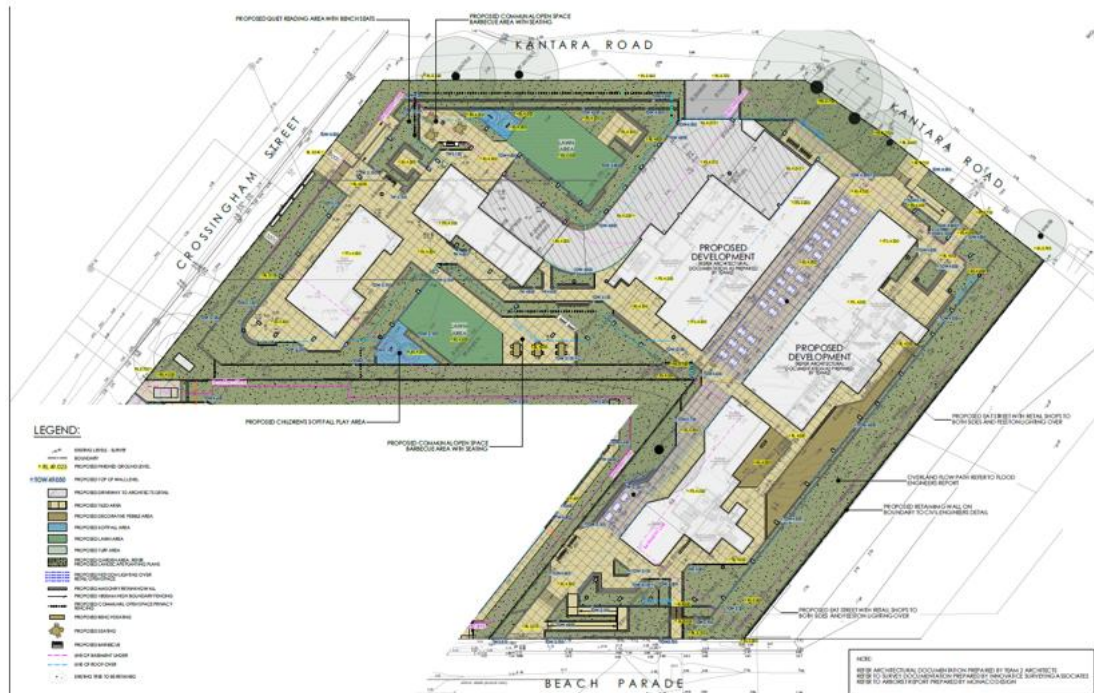


Figure 26: Team 2 Architects Landscape Plan



Figure 27: Team 2 Architects Ground Floor Landscape Plan

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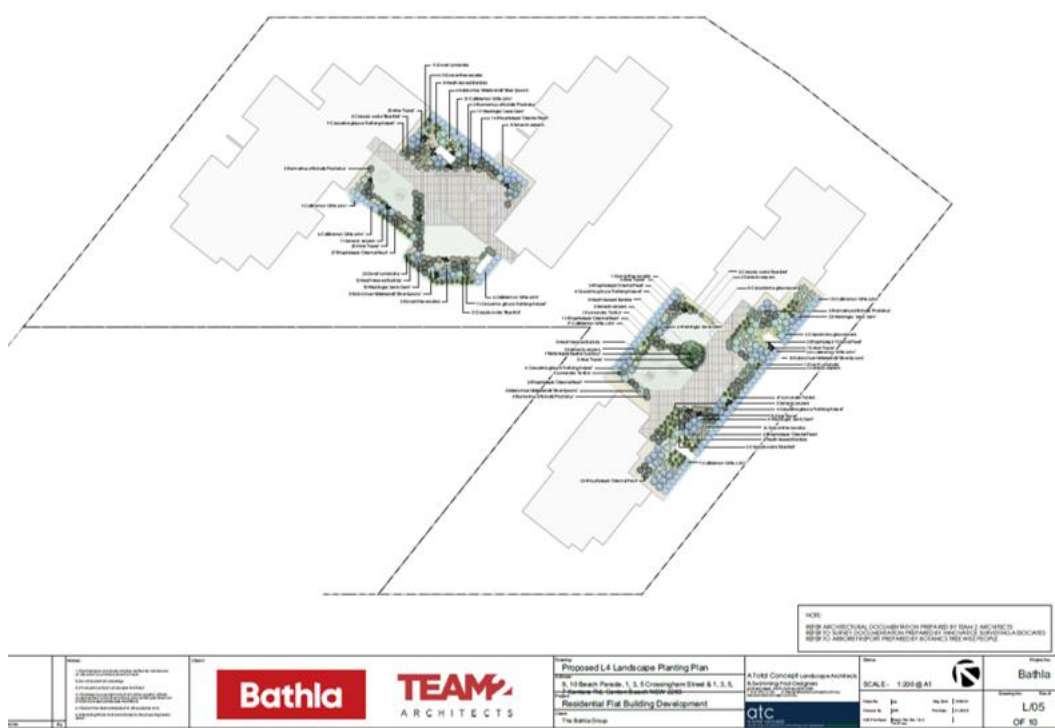


Figure 28: Team 2 Architects Proposed level 4 landscape planting

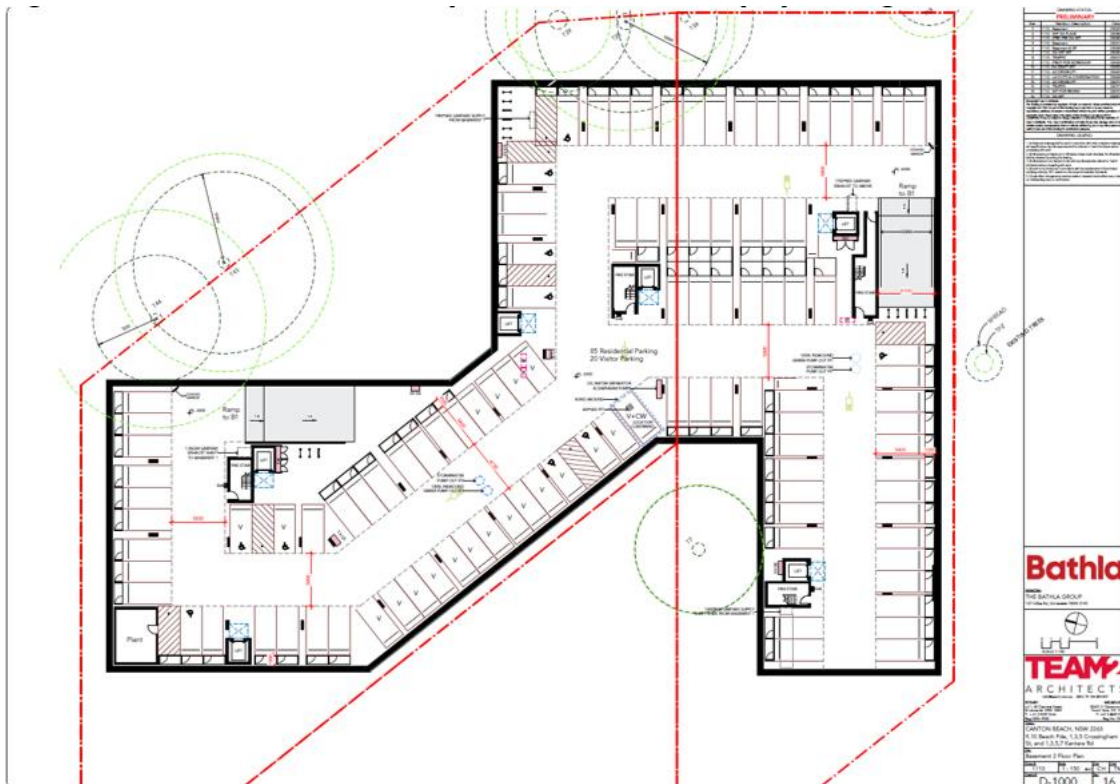


Figure 29: Team 2 Architects Basement 2 Floor Plan

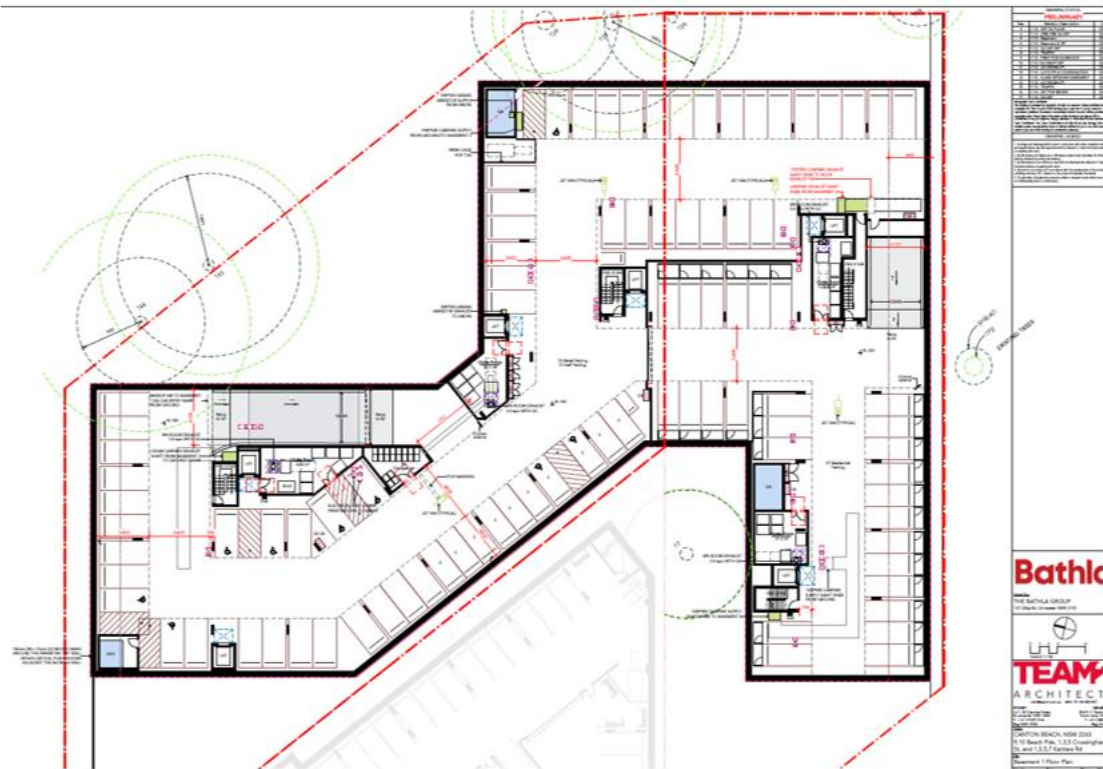


Figure 30: Team 2 Architects Basement Floor Plan

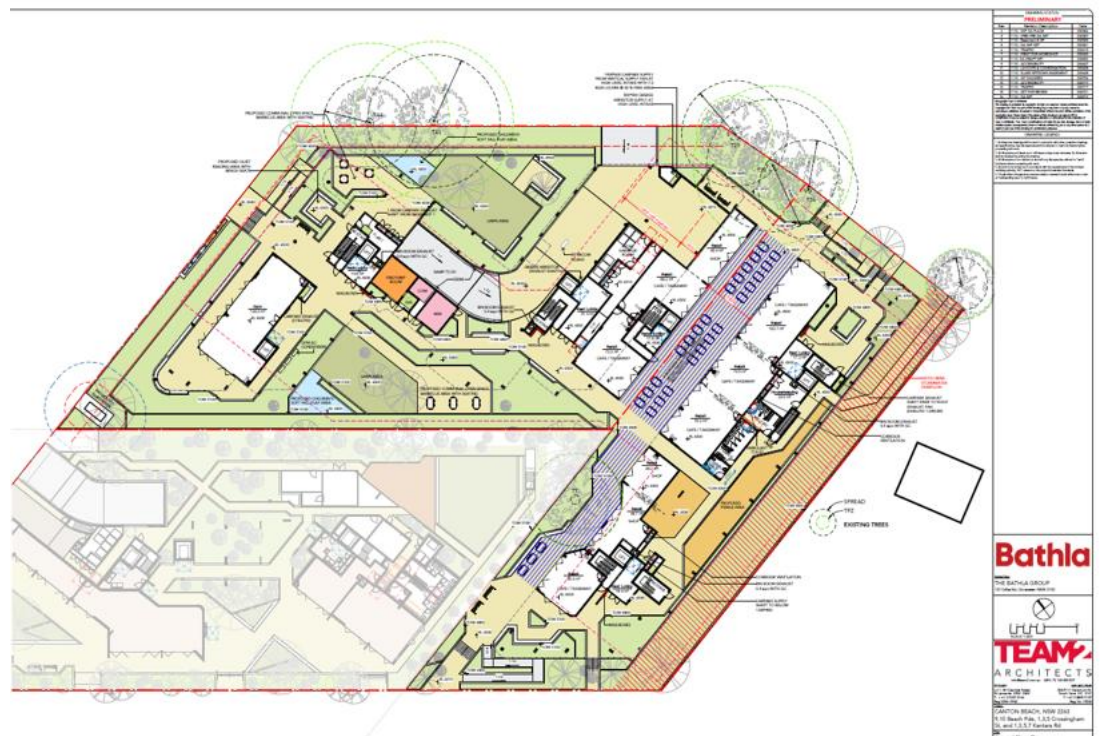


Figure 31: Team 2 Architects Ground Floor Plan



Figure 32: Level 1 Floor Plan



Figure 33: Team 2 Architects Level 2 Floor Plan



Figure 34: Team 2 Architects Level 3 Floor Plan



Figure 35: Team 2 Architects: Level 4 Floor Plan



Figure 36: Team 2 Architects Roof Floor Plan



Figure 37: Team 2 Architects North east and South west Elevations

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)





Figure 40: Team 2 Architects North and South Elevations (Site 2)



Figure 41: Team 2 Architects Sections

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)



Figure 42: Team 2 Architects GFA Calculation Diagram



Figure 43: Team 2 Architects Perspectives

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)



History

A search of Council records reveals the following previous applications for the site and surrounds:

- PDA/12/2023 Pre-Lodgement Meeting for Shop-Top Housing development consisting of basement parking, ground floor retail use and 98 upper floor residential units – minutes issued 11 May 2023.
- DA/910/2023 which sought demolition of existing structures at 1-5 Crossingham Street Canton Beach, 1-7 Kantara Road, Canton Beach and 9-10 Beach Parade, Canton Beach NSW 2263 was withdrawn.

The movement of trucks and machinery on site will likely have an impact upon existing trees. There is more than 10+ trees located within the properties and trees consisted of Cheese tree, Pittosporum, Lilly Pilly etc. It is recommended that the applicant obtain an Arboricultural Impact Assessment report advising as to which trees require removal and which trees are to be retained along with suitable Tree Protection Measures assessment of the application can be finalised.

Furthermore an Arboricultural Impact Assessment report submitted for DA/1904/2023 (the subject development application) cannot be used for this DA/910/2023 as the demolition of existing buildings/structures will not likely require the same number of trees to be removed as would be required for 5 Storey Mixed Use Development consisting of 91 Units, 6 Serviced Apartments, Gymnasium and 9 Retail Tenancies ie Council cannot allow tree removal in the anticipation of future development that has not been approved.

In this circumstance, Council recommended a future combined development application for demolition and construction within the one application. A request to remove all trees in the building footprint and within 3m of the outside of the footprints and subsequent tree applications for each site which would be required to remove the remainder of the trees would not be supported.

- DA/4077/2022 for 12 Beach Parade was refused by the Local Planning Panel. The proposed development sought consent for the construction of a 5 storey shop top housing development comprising 4 residential units with ground floor retail and associated basement car parking. The proposed development failed to meet the minimum requirements of SEPP Resilience and Hazards in relation to consideration of land contamination and Council's LEP with regards to essential services and acid sulfate soils.

The proposal did not provide the minimum necessary requirements under the ADG pertaining to deep soil planting and communal open space. The proposal did not satisfactorily meet the requirements or objectives of *State Environmental Planning Policy (Housing) 2021* nor the associated Apartment Design Guidelines. The design failed to meet the objectives and provisions of the *Central Coast Local Environmental Plan 2022* or Central Coast Development Control Plan 2022 and has unsatisfactory and unreasonable impacts. The proposal was deemed unsuitable for the site and not considered to be in the public interest. This site immediately is immediately adjoining the development site to the northeast.

- DA/1691/2021 for 8 Kantara Road was approved for a Residential Flat Building (14 Units) on 2 August 2022 including the Wallis Avenue and Kantara Road intersection upgrade works.
- DA/7/2017 for 5-8 Beach Parade, Canton Beach, was granted a deferred commencement consent on 24 of December 2017 for a mixed use, shop top housing development including food and drink premises (4 tenancies), 36 residential dwellings and basement parking. The Deferred Commencement consent was made operational on 31 May 2018.
- DA/7/2017/A for 5-8 Beach Parade, Canton Beach Section 4.55(2) modification was lodged on the 31st of May 2023 to provide additional units, increasing the yield to 40 units, reconfiguration of the internal layout, revision of the façade design and other minor changes.

Application Background

- On 23 October 2022, the application was formally lodged with Central Coast Council. The proposed development is permissible in the SP3 Tourist zone.

- The development application was notified between 10 November 2023 and 1 December 2023, one submission, dated 28 November 2023 was received from a neighbouring property which raised the following issues:
 - *Traffic generation that will come from this development. Considering Main Road through Toukley, leading to Canton Beach is one lane over Gorokan bridge, and traffic congestion will hinder both emergency services, being Ambulance and Fire station that are located Main Road, Toukley.*
 - *Proposing 5 storey apartments, among single level or double storey houses, will not be consistent to the area, and would devalue homes surrounding proposed development.*
 - *Overdevelopment will affect nature conservation at Canton Beach.*
 - *Loss of light in adjoining houses will be significant.*
 - *Road access to 9 Beach Parade to support a large commercial and high rise building is not adequate.*

Note: Access to Kantara Rd from Wallis Ave, of which I am a resident, has become significantly congested due to Councils dept of housing development that has put two blocks of 2 storey units on the corner of Kantara Road.

Suggestions are: any dwelling should not be more than 2 storeys, staying consistent and being appropriate for the area of Canton Beach. Council planning for the future of this area will dramatically effect whether the area becomes sought out and valuable for investors and home owners.

A supplementary submission letter was provided by David Harris MP, Member for Wyong with the above submission attached.

- On 21 January 2025, Council wrote to the applicant to request a revised estimated cost of development stating inter alia:

... application seeks development consent to construct 2 storeys of basement parking, 9 retail tenancies and gym, 6 serviced apartments and 91 residential apartments over 9,523.1m² with a cost of \$25,644,580.00 ...

- On 6 February 2025, the estimated cost of development was revised from \$22,644,580.00 to \$88,360,897.56.
- On 19 February 2025, the Hunter and Central Coast Regional Planning Panel (RPP) advised Council they were not the relevant determining authority stating inter alia:

The determining authority is set on the value accepted on lodgement of the DA as a matter of jurisdictional fact. Fluctuations in CIV / EDC as a result of the assessment process have no bearing on the relevant determining authority. The only way to change the determining authority in this case

would be for the applicant to withdraw the DA and relodge with an estimated cost of development that would now meet the threshold for an RSDA.

- On 22 April 2025, the applicant was sent correspondence advising the key issues associated with the proposal. Council requested the application be withdrawn.
- On 24 April 2025, the applicant wrote to Council seeking an extension to provide additional information on 20 May 2025. The applicant was again reminded of the recommendation for withdrawal and advised additional information would not be accepted.
- On 29 April 2025, the applicant submitted a revised suite of documentation through the NSW Planning Portal.
- On 29 April 2025, Council wrote to the applicant to advise that Council does not accept the information provided and that the application would be determined on the information available.

Council, in accordance with the *Environmental Planning and Assessment Regulations 2021, Division 2 Amendment, rejection and withdrawal of development applications—the Act, ss 4.12 and 4.64 Clause 38 Determination of application for amendment of development application* rejected the information. Notwithstanding, a preliminary review of this documentation identified Council remain of the same opinion that the application be refused.

- On 29 April 2025, the applicant submitted a revised suite of documentation through the NSW Planning Portal with a letter stating the following inter alia:

... refer to the above development and Council's additional information letter dated 22 April 2025. Council's letter requests that the application be withdrawn within 7 days and broadly outlines Council's main concerns with the development application from an urban design and stormwater disposal perspective.

Our client does not wish to withdraw the development application that was formally lodged on 31 October 2023 with only one previous letter received since lodgement around the Estimated Development Cost. It is disappointing that it has taken over 17 months to be advised of Council's merit concerns with the application.

As you are aware the applicant had requested until 20 May 2025 to provide a comprehensive response to all issues of concern outlined in Council's 12 page letter. Council has denied this reasonable request.

Given that 4 working days have been provided to potentially respond to Council's concerns, this resubmission is accompanied by revised architectural plans and an

architectural response letter prepared by Team2 architects that responds to and clarifies the urban design comments.

It is considered that other concerns including around stormwater disposal and acoustic clarification could be appropriately managed via conditions of consent. Notwithstanding this if more time is able to be provided, a comprehensive response to all issues including stormwater issues is able to be provided by 20 May 2025.

This application will deliver retail facilities and 91 apartments to assist with delivering much need housing on the Central Coast to assist with addressing the current housing crisis in Australia.

We urge Council to give serious consideration to the revised information and seek to impose conditions of consent to address remaining clarification and assist with the delivery of this development that will both assist with the ongoing revitalization of Canton Beach and delivering houses and employment opportunities within the Central Coast.

I trust the above comments, satisfactorily responds to Council 's substantive issues and that any remaining concerns with the project can be conditioned to allow the application to be approved in May 2025.

Accordingly, Council has not accepted the amended plans having regard for the provisions of Section 38 of *Environmental Planning and Assessment Regulation 2021* and the requests of the applicant to determine the application.

ASSESSMENT:

Having regard for the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

Provisions of Relevant Instruments/Plans/Policies:

Relevant Legislation

Biodiversity Conservation Act 2016 (BC Act)

The site is not mapped as containing biodiversity values nor is a Biodiversity Development Assessment Report required to be prepared for the proposed clearing of 62 trees. Notwithstanding, the tree removal was assessed by council's Tree Assessment Officer who raised concern with the Arboricultural Assessment which does not advise appropriate reasons for tree removal nor tree protection measures for that retained.

The Panel can be satisfied there are no further matters required to be considered under the BC Act.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 of the SEPP contains planning rules and controls from the former Vegetation SEPP relating to the clearing of native vegetation in NSW on land zoned for urban and environmental purposes that is not linked to a development application. This chapter seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation.

The proposal is supported by a Preliminary Tree Assessment report by Paul Monaco who has assessed 63 trees, 62 of which have been recommended for removal and Tree 44 is to be retained. Tree 44 has no Tree Protection Measures for retention. The Architectural Plans and Landscape Plans are showing trees 7,18,26,28,29,30,43,44 to be retained and incorporated into the development. These trees have been given a retention value from high to very high. The Preliminary Tree Assessment report does not advise as to why these trees are to be removed. It must be noted that the majority of the trees with high to very high value are located in close proximity to services.

State Environmental Planning Policy (Planning Systems) 2021

Clause 2.19 (1) of SEPP (Planning Systems) 2021 outlines that the development is deemed to be regionally significant development. Therefore, the determining authority for this type of development being with a value greater than \$30 million will be the Regional Planning Panel. On 6 February 2025, the estimated cost of development was revised from \$25,644,580.00 to \$88,360,897.56. However, as previously advised, the Hunter and Central Coast Regional Planning Panel (RPP) are not the determining authority as the determining authority is set on the value accepted upon lodgement of the DA. This application did not meet the criteria for referral to the RPP when it was lodged.

State Environmental Planning Policy (Resilience and Hazards) 2021

The relevant provisions of the SEPP are addressed as follows:

Chapter 2: Coastal Management

The Resilience and Hazards SEPP applies to land within the coastal zone. The site is located within the Coastal Use Area and the Coastal Environment Area and is therefore subject to the provisions of Section 2.10 and partially Section 2.11 of Chapter 2.

The development proposal is not consistent with the relevant provisions of Section 2.10 in respect of the Coastal Environment Area as it may cause an adverse impact on the following matters for consideration.

The development is not designed and sited to avoid an adverse impact on the issues referred to in subclause (1):

- (1) *Development consent must not be granted to development on land that is within the coastal environment area, unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

Matters for consideration	Compliance
<i>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</i>	<p>The proposal does not demonstrate that it may not cause impacts on the biophysical, hydrological, or ecological environment.</p> <p>Drainage System Connection and Capacity – any alteration and/or addition to Council's trunk and/or longitudinal street drainage systems will only be supported by Council where an adequate Hydraulic Analysis has been conducted on the system and provided to Council, to demonstrate the:</p> <ul style="list-style-type: none"> • The existing system(s) has sufficient capacity to convey the additional stormwater flows. • The Pre-vs-Post-Development impact on the existing systems, both upstream and downstream; Hydraulic Grade Lines (HGLs) are to be provided for both the pre-developed and post-developed scenarios to demonstrate these impacts. • The proposed works will not have any adverse impacts on the performance of the Council drainage system(s) as a whole (including surcharging or backlogging).
<i>(b) coastal environmental values and natural coastal processes,</i>	<p>The proposal may impact on the geological and geomorphological coastal processes. While the site is located close to the foreshore (35 metres), it is part of the</p>

Matters for consideration	Compliance
	existing built-up area. The proposed development will not impact on coastal environmental values or natural coastal processes.
<i>(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</i>	The proposal may result in an adverse impact on the water quality of the marine estate and does not drain to a sensitive lake contained in Schedule 1. Subject to appropriate stormwater management and the implementation of erosion and sediment control measures during construction, water quality of Tuggerah Lakes will not be impacted by the proposed development.
<i>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</i>	The proposal is unlikely to adversely impact marine vegetation, native vegetation and fauna and their habitats, underdeveloped headlands, and rock platforms subject to implementation of appropriate water quality protection as discussed above.
<i>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	The proposal will not adversely impact on existing public open space and safe access to and along the foreshore.
<i>(f) Aboriginal cultural heritage, practices and places,</i>	There are no identified aboriginal cultural heritage items on the site including a clear AHIMS search.
<i>(g) the use of the surf zone.</i>	Not Applicable. There is no site frontage to any beach/surf zone.

In accordance with Section 2.10(2), the consent authority must be satisfied that:

- (a) the development is designed, sited, and will be managed to avoid an adverse impact referred to in subsection (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Further the development proposal is not wholly consistent with relevant provisions in Section 2.11 in respect of the Coastal Use Area in that it is not likely to cause an adverse impact on the following matters for consideration.

Matters for consideration	Compliance
<i>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—</i>	
<i>(a) has considered whether the proposed development is likely to cause an adverse impact on the following—</i>	
<i>(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	The proposal will not impact existing safe access to and along the foreshore for members of the public.
<i>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</i>	The proposal may not cause an adverse impact on access, overshadowing, wind funnelling or view loss from public places to any foreshore.
<i>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</i>	The proposal will improve the quality and visual amenity of development in the area. It will not impact on the scenic qualities of the foreshore; however, the proposal in seeking a variation to development standards in particular exceeding the height limit, have compounded the non-compliances in building form and bulk, visual privacy and solar access to units. The external appearance of the buildings is not well considered or reasonably articulated. The composition does not have a variety of building elements defining both vertical and horizontal elements. The façade does not have recessing and protruding elements that vary the scale and create interest in the building. The building form and scale of the buildings is not in keeping with the character of the area. The matters raised and once addressed in a refined scheme will ensure better overall compliance with the

Matters for consideration	Compliance
	ADG and other planning requirements. The bulk, form, and façades of both buildings (site 1 and site 2) are not in keeping with the character of the area and do not conform with the objectives of this Part 4M Facades clause of the ADG. There are non-compliance issues regarding heights, solar access, privacy, and amenity which are not adequately addressed in the submitted development application documentation.
<i>(iv) Aboriginal cultural heritage, practices and places,</i>	There are no known objects, areas, or items of heritage significance on the land, and no potentially adverse impacts on cultural or environmental heritage have been identified.
<i>(v) cultural and built environment heritage, and</i>	There are no known objects, areas, or items of heritage significance on the land, and no potentially adverse impacts on cultural or environmental heritage have been identified. AHIMS search / mapping is clear.
<i>(b) is satisfied that—</i>	
<i>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</i>	The proposed development has been designed and sited to avoid any adverse impact referred to in paragraph (a).
<i>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i>	N/A
<i>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</i>	N/A
<i>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</i>	The bulk and scale of the proposed development is considered unsatisfactory for its type and location. The proposed development has considered surrounding coastal and built environment, having regard to Council's objectives for the area as well as development approved but not yet built. The proposed bulk, scale and size of the development requires greater design

Matters for consideration	Compliance
	resolution having regard for the provision of waste servicing, landscaping, deep soil planting, parking, and equitable accessibility arrangements, setbacks, building separation, building depth, solar access, and general built form (height, bulk, and scale).

Section 2.11 requires the consent authority to consider those matters outlined in Section 2.11(1)(a)(i)-(v) as discussed in the table above, and be satisfied that (Section 2.11(1)(b))-

- (i) the development is designed, sited, and will be managed to avoid an adverse impact referred to in paragraph (a), or
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact

The Panel cannot be satisfied with Section 2.10(2)(a)-(c).

In addition, the provisions of Section 2.11(1)(c) require the consent authority to take into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development. The relevant matters have been considered in the assessment of this application and the Panel cannot be satisfied the proposed development is of an appropriate bulk and scale within the existing site context.

Having regard to the above, the Panel can be satisfied that the proposed development can be amended to be designed, sited, and managed to avoid an adverse impact and is unlikely to cause increased risk of hazards on the subject site or other land. However, the Panel cannot be satisfied the bulk, scale and size of the development is satisfactory as the development requires greater design resolution.

Chapter 4 – Remediation of Land

The Resilience and Hazards SEPP applies to any land defined in Section 4.3 (1)(a) or (b).

The provisions of Section 4.6 have been considered in the assessment of the development application and consideration has been given as to whether the land is contaminated, and if the land is contaminated, the consent authority is satisfied that the land is suitable in its contaminated state (or will be made suitable, after remediation) for the purpose for which the development is proposed to be carried out.

Further under Section 4.6(2) before determining an application for consent to carry out development that would involve a change of use of land, the approval authority must

consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

The site has historically been used for residential development. Council's records indicate that the site has never been used for industrial or commercial land uses.

Section 4.6(2) requires the consent authority to consider a report specifying the findings of a preliminary investigation, prepared in accordance with the contaminated land planning guidelines, for any development that would involve a change of use on any land specified in s.4.6(4).

In accordance with Section 4.6, the consent authority can be satisfied that the land is suitable for the proposed development. A Preliminary Site Investigation has been undertaken for the proposed development by Geotesta Pty Ltd, which concludes the following:

"The PSI conducted at 9,10 Beach Parade, Canton Beach NSW 2263 (Lot/Section/Plan no: 311,312/-/DP755266), 1-5 Kantara Road, Canton Beach NSW 2263 (Lot/Section/Plan no: 318- 320/-/DP755266), and 1-5 Crossingham Street, Canton Beach NSW 2263 (Lot/Section/Plan no: 315-317/-/DP755266) was undertaken by Geotesta to investigate the likelihood of the presence of contamination on the site.

Based on the assessment undertaken, the following conclusions and recommendations can be made:

- *All the contaminant concentrations of interest were found to be within the site assessment criteria (SAC).*
- *The Preliminary Site Investigation's limited soil sampling and analysis program conducted indicated a low risk of soil and groundwater contamination. It is the opinion of Geotesta Pty Ltd that the site is suitable for the proposed high-density development pending on the results of an additional Data Gap Contamination Assessment*

Due to the existence of a significant data-gap in this investigation, a further Data Gap Contamination Assessment post demolition of the existing structures/dwellings is required to address further potential areas of concern (main emphasis on the footprint of the structures/dwellings) identified in the AECs and to determine if any contamination hotspots exist around the existing sheds and dwellings. The Gap Assessment scope must also include the following:

- *Any stockpiles that were not assessed at the time of the PSI or are new to site, will require sampling as part of the Data Gap Assessment. Sampling of stockpiles must adhere to the "NSW EPA, Contaminated Land Guidelines, Sampling Design Application (2022)". Classification of stockpiles must be*

conducted as per "NSW EPA (2014), Waste Classification Guidelines, Part 1: Classifying Waste."

The application is to be undertaken in accordance with the recommendations made in the report, and therefore, is deemed appropriate with regards to site contamination and remediation.

In accordance with s.4.6, the consent authority can be satisfied that the land is suitable for a future proposed development.

State Environmental Planning Policy (Sustainable Buildings) 2023

Development applications submitted on the NSW planning portal on or after 1 October 2023 are subject to the provisions of SEPP (Sustainable Buildings) 2022 rather than SEPP (Building Sustainability: BASIX) 2004. The development application was formally accepted on 31 October 2023. A BASIX certificate is valid if issued no earlier than 3 months before the day of submission of a DA, in this circumstance the BASIX prepared by ESD Synergy is dated 13 September 2023.

The BASIX Certificate details no rainwater re-use / RWT is required for this proposal. The *FIA* notes the detailed roof stormwater design has not yet been developed for the proposal, however roof run-off calculations were undertaken and accounted for in the scheduled internal pit and pipe network design; it is assumed run-off collected via the RWOs through the exposed impervious Atrium areas, and Basement Pump-Out Rising Main discharge, have been accounted for in a similar manner.

The proposal seeks to directly connect into Council's underground pipe system to prevent the requirement for OSD for the proposal (as would be required if discharging stormwater to the street surface, such as kerb and guttering drainage system). Standard water quality controls will be required to treat gross pollutants and sediment, prior to discharge from the site.

Drainage System Connection and Capacity – any alteration and/or addition to Council's trunk and/or longitudinal street drainage systems will only be supported by Council where an adequate Hydraulic Analysis has been conducted on the system and provided to Council, to demonstrate:

- The existing system(s) has sufficient capacity to convey the additional stormwater flows.
- The Pre-vs-Post-Development impact on the existing systems, both upstream and downstream; Hydraulic Grade Lines (HGLs) are to be provided for both the pre-developed and post-developed scenarios to demonstrate these impacts.
- The proposed works will not have any adverse impacts on the performance of the Council drainage system(s) as a whole (including surcharging or backlogging).

Drainage System Connection and Capacity – as advised in the Council’s system does not have details of the discharge connection for the Beach Pde pipe culvert to the south of the site to which the proposal is seeking to connect; further investigation of this line is required to be undertaken. The Applicant is required to demonstrate the existing system(s), which are proposed to be altered and/or connected into by the development, have adequate capacity to convey the additional stormwater and the proposed works will not have any detrimental impacts on this system (such as backlogging or surcharging).

Having regard for this, the proposed development does not satisfy the requirements of the SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Council referred the application to AUSGRID to ensure the development would not be in conflict / within 5 metres of an exposed overhead electricity power line. Ausgrid provided comment on 23 May 2025 advising they consent to the development subject to conditions.

This chapter identifies a number of types of development that require concurrence from Transport for NSW where development is identified as ‘traffic generating development’. The current proposal is not identified as traffic generating development as the site does not trigger the threshold requirements. Therefore, concurrence from the TfNSW is not required.

In accordance with this chapter, the application is not required to be referred to Trains NSW as the proposal is not in the vicinity of rail infrastructure. Given the distance from Rail infrastructure and in accordance with this chapter, an acoustic and vibration report is not required to be prepared.

The development site is not located within proximity to a classified road and as a result, it is not necessary to consider the provisions of this chapter that requires a consent authority to consider the impact of arterial roads on buildings used for residential purposes.

Industry and Employment State Environmental Planning Policy

The relevant provisions of the Industry and Employment SEPP are addressed as follows:

Chapter 3: Advertising and signage

Part 3.2 – Signage generally

Part 3.2, Clause 3.6 of the Industry and Employment SEPP states that Council must not grant consent to the proposed development unless it is satisfied that the proposal upholds the aims and objectives in Clause 3.1 and the assessment criteria in Schedule 5 before to granting consent to the development. No signage or advertising is proposed.

State Environmental Planning Policy (Housing) 2021 (Housing SEPP)

Chapter 4: Design of residential apartment development

The former SEPP 65 was repealed by the Housing SEPP on 14 December 2023. An amendment to the Housing SEPP notified on 15 March 2024, which retrospectively amended the Housing SEPP, with subsection 2A of Schedule 8 being introduced which clarifies the new Chapter 4 applies to applications that were made, but not finally determined, before 14 December 2023, when SEPP 65 was repealed.

The development application was lodged on 31 October 2023, accordingly, the provisions of Chapter 4 *Design of residential apartment development* apply to the proposed development. There are no material changes to prescribed development controls of the Apartment Design Guide.

Under s.145(2), a consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice, prior to the determination of the application. However, a design review panel has not been constituted for the Central Coast local government area therefore this section does not apply (s.145(3)).

Under s.147(1), development consent must not be granted to residential apartment development unless consideration has been given to the design principles set out in Schedule 9 (s.147(1)(a)) and the Apartment Design Guide (s.147(1)(b)). An assessment in relation to the design principles and the ADG is provided below.

The provisions of s.148 (2) identify non-discretionary standards for residential apartment development as follows:

- a) car parking must be equal to, or greater than the minimum amount of car parking specified in Part 3J of the ADG,*

Part 3J does not apply to the subject site as the site is not within 800 metres of a railway station nor is it within 400 metres of land zoned B3 (now E2) and B4 (now MU1 Mixed Use).

- (b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the ADG,*

The proposed apartments comply with the minimum internal area required of 90m².

- (c) the ceiling heights for the building must be equal to, or greater than, the recommended ceiling heights specified in Part 4C of the ADG,*

The ceiling heights comply with the minimum 2.7 metre for habitable rooms and 2.4 metre for non-habitable rooms.

Section 147(1) of the Housing SEPP requires the consent authority to not grant consent unless the following are considered:

- (a) *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) *the Apartment Design Guide,*
- (c) *any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel*

Note: Section 147(1)(c) is not applicable, as there is no Central Coast Design Review Panel constituted. The assessment below has been undertaken by council's consultant Urban Designer.

Design Quality Principles

The application is accompanied by a revised *Design Verification Statement* prepared by Team 2 Architects, dated 29 September 2023, as required by *Section 29 of the EP&A Regulation 2021* to reference the plans submitted with the development application through the NSW Planning Portal.

Section 29 requires that the Design Verification Statement explain how the development addresses:

- the design principles for residential apartment development, and
- the objectives in Parts 3 and 4 of the Apartment Design Guide.

The statement provided by Team 2 Architect states:

The below statement is to address cl. 29 (Residential apartment development) of the Environmental Planning and Assessment Regulation 2021.

(2)(a) I hereby confirm that, I Richard Webster (NSW Reg 9947) designed the modification of the development

(2)(b)(i) The 9 design quality principles have been addressed starting page 2 onwards in Team2's LEP, DCP, SEPP & ADG CONTROLS, DESIGN STATEMENT. Please read in conjunction with Team2 drawing package:

o 1110_ADG SEPP65 compliance_230906

(2) (b)(ii) The objectives in the Apartment Design Guideline are outlined in Team2's ADG Compliance Schedule

o 1110_ADG SEPP65 compliance_230906

(3) A Basix certificate accompanies this DA application

o BASIX Certificate no: 1411097M

The statement does not provide a detailed response to the design principles nor address Parts 3 and 4 of the ADG. The submitted statement fails to comply with the provisions of Section 29 of the EP&A Regulation 2021.

Independent Design Review

Dyer Design Company (DDC) was engaged by Council to undertake an independent design review to consider the proposal against the Design Quality Principles and the associated ADG. DDC also considered relevant provisions in the CCDCP 2022. DDC reviewed the architectural plans submitted with the application and provided a report dated 26 January 2024 and mark ups of the architectural plans outlining the defects in relation to compliance with the *Design of Residential Apartment Development* (ADG) (please see **Attachment 2**).

Section 147(1)(a) – Design Principles for Residential Apartment Development

The design quality principles outlined in Schedule 9 of the Housing SEPP are assessed in the table below. In summary, the proposal is seeking a variation to development standards in particular exceeding the height limit compounded with non-compliances with the ADG required building setbacks and separation resulting in an unacceptable built form (height, bulk and scale). The apartments will receive insufficient natural light and ventilation and compromised visual privacy and amenity.

The external appearance of the buildings is not well considered or reasonably articulated. The composition does not have a variety of building elements defining both vertical and horizontal elements. The façade does not have recessing and protruding elements that vary the scale and create interest in the building. The building form and scale of the buildings is not in keeping with the character of the area. The matters raised would ensure better overall compliance with the ADG and other planning requirements.

The proposed development demonstrates non-compliance with *State Environmental Planning (Housing) 2021* and the Apartment Design Guide (ADG), *Central Coast Local Environmental Plan 2022* and Central Coast Development Control Plan 2022. The proposed development is considered an overdevelopment of the site.

The external appearance of the buildings is not well considered or reasonably articulated. The composition does not have a variety of building elements defining both vertical and horizontal elements. The façade does not have recessing and protruding elements that vary

the scale and create interest in the building. The building form and scale of the buildings is not in keeping with the character of the area.

A clause 4.6 written request seeking a variation to the development standard for maximum building height has not demonstrated that non-compliance is unreasonable or unnecessary in the circumstances of the case and that the non-compliance with the standard has sufficient environmental planning grounds.

The proposed development is not in the public interest because it is inconsistent with the objectives of the development standards and the objectives for development within which the development is proposed to be carried out. Insufficient information has been provided to accurately assess the proposed development.

The development application is accompanied by a Design Verification Statement by the Registered Architect at Team 2 Architects verifying that they have directed and designed the proposal, and that the design quality principles set out in Part 2 of the SEPP are achieved for the development.

Chapter 4: Design of residential apartment development

Section 147(1) of the Housing SEPP requires the consent authority to not grant consent unless the following are considered:

- (a) *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) *the Apartment Design Guide,*
- (c) *any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel*

Note: Section 147(1)(c) is not applicable, as there is no Central Coast Design Review Panel. The assessment below has been provided by council's consultant Urban Designer.

Principles – DDC assessment and response

Principle	Response
<i>Principle 1: Context and neighbourhood character</i>	Compliance is not achieved, and objectives are inadequately addressed in the documentation.
<i>Principle 2: Built form and scale</i>	Objectives are not adequately addressed in the documentation. Non-compliance issues, including technical non-compliances with the overall building height, building separation, setbacks, and solar access. Building Envelopes objectives are not

	<p>adequately addressed in the documentation. Three are non-conformance issues with heights, setbacks, and articulation.</p> <p>The building height is quoted as approximately 17.5 metres in the design statement which is incorrect. The sections show the incorrect proposed heights exceeding the limit that is dimensioned are to the underside of ceiling but should be shown to the roof and the overrun to properly indicate the actual extent of the impact and non-conformance. Note all elevations should have the height limit indicated to show the full extent of the impact and non-compliance.</p> <p>It should also be noted the overall area/volume of the non-conformance (refer to drawing D-3100). These are excessive non-conformances to the height limit (together with other issues) and adds to the unacceptable bulk and density of the form which also contribute to additional overlooking and overshadowing of adjoining properties.</p>
<i>Principle 3: Density</i>	<p>Objectives adequately addressed in the documentation. Technically the design complies with the numerical values, however coupled with non-compliance issues as noted above regarding heights, solar access, privacy, and amenity are not adequately addressed in the documentation.</p>
<i>Principle 4: Sustainability</i>	<p>Compliance is achieved and objectives are adequately addressed in the documentation.</p>
<i>Principle 5: Landscape</i>	<p>Generally, the quality of design of the landscaping meets the objectives of this principle. However, an improved outcome could include a landscape design which features:</p> <ul style="list-style-type: none"> • Use of larger canopy trees proposed in discontinuous clumps located away from the proposed building. • Mature canopies of these proposed trees designed not to overhang the proposed building. • Larger Shrub planting for screening located around the boundaries, in discontinuous clumps, to remove the threat of continuous fuel loads. • The planting mix includes a range of fire-retardant type species, such as Blueberry Ash and Lilly Pillies • Ground covers of the southern side of the proposal primarily fire retardant / shade tolerant fern and succulent species.

	<ul style="list-style-type: none"> Organic mulch throughout gardens (equal to ANLs 'Forest Blend') Non-combustible (gravel) mulch will be specified for the rooftop / COS gardens associated with the building footprint. Ground cover species proposed to the north of the building are primarily native grasses < 800mm height. Tiered courtyard gardens to include species generally < 1 metre when mature to prevent overlooking and mitigate overshadowing.
<i>Principle 6: Amenity</i>	<p>Objectives are not adequately addressed in the documentation.</p> <p>The Building Depth is an approximately 18.5-20.6 metres. This is contributing to the bulk of the building and possible lack of natural light and ventilation to units. All building separations should be compliant to maintain privacy and amenity and street setbacks are to be reviewed. Beach Parade requires 6 metres, 4.9 metres is proposed, Kantara Road requires 6 metres, 5.7metres is proposed.</p> <p>These setback non-conformances (together with other issues) add to the unacceptable bulk and density of the form at street level. All street setbacks should be compliant. All building side and setbacks should be compliant to maintain privacy, amenity and reduce overlooking and overshadowing.</p>
<i>Principle 7: Safety and Security</i>	Objectives are adequately addressed in the documentation.
<i>Principle 8: Housing and diversity and social interaction</i>	<p>Objectives are adequately addressed in the documentation. The proposal needs to provide development that is tourist-orientated. A market analysis could provide insight into what tourist facilities or uses would be in demand in the area. Permanent accommodation is to be limited.</p> <p>The applicant should investigate the demand for so many permanent apartments in the area. The plans propose 6 serviced apartments on level 1. Serviced apartments permit short term stay which will cater for tourists. Furthermore, the development proposes a central thoroughfare and dining area with café/takeaway premises adjoining both sides, creating an 'eat street', which is envisaged to be a destination for tourists.</p>

	It is assumed other units in the development may be for short-term rental accommodation, which could be considered a form of tourist accommodation. The units would be capable of achieving the general requirements of clause 113 of the SEPP.
<i>Principle 9: Aesthetics</i>	Objectives are not adequately addressed in the documentation.

Section 147(b) – Apartment Design Guide (ADG)

In the absence of an assessment of Part 3 and 4 of the ADG prepared by a registered architect engaged by the applicant, an assessment of the development against the ADG design criteria is provided below.

The proposal could include large, landscaped setbacks with deep soil to ensure that the buildings, site and the curtilage and gardens will enhance the setting. The proposal's height is not compliant, and the development is not the same as its neighbours which presents as an incompatible character and which will not fit into the streetscapes, with the scale not visually broken up into distinct (ADG compliant) modules.

Existing site characteristics that reduce visual dominance are not retained and topographical constraints although embraced do not provide for a site that has the need for height breaches. To improve the design presentation new materials and forms could be introduced to achieve sensitivity towards the existing forms and materials of the neighbouring buildings.

Presently, the proposed buildings are not capable of existing together in harmony within the urban context and do not demonstrate a compatible character rather than mimic development typologies formerly promised on adjacent land.

Buildings can exist together in harmony without having the same density, scale, or appearance, though as the difference in these attributes increases, congruence is more difficult to achieve. Compatibility between the proposed and the existing is also not always desirable as where extreme differences in scale and appearance produce great urban design involving landmark buildings.

Planning controls recognise the evolving nature of an area and in this circumstance where the zone permits a higher density development than what is currently in-situ, this is an indication that an envisaged change of character is supportable, in which case compatibility with the future character is more appropriate than with the existing examples where there are older stock building environments that are unattractive that it is best not to reproduce them.

Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In this circumstance, the proposal's physical and environmental impacts on surrounding development (as well as compromising internal amenity) are unacceptable.

The physical impacts include constraints on the development potential of surrounding sites and the building's appearance should be in harmony with the buildings around it and the character of the street. Physical impacts, such as noise, overlooking, overshadowing, and constraining development potentially are objective. Conversely, arguing whether a new development appears to be in harmony with its surroundings is subjective.

Notwithstanding this, it is considered the development is not a good planning outcome for the site. With consideration of the above, it is recommended that the external appearance of the buildings is not well considered or reasonably articulated. The composition does not have a variety of building elements defining both vertical and horizontal elements. The façade does not have recessing and protruding elements that vary the scale and create interest in the building. The building form and scale of the buildings is not in keeping with the character of the area.

The proposed development does not comply with several of the ADG requirements. The relevant design criteria where the design is non-conforming with Parts 2, Parts 3 and 4 of the ADG is discussed in the table below.

Dyer Design Company independent advice was sought and is referenced below. In summary, it is considered that the proposed separation distances, setbacks, building depths, and general facade treatments are inappropriate. The design, in its current form, should not be supported by the Panel.

Design Criteria	Required	Proposed	Compliance
Part 2B	Building Envelopes	The objectives are not adequately addressed in documentation. There are non-conformance issues with heights, building separation, building depth, side, rear and front setbacks, and façade articulation and materiality.	No
Part 2C	Building Height - Central Coast LEP 2022 Clause 4.3 16m height limit	The objectives are not adequately addressed in documentation. The height is quoted as 17.5 metres approximately in design statement which is incorrect and shown on the architectural plans as 17.5 metres. Therefore, the section drawings show the incorrect proposed heights exceeding the limit that is dimensions are to underside of ceiling when should be shown to the roof and the overrun to properly indicate the actual extent of the impact and non-	No

Design Criteria	Required	Proposed	Compliance
		<p>conformance. Further, all elevations should have the height limit indicated to show the full extent of the impact and non-compliance.</p> <ul style="list-style-type: none"> Site 1 building height exceeds the permitted limit by 2.6 metres, this equates to 18.4 metres (15%) – 18.6 metres (16.2%). The lift overrun exceeds the height limit by 3.8 metres (23.75%). Site 2 proposed height of 18.7 metres exceeds the maximum permitted by 16.8% with the lift overrun exceeding the height limit by 2.9 metres or 18.1% <p>This non-conformance with the numerical values has further implications as the overall area/volume of the non-conformance triggers the level 4 protrusion beyond the allowable height plane. The non-conforming GFA is 1,797m² or 18% of the overall development cause level 4 to protrude above the maximum permitted height of 16 metres. These are excessive non-conformances to the height limit add to the unacceptable bulk and density of the form which also contribute to additional overlooking and overshadowing of adjoining properties.</p>	
Part 2E	Building Depth 12 metres -18 metres ADG required.	The general objectives are not adequately addressed in documentation. A depth of 20.6 metres to 18.5 metres is proposed which contributes to the bulk of the building and possible lack of natural light and ventilation to apartments,	No

Design Criteria	Required	Proposed	Compliance
		this equates to a non-conformance of between 10.6 metres to 2.6 metres.	
Part 2F	<p>Building Separation ADG requirements:- Minimum separation distances for buildings in ADG are: Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies <p>9m between habitable and non-habitable rooms</p> <ul style="list-style-type: none"> • 6m between non-habitable rooms <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms 	<p>General objectives and design criteria not adequately addressed in the documentation. All building separations should be compliant to maintain privacy and amenity.</p> <ul style="list-style-type: none"> • Level 1-3 (four stories by definition) shows non-compliances (although minor) with 6 metres (half 12 metres) setback to boundary between site 0 and site 1. • There is a significant non-compliance between buildings on site 0 and site 2. 12 metres is required where 9.7 metres is provided. • At level 4 (fifth storey) there are non-compliances (although minor) with 9 metres (half 18 metres) setback to boundary between site 0 and site 1. • Further, there are significant non-compliances between buildings on site 0 and site 2 where 18 metres is required and only 12.6 metres is provided. • All building separations should be compliant to maintain privacy and amenity to both the mixed use development apartments and future neighbouring developments. <p>The development fails to provide suitable building separation which impacts severely upon the quality of the apartments liveability and impacts upon natural light and ventilation.</p>	No

Design Criteria	Required	Proposed	Compliance
	Where applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes the building separation equally between sites (consider relationship with section 3F Visual privacy). At the boundary between a change in zone from apartment buildings to a lower density	These non-compliances have ramifications such as occupant health and well-being unreasonably affected.	
Part 2G	Street setbacks Central Coast DCP 2022 Chapter 2.3 Residential Flat Buildings & Shop Top Housing Clause 2.3.4.1 – Setbacks for Residential Flat Buildings – 3 Storeys or more 6 metres applies to all aspects of the development, with the exception of a portico, or an approved structure required for a waste collection area.	General objectives and design criteria not adequately addressed in documentation. <ul style="list-style-type: none"> Beach Parade requires 6 metres, 4.9 metres is proposed, Kantara Road requires 6 metres, where 5.7 metres is proposed. These setback non-conformances (together with other issues) add to the unacceptable bulk and density of the form at street level. All street setbacks should be compliant in any future development application at the site and/or neighbouring sites. 	No
Part 2H	Side and rear setbacks Central Coast DCP 2022	General objectives and design criteria are not adequately addressed in documentation.	No

Design Criteria	Required	Proposed	Compliance
	<p>Chapter 2.3 Residential Flat Buildings & Shop Top Housing Clause 2.3.4.1 – Setbacks for Residential Flat Buildings – 3 Storeys or more</p> <p>i. First to fourth Storey: 6.0 m ii. Fifth to eighth Storey: 9.0 m iii. Ninth storey & above: 12.0 m</p> <ul style="list-style-type: none"> Note: No more than 4 consecutive storeys of the building shall be at the same setback. 	<p>Site 1 (south west boundary to Site 0):</p> <ul style="list-style-type: none"> Level 1-3 (four stories by definition) non-compliances (although minor) with 6 metres setback. A 5 metres to 5.8 metres setback is provided at certain points. Level 4 (fifth storey) non-compliances (although minor) with 9 metre setback required, the proposal offers a 7.3 metre to 8.2 metre setback. <p>Site 2 (southern boundary to neighbouring site):</p> <ul style="list-style-type: none"> Level 4 (fifth storey) has significant non-compliances with the required 9 metre setback. Setbacks proposed are between 7.3 metres and 8.2 metres provided roof overhang and stairwell. <p>Site 2 (northern boundary to Site 1 and Site 0):</p> <p>Level 4 (fifth storey)</p> <ul style="list-style-type: none"> Significant non-compliances with 9 metre setback is required, where a 7.8 metre is proposed to the building line and roof overhang. <p>All building setbacks should be compliant to maintain privacy, amenity and reduce overlooking and overshadowing at both the subject site mixed use development and/or any future neighbouring developments.</p>	

Design Criteria	Required	Proposed	Compliance
Part 3F-1 Visual Privacy	<p>Separation from boundaries and buildings:</p> <ul style="list-style-type: none"> up to 12m / 4 storeys – 6m to habitable, 3m to non-habitable up to 25m / 5-8 storeys – 9m to habitable, 4.5m to non-habitable 	<p>General objectives and design criteria not adequately addressed in documentation. Please also refer to Part 2F Building Separation and Part 2H Side and rear setbacks discussed above).</p> <p>Site 1 (south west boundary to Site 0) Level 1-3 (four stories by definition):</p> <ul style="list-style-type: none"> Non-compliances (although minor) with 6 metre setback providing a 5 metre to 5.8 metre setback at certain points. Privacy issue between habitable room/balconies on building internally. <p>Level 4 (fifth storey)</p> <ul style="list-style-type: none"> Non-compliances (although minor) with 9 metre setback required with 7.3 metre to 8.2 metres provided at certain points. Privacy issues between habitable room/balconies on Site 1 and Site 2. Privacy issue between common area and balcony <p>Site 2 (northern boundary to Site 1 and Site 0)</p> <ul style="list-style-type: none"> Level 4 (fifth storey): Significant non-compliances with 9 metre setback as a 7.8 metre setback is provided to building line. Privacy issues between habitable room/balconies on Site 1 and Site 2 	No

Design Criteria	Required	Proposed	Compliance
		All building setbacks should be compliant to maintain privacy, amenity and reduce overlooking and overshadowing. There are no constraints that would limit full compliance at the former 'Key Site'.	
Part 4A-1 Solar and Daylight Access	Solar and daylight access Objective 4A1 – To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space. Design Criteria 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas (<i>not applicable to this site</i>) 2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a <u>minimum of 3 hours direct sunlight between 9am and 3pm at mid-winter</u>	<p>Objectives and design criteria are not adequately addressed in the documentation.</p> <p>The design criteria states:</p> <p><i>...To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</i></p> <p>The design criteria also notes that skylights are used only as a secondary light source in habitable rooms.</p> <p>Therefore, the development is non-compliant to this requirement due to units that depend on a skylight do not provide the required sunlight to the primary windows and private open space and should be discounted in the overall compliance calculation revealing that only 60 units (61.9%) achieve 3 hours of solar access.</p> <p>Note: The NSW LEC decision in <i>Construction Development Management Services Pty Ltd v City of Sydney</i> [2023] NSWLEC 1620 held that the specific criteria relating to sunlight in the Apartment Design Guide (ADG) does not have to be strictly complied with for residential developments, though optimising sunlight is still a requirement. The SEPP requires a consent authority to take the ADG and its objectives into consideration,</p>	No

Design Criteria	Required	Proposed	Compliance
	<p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter</p> <p><i>Note that the requirement for solar access is for living rooms and private open space not either/or.</i></p> <p>Objective 4A2 – Daylight access is maximised where sunlight is limited. Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms</p> <p>Objective 4A3 – Design incorporates shading and glare control, particularly for warmer months.</p>	<p>including the objective of optimising the number of apartments receiving sunlight to habitable rooms, primary windows, and private open space.</p> <p>For Sydney CBD, one of the design criteria under this objective is that <i>"living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter"</i>.</p> <p>The main issues related to whether consent could be granted for a residential apartment development which did not strictly adhere to the ADG and whether the proposed development "optimised" sunlight.</p> <p>Horton C determined that the design criteria referred to above <i>"is not, of itself, a development standard but one means of achieving the objective at 4A-1 of the ADG"</i> which is to optimise sunlight. The applicant did not have the option of adhering to the design criteria of 70% of apartments receiving sunlight due to the site being overshadowed by neighbouring development in the CBD. Canton Beach is not a CBD nor affected by the same mitigating factors.</p> <p>Previous cases in which inadequate solar access was held to be grounds for refusal were distinguished on the basis that the applicant's in those cases chose not to comply with criteria, while in this case the design could not achieve compliance despite attempts to do so.</p>	

Design Criteria	Required	Proposed	Compliance
		<p>Horton C found that the development application optimised direct sunlight by incorporating ADG design features, and so determined to grant consent for the development. In doing so, the Commissioner held that adequate regard had been given to the ADG and so clause 30(2)(b) of SEPP 65 had been satisfied.</p> <p>The apartment layout and the design of openings to the perimeter of apartments to allow for sunlight were considered to be ways to achieve this objective. While this case is authority for the proposition that the 'requirements' in the ADG do not have to be strictly complied with if it is not practically possible to do so. However, in such circumstances, design choices to optimise sunlight should be implemented.</p>	
Part 4G-1 Storage	<p>Storage Objective 4G1 – Adequate, well designed storage is provided in each apartment. 1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided; –</p> <ul style="list-style-type: none"> • Studio Apartments – 4m³ • 1 Bed Apartments – 6m³ • 2 Bed Apartments – 8m³ 	<p>Objectives and Design Criteria not adequately addressed in the documentation.</p> <ul style="list-style-type: none"> • The plans are required to indicate the location and size of the storage provided in unit to determine if compliant. It is unclear what is "built-in" or freestanding furniture. • All storage to units must be indicated as built-in to the unit to comply. 	No

Design Criteria	Required	Proposed	Compliance
	<ul style="list-style-type: none"> • 3+ bed Apartments – 10m3 <p>At least 50% of required storage is to be located within the apartment.</p>		
Part 4M Facades	<p>Facades</p> <p>Objective 4M1 – Building facades provide visual interest along the street while respecting the character of the local area.</p> <p>Design solutions for front building facades may include:</p> <ul style="list-style-type: none"> • a composition of varied building elements • a defined base, middle and top of buildings • revealing and concealing certain elements • changes in texture, material, detail and colour to modify the prominence of elements. <p>Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include:</p>	<p>Objectives and Design Criteria not adequately addressed in the documentation.</p> <p>The bulk, form, and façades of both buildings (Site 1 and Site 2) are not in keeping with the character of the area.</p> <p>The building form and façades of the buildings does not conform with the objectives of this clause.</p> <p>Site 1 - the building form and façade of the building on Site 1 does not conform with the objectives of this clause.</p> <ul style="list-style-type: none"> • Level 4 (fifth storey) has building form which is beyond the allowable height limits. • This building form is located on the street façade and adds to the dominance and overpowering nature of the building form on the street character. • This building form does not step back and create a positive discernible variable "top" element to the building. • The building form should be recessed back from the street façade or located towards the middle of the site to reduce its impact. 	No

Design Criteria	Required	Proposed	Compliance
	<ul style="list-style-type: none"> • well composed horizontal and vertical elements • variation in floor heights to enhance the human scale • elements that are proportional and arranged in patterns • public artwork or treatments to exterior blank walls • grouping of floors or elements such as balconies and windows on taller buildings <p>Objective 4M2 – Building functions are expressed by the façade.</p> <p>Central Coast DCP 2022 Chapter 2.3 Residential Flat Buildings & Shop Top Housing Clause 2.3.5.1 – Facades & Articulation Requirements a) Facades are to be articulated in length and height. Monotonous and unbroken lengths of wall exceeding 10 metres in length and 3 metres in height shall not be permitted. In</p>	<p>Site 2 - the building form and façade of the building on Site 2 does not conform with the objectives of this clause.</p> <ul style="list-style-type: none"> • The southern and northern facades are very linear, monotonous, and relatively unbroken in length for 64 metres. • There are some recessive balcony elements however in general the façade provides for no visual interest, articulation, or materiality changes to ensure design excellence can be achieved. • The blank façade with no discernible breaks, articulation of the building form, no protecting elements, and a very limited pallet of materials. • There should be a physical break in this continuous façade form and multiple vertical elements introduce to break down the scale. • The form should be broken into more decisive strong "blocks" with significant breaks in the façade and different façade treatments to create variety and interest. • The northern façade fronting the "eat street" is not at a sympathetic scale for the pedestrian. It is effectively a 5 storey vertical façade fronting this promenade making it very dominating and overpowering, which could effectively render this space not desirable or usable as intended. 	

Design Criteria	Required	Proposed	Compliance
	<p>development of two or more storeys, physical design elements shall be used to provide visual interest to the building. These elements may include roof, wall and eave projections and indentations roofed decks, pergolas, awnings and other permanent shading structures, etc. A mixture of building materials including masonry, timber and glass is encouraged.</p> <p>b) For mixed use development, residential apartments are to be separated and distinguished from commercial entries to provide security and an identifiable street address for each of the different users.</p> <p>c) Shop-top housing development should be setback from the front street boundary and buffered from the street by providing a balcony or similar.</p>	<p>A great deal more articulation (stepping back), projections, awning and texture is required to improve this façade.</p> <p>The bulk, form and façades of both buildings are not in keeping with the character of the area.</p>	

Clause 2.7 Demolition

No demolition is proposed.

Permissibility

The site is zoned SP3 Tourism under the CCLEP 2022. Other beachfront properties on Beach Parade are zoned SP3 Tourism, with Canton Beach being zoned RE1 Public Recreation and the surrounding land is zoned residential (R1, R2, R3).

The proposed development includes *Food and Drink Premises, Recreational Facilities (indoor), Shop Top Housing, and Tourist and Visitor Accommodation* which are permissible with consent in the SP3 Tourist zone.



Figure 45: Zoning map of the site and surrounding development

Zone objectives

Subclause 2.3(2) of the CCLEP 2022 requires the consent authority to have regard for the objectives for development in a zone when determining a development application.

The objectives of the SP3 Tourism zone are as follows:

- *To provide for a variety of tourist-oriented development and related uses.*
- *To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.*
- *To protect and enhance the natural environment for tourist and recreational purposes.*

The proposal is considered to be inconsistent with the objectives of the SP3 zone and whilst the five storey mixed use development comprising 91 residential apartments, 6 serviced apartments, gymnasium, 9 retail tenancies and basement parking proposal will provide additional housing to the community, it is considered that the proposed development will result in poor amenity for future residents of the proposed development.

The proposed development does not display best practice in the design of shop-top housing and will not enhance the residential amenity of the surrounding development as it does not have regard to the physical, spatial, and environmental quality of the surrounding development, including maintaining visual privacy between adjoining properties.

Whilst the proposed development seeks to activate the foreshore by providing tourist-oriented development, the scale of the ground floor commercial floor area and resulting car parking deficiency will place additional on-street parking demand on the surrounding street network, and the appropriate studies have not been undertaken, in terms of contamination and acid sulfate soils to satisfy the consent authority that the natural environment will be protected.

The Panel is advised that the proposed development fails to satisfy the objectives of the SP3 Tourist zone and is recommended for refusal on this basis.

General Controls and Development Standards (Parts 2, 4, 5, 6 and 7)

CCLEP 2022 contains controls relating to development standards, miscellaneous provisions, and local provisions. The relevant controls to the proposal are further set out in the table below.

Key controls under CCLEP 2022

Clause	Requirement	Proposal	Complies
4.3(2) – Height of buildings	Clause 4.3(2) permits a maximum overall building height of 16 metres.	The proposal seeks a maximum height of 18.7 metres/16.2% variation (Site 1) and 18.6 metres/16.8% variation (Site 2) with the lift overruns exceeding the height limit by 2.9 metres (18.1% variation) and 3.8m (23.75% variation) respectively.	No
4.4(2) – Floor Space Ratio	Clause 4.4(2) permits a maximum overall FSR of 1.25:1.	Floor space ratio of 1.5:1.	No, but subject to clause 4.4B.
4.4B (2) - Exceptions to floor space	1:25:1 with a bonus 20% for buildings located in Canton Beach Local Centre	Floor space ratio of 1.5:1	Yes

Clause	Requirement	Proposal	Complies
ratio -town centres and village centres	on land greater than 4,000m ² in area.		
4.6 – Exceptions to Development Standards	Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other EPI instrument.	The application is accompanied by a written Clause 4.6 submission seeking to vary the maximum permissible building height in accordance with Clause 4.3 of the CCLEP 2022.	It is considered the Panel cannot reach an acceptable state of satisfaction.
5.21 Flooding	Development consent must not be granted within a flood planning area unless the consent authority is satisfied of the relevant matters in 5.21(2).	While the site is within a flood planning area, Council's Development Assessment Engineer has advised that the development has been designed to ensure compatibility with matters identified in 5.21(2).	Yes.
7.1 – Acid Sulfate Soils	Development consent must not be granted until an ASS Plan in accordance with the Acid Sulfate Soils Manual has been prepared.	<p>The site is mapped as Class 3 (south-west half) and Class 4 (north-east half) on Council's Acid Works Sulphate Soils Planning Map and is within 37 metres and 110 metres of Class 2 (Tuggerah Lake Foreshore) and Class 1 (Tuggerah Lake) mapped lands, respectively.</p> <p>In accordance with the NSW ASSMAC Acid Sulfate Soils Manual (ASSM), and enclosed Acid Sulfate Soils Assessment Guidelines, Section 4.1.b., sampling for ASS should occur to a depth minimum 1 metre below the depth of the proposed excavation or estimated drop in watertable height, whichever is greater.</p>	No

Clause	Requirement	Proposal	Complies
		<p>The Site Investigation Report has identified the potential for hazardous building materials within the existing structures on the property. Therefore, a Hazardous Material Assessment must be undertaken by a suitably qualified consultant to sample and analyse these structures and determine the best management approach in handling and disposing of these materials.</p> <p>The sampling design does not represent the current conditions of the site and is unable to make an accurate determination without sampling to the proposed maximum depth of 9 metres.</p> <p>Accordingly, the Panel, as the consent authority, cannot be satisfied that the proposed development is consistent with the requirements of clause 7.1 and an acid sulfate soils management plan would also be required in this instance.</p>	
7.6 – Essential Services	Essential services must be made available or adequate arrangements be made to make them available.	The proposed development has failed to demonstrate how suitable waste collection can occur during the ongoing operation of the site in addition to failing to demonstrate how suitable vehicular access is achieved for the development.	No

Clause 4.3 Height of buildings

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)

Under the CCLEP 2022 maximum height of building maps (Clause 4.3), the site is prescribed a maximum building height of 16 metres.

The objectives of the maximum height of building clause are as follows:

- (a) to establish a maximum height of buildings to enable appropriate development density,*
- (b) to ensure that the height of buildings is compatible with the character of the locality.*

The application is referred to the Local Planning Panel because a clause 4.6 request seeking a variation to the development standard has been submitted. Clause 4.3 specifies the building height for the site shall not exceed that indicated on the applicable map below.

The development is broken into two buildings (Site 1 and Site 2). The proposal seeks a maximum height of 18.7 metres/16.2% variation (Site 1) and 18.6 metres/16.8% variation (Site 2) with the lift overruns exceeding the height limit by 2.9 metres (18.1% variation at Site 1) and 3.8 metres (23.75% variation at Site 2) respectively.

The variation is considered unacceptable having regard for the provisions of Clause 4.6. The overall area/volume of non-conformance results in level 4 protruding above the allowable height plane. This equates to 1,797m² (18% of the overall development). The request to vary the development standard has not demonstrated that the proposal in its current form will have minimal environmental impact upon adjoining properties.

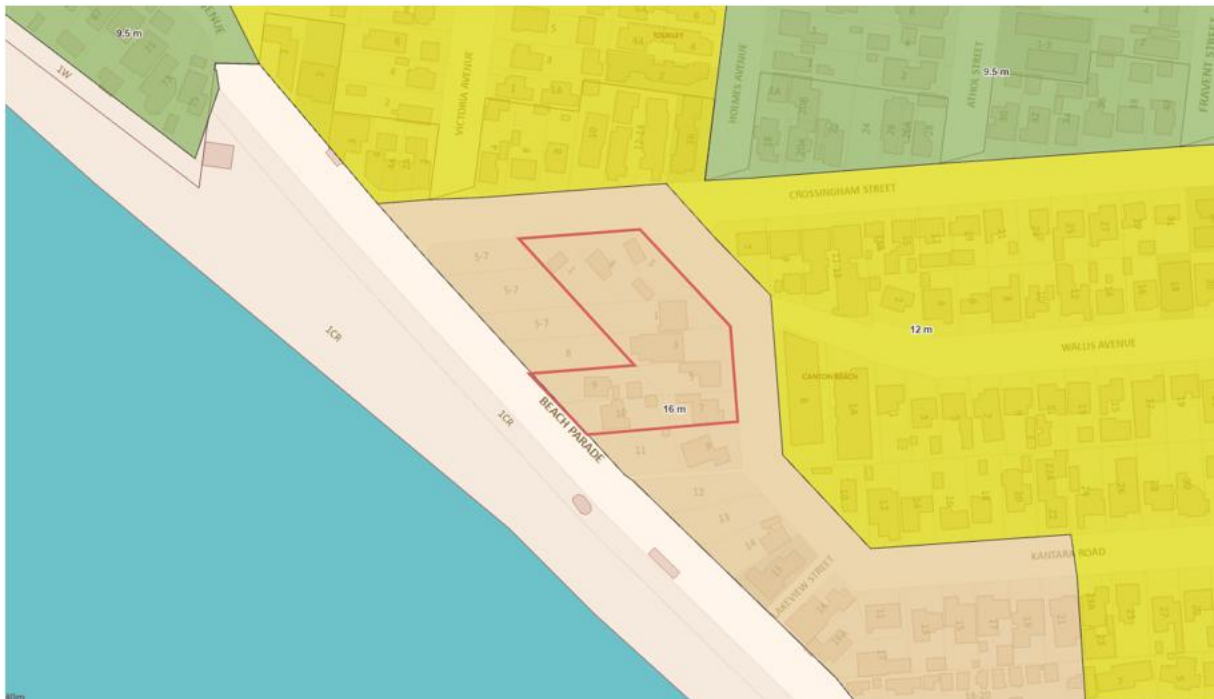


Figure 46: Height of Buildings Map for the site and surrounds

Clause 4.4 Floor space ratio

Clause 4.4 specifies the floor space ratio for the site shall not exceed that indicated on the applicable map.

The objectives of the maximum Floor Space Ratio clause are as follows:

- (a) to establish standards for the maximum development density and land use intensity,*
- (b) to ensure the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located,*
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (d) to facilitate design excellence by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.*

Clause 4.4(2) of CCLEP 2022 specifies the floor space ratio (FSR) for the site shall not exceed that indicated on the applicable map. The maximum permitted FSR is 1.25:1. However, there are exceptions to FSR provided for town centres and village centres under clause 4.4B. A building on land identified as "Canton Beach Local Centre" may exceed the maximum floor space ratio by the percentage shown in Column 2 of clause 4.4B (2). The proposed development has a floor space ratio of 1.5:1. which is compliant.

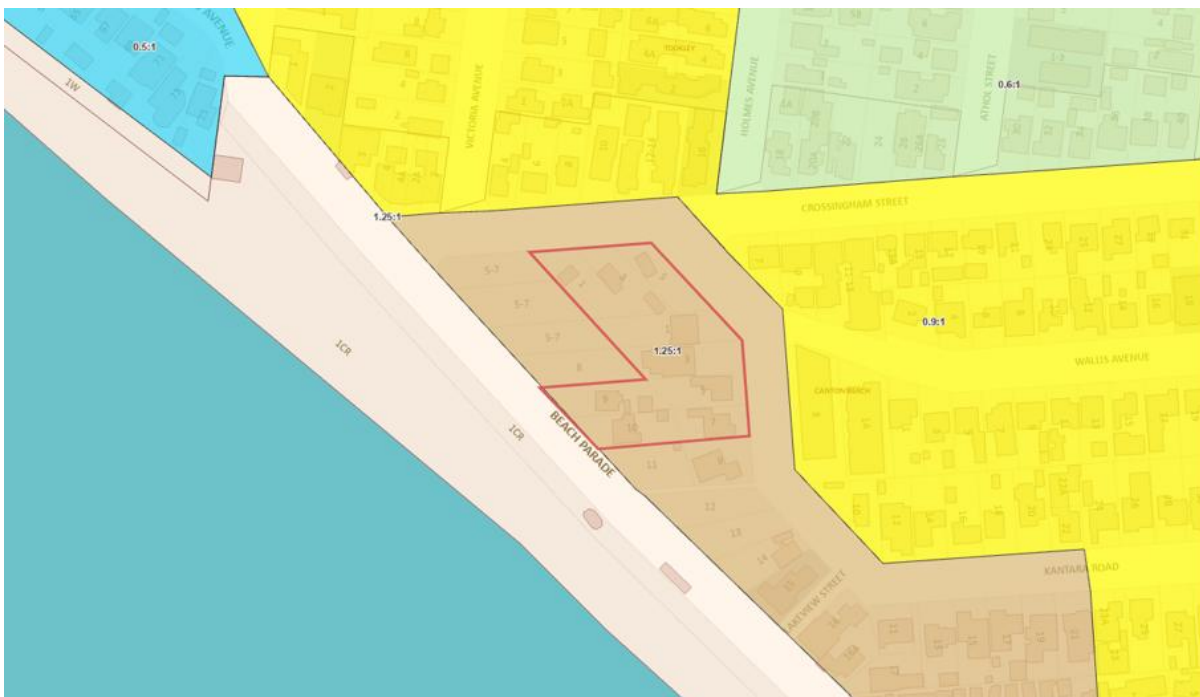


Figure 47: FSR Map for the site and surrounds

Clause 4.4B – Exceptions to Floor space ratio – Town Centres and villages centres

The provisions of Clause 4.4B of the CCLEP 2022 establish a FSR of 1.25:1 with a bonus 20% for buildings located in Canton Beach Local Centre on land which is greater than 4,000m² in area. The site is permitted an FSR of 1.5:1 (1.25:1 + 20%), which is equivalent to a GFA of 9,523.2m². The development proposes a GFA of 9,523.1m² (FSR 1.5:1).

The proposal complies with this control.

Clause 4.6 Exceptions to development standards

A formal written request that has been prepared in accordance with Clause 4.6 of the CCLEP 2022 to support a mixed-use development which complies with the numerical FSR standard applicable, being 1.5:1 although breaches a height development permitted being 16 metres.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development. The request prepared by Think Planners does not demonstrate that a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the circumstances of this application. As the request does not demonstrate a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the circumstances of this application, the request is not supported.

The proposal does not demonstrate that compliance with the height for the site which would not be unreasonable or unnecessary in the circumstances of this case, and there are not sufficient environmental planning grounds to justify the variation. Further, the proposal is not in the public interest because it is inconsistent with the objectives of the development standard and the SP3 zone.

The development standard breaches are spread across all apartments within the mixed use development which is consequential to the development and it is considered that the built form will not achieve a good planning outcome for the site. The character expressed by the architectural language is mundane when viewed from all street frontages. The buildings and architecture reads as two independent yet divorced volumes, which follows the topographical constraints but provides no visual interest in the choice of textures which frame the building's elements.

The proposal does not satisfy the desired future locality character test. Consideration of the present proposal must be undertaken in a slightly broader context as to compatibility and permissibility rather than one of strict conformity to the existing development pattern. The proposal has aimed to reflect only the future character of the streetscapes without respecting consistency with the existing future character.

The proposal mimics those previously proposed on adjacent land which have not been developed (and approved under Wyong Local Environmental Plan 2013), however the neighbouring development approved under DA/7/2017 which had a bonus height provision afforded by the previous planning regime and more importantly amenity is optimised

through appropriate room dimensions and open plan room configurations, sunlight access and natural cross ventilation. Furthermore, the approved design provides articulation and uses face brick and glazing to differentiate the commercial use and provide a distinct base to the building and an improved streetscape appearance and interface when viewed from adjoining properties.

The proposed development does not provide adequate amenity or visual interest. Council considers that the proposal does not demonstrate that compliance with the 16 metre height standard for the whole of the site is unreasonable, and, **there are insufficient environmental planning grounds to justify the variation to the prescribed height.** Further, the proposal is not in the public interest because it is inconsistent with the objectives of the development standard and the SP3 zone for the site.

Assessment against Clause 4.6

Clause 4.6 requires a consent authority to be satisfied of certain matters before granting consent to a development that contravenes a development standard (see *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Rebel MH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245) at [23] and *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 at [76]-[80] and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31]. On 1 November 2023, *Standard Instrument (Local Environmental Plans) Amendment (Exceptions to Development Standards) Order 2023* was commenced. Under this amendment clause 4.6 was amended to omit 4.6 (3)-(5) and (7) and inserted instead:

- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—The *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).
- (4) The consent authority must keep a record of its assessment carried out under subclause (3).

The amendment to the *Environmental Planning and Assessment Amendment (Exceptions to Development Standards) Regulation 2023* inserted savings provisions in Schedule 6 which specify the amendments to clause 4.6 apply only to development applications made on or after 1 November 2023. The subject development application was lodged on 31 October

2023 therefore the amendments to clause 4.6 do not apply and the assessment below refers to the former clause 4.6 provisions.

- ***That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)];***

The applicant states:

Clause 4.6(3) Compliance Unreasonable or Unnecessary

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved.

The objectives of the building height development standard are stated as:

(a) to establish a maximum height of buildings to enable appropriate development density,

(b) to ensure that the height of buildings is compatible with the character of the locality. As previously states, the uppermost levels of the buildings and the lift cores vary this development standard. The proposal remains consistent with the objectives based on the following:

- *The variation of habitable areas to the control is minor, and the proposal is compliant with the maximum FSR control applying to the site, indicating that the development proposes an appropriate density for the development site.*
- *The approved development at 5-8 Beach Parade has set the precedent for 5 storey buildings within the SP3 Tourist zoned block, and therefore, the bulk and scale of the current proposal is compatible with the character of the locality.*

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances.

Sufficient Environmental Planning Grounds and Design Response

The below points demonstrate suitable environmental planning grounds exist to justify contravening the height development standard and further demonstrates that the height departure does not give rise to any environmental impacts, and therefore the proposal is an appropriate design response for the subject site:

- *The variation is minor, to the extent that the non-compliance will be largely imperceptible as viewed from the public domain or surrounding properties.*
- *Level 4 is provided with additional setbacks to comply with the ADG visual separation requirements, resulting in a smaller floorplate and reduced bulk and*

scale when viewed from the public domain. This is supported by the GFA calculations provided in the architectural plan set, which demonstrate that Level 3 GFA (2460.6m²).

- *The approved development at 5-8 Beach Parade has set the precedent for 5 storey buildings within the SP3 Tourist zoned block, and therefore, the bulk and scale of the current proposal has been designed to respond to the adjoining development to be compatible with the character of the locality.*
- *The development has been designed to retain the amenity of adjoining properties:*
 - *The development is fully compliant with the setbacks/separation requirements provided by the ADG and DCP,*
 - *The development is accompanied by an acoustic report which confirms that the application will have an appropriate outcome.*
 - *The shadow diagrams show that the development will result in an adequate level of solar access for adjoining properties, by virtue of the compliant boundary setbacks.*
- *Compliance with the FSR standard is achieved and therefore, the departure assists in achieving planned density.*
- *The site is identified as being flood prone and the building needs to be raised above natural ground level to appropriately respond to this constraint;*
- *The height breach and design response enable a suitable design outcome on the site and is consistent with the following Objects of the Environmental Planning and Assessment Act 1979:*

*(c) to promote the orderly and economic use and development of land,
(g) to promote good design and amenity of the built environment,
(h) to promote the proper construction and maintenance of buildings,
including the protection of the health and safety of their occupants,*

Therefore, the current proposal is a preferred outcome from an environmental planning perspective and demonstrates that there is merit in varying the height control to achieve a better design response on the site which demonstrates sufficient environmental planning grounds to support the departure.

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest as it remains consistent with the objectives of the building height control. In addition, the proposal is consistent with the objectives of the SP3 zone, being:

- To provide for a variety of tourist-oriented development and related uses.
 - To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.
 - To protect and enhance the natural environment for tourist and recreational purposes.
- Consistency with the objectives is evident as –

The development meets the objectives of the SP3 zone by proposing 6 serviced apartments on level 1. Serviced apartments permit short term stay which will cater for tourists. Furthermore, the development proposes a central thoroughfare and dining area with café/takeaway premises adjoining both sides, creating an 'eat street', which is envisaged to be a destination for tourists.

In addition, the proposal complements and enhances the local streetscape by virtue of the careful siting of the development and the landscape embellishment works within the setbacks. As addressed previously the proposal presents as a 5 storey form that provides a quality address to the street frontage.

It is understood that the concurrence of the Planning Secretary can be assumed in the current circumstances.

Comment: The objectives of the height development standard are not achieved notwithstanding the proposed contravention (Test 1 under Wehbe). The quantum of density proposed on the actual development site is inappropriate for the scale of the development within the immediate vicinity. The distribution of the density within the overall site is inappropriate for the scale of the area because the development has not incorporated ADG compliant building setbacks from all boundaries of the site, proposes inadequate building separation and excessive building depth.

The proposal has not distributed floor space away from the part of the site that would be most visible to the public domain. If this were the case, there would be a perceived reduction to its bulk and scale. The development has a built form and density which is considered incompatible with the size of the land to be developed, its environmental constraints and its contextual relationship. Therefore, both the character of development and the environment do not respect one another.

The applicant refers to adjacent development. This development was approved on 14 December 2017 (DA/7/2017), and was for a mixed use, shop top housing development including food and drink premises (4 tenancies), 36 residential dwellings and basement parking. This application is adjoining the site's north-eastern boundary and was subject to *Wyong Local Environmental Plan 2013* not the *Central Coast Local Environmental Plan 2022*. The site was also identified as a 'Key Site' under WLEP 2013 key site maps.

The proposal did not rely on the provisions of Clause 7.11 of WLEP 2013 which allow for a bonus building height of 23 metres (rather than 16 metres) which was the subject to the

provision of significant public benefit to the community. The approved design exceeded the height limit at 18.41 metres (21.83 AHD) or 2.41 metres / 15% above the standard. A 22% parking variation was supported where 83 parking spaces were required and 68 spaces were provided at basement level along with five at-grade parking spaces. The approved design provided optimal ADG compliance.

Having regard for the provisions of clause 4.6(3)(a), it is considered the applicant has not demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and the Panel cannot reach a state of satisfaction that the applicant has demonstrated the standard is unreasonable or unnecessary (*RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130).

- ***That the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b));***

Comment: There are insufficient environmental planning grounds to justify contravening the height. The development does not contribute to the provision of adaptable nor affordable apartments catering to the first home, key worker, elderly and less mobile within an LGA and broader area which has an ageing population, improved tourism market and high need for affordable and social housing. The development will cause impacts and will not contribute to the variety of high-end architecture attributed to this part of Canton Beach, which remains largely undeveloped apart from the Pacific Link project adjacent offering 14 apartments.

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that for there to be 'sufficient' environmental planning grounds to justify a written request under Clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole. There has been little discussion by the applicant on the element of the building that breaches the height limit, rather a focus on the development as a whole (***STM 123 No. 7 Pty Ltd v Waverley Council* [2020] NSWLEC 1495**).

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the site. In this circumstance, the architecture and breach to the mapped building height, has not demonstrated that compliance with the development standard will result in a better outcome than a compliant development. It does not promote good design and amenity of the built environment and will not result in improved urban design and amenity considerations for both the existing neighbours and the future occupants of the buildings. It provides inadequate building separation to the adjoining properties and within the development causing unreasonable amenity impacts and overshadowing.

Neighbouring privacy and amenity are not protected, and setbacks are unreasonable. The deviation will be visible from the public domain, is visually intrusive, will impact upon views

from any adjoining property, and will cause additional overshadowing and cause overlooking to adjoining properties. The proposed breach to the height does not represent a better design outcome.

The grounds relied on by the applicant must be “environmental planning grounds” by their nature (*Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009), and the applicant is required to show that environmental planning grounds exist “particular to the circumstances of the proposed development on the subject site” to justify contravening the development standard. The Panel, as the consent authority, cannot be satisfied the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

- **The applicant’s written request has adequately addressed the matter required to be demonstrated by subclause (3) (cl.4.6(a)(i)).**

The applicant states:

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Comment: The applicant’s written request to justify a contravention to the development standard for the mapped building height under clause 4.3 of the Central Coast Local Environmental Plan 2022 does not demonstrate that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case.
- The development achieves the objectives of the development standard and is consistent with the objectives of the SP3 Tourism zone.
- There are sufficient environmental planning grounds to justify the contravention.
- The proposal does not respond to the topography of the site; the building could step down from east to west approaching the intersection to alleviate the bulk at the corner.

Accordingly, it is considered the Panel, as the consent authority, cannot reach a state of satisfaction in relation to the proposed contravention.

- ***The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out (clause 4.6(4)(a)(ii)).***

The applicant states:

As addressed the proposed development is in the public interest as it remains consistent with the objectives of the building height control. In addition, the proposal is consistent with the objectives of the SP3 zone, being:

- To provide for a variety of tourist-oriented development and related uses.*
 - To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.*
 - To protect and enhance the natural environment for tourist and recreational purposes.*
- Consistency with the objectives is evident as –*

The development meets the objectives of the SP3 zone by proposing 6 serviced apartments on level 1. Serviced apartments permit short term stay which will cater for tourists. Furthermore, the development proposes a central thoroughfare and dining area with café/takeaway premises adjoining both sides, creating an 'eat street', which is envisaged to be a destination for tourists.

In addition, the proposal complements and enhances the local streetscape by virtue of the careful siting of the development and the landscape embellishment works within the setbacks. As addressed previously the proposal presents as a 5 storey form that provides a quality address to the street frontage.

Comment: The development is not in the public interest; a better planning outcome will not be achieved, and the development is inconsistent with the objectives of the SP3 zone. The proposed development overall does not achieve the objectives of the development standard.

Objectives of the standard

Comment: The development standard to be varied is the mapped building height prescribed under clause 4.3, which is 16 metres. The proposal seeks a maximum height of 18.7 metres/16.2% variation (Site 1) and 18.6 metres/16.8% variation (Site 2) with the lift overruns exceeding the height limit by 2.9 metres (18.1% variation at Site 1) and 3.8 metres (23.75% variation at Site 2) respectively.

The objectives of the clause are as follows:

- (a) to establish a maximum height of buildings to enable appropriate development density,
- (b) to ensure that the height of buildings is compatible with the character of the locality.

There could be more effort made to improve the streetscape outcomes for all three frontages. The development could include substantial and attractive landscaping both to enhance the garden setting within the more natural bushland environment and to obscure building walls, incorporate green walls and provide landscaping with mature tree plantings.

A development in this location could provide for a variety of residential apartment types including adaptable and affordable units, and the façade, which is not articulated, could have improved interfaces with the public domain. Given the large site, the impacts from overshadowing, the visual dominance, and loss of privacy and amenity, will be significant, particularly given the extent of non-compliances with the relevant controls. The proposed breach to the height does not represent a better design outcome, nor does it afford future residents' acceptable amenity.

Departure from the development standard does not result in a development that achieves the objectives of the standard, and compliance with the standard would not thwart the ability of the proposal to achieve the objectives of the standard. The additional height is not directly attributable to the topography of the land. It is considered that a better planning outcome is not achieved by isolating the neighbouring sites previously not included in an approved development. The proposal is not consistent with the objectives of the development standard and the objectives for development within the zone and therefore that non-compliance with the height development standard is unreasonable and unnecessary in the circumstances.

The breach in height coupled with proposed non-compliances, particularly in relation to setbacks, does not result in a suitable built form. The Beach Parade frontage requires 6 metres, 4.9 metres is proposed, Kantara Road requires 6 metres, 5.7 metres is proposed. These setback non-conformances (together with other issues) add to the unacceptable bulk and density of the form at street level. All street setbacks should be compliant. All building setbacks should be compliant to maintain privacy, amenity and reduce overlooking and overshadowing.

Objectives of the zone

The site is zoned SP3 Tourism. The objectives of the zone are as follows:

- *To provide for a variety of tourist-oriented development and related uses.*
- *To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.*
- *To protect and enhance the natural environment for tourist and recreational purposes.*

In this circumstance, the proposed five storey mixed use development comprising 91 residential apartments is not consistent with the objectives of the zone which principally aims to facilitate tourism related activities and short-term holiday accommodation rather than long term housing opportunities.

The proposed development incorporates a far greater percentage (93% / 91 units) of residential dwellings in lieu of what could be holiday / short term rental accommodation. The proposal merely provides 7.5%/7 serviced short term accommodation units. This quantum of the development does not facilitate the desired outcome for the zone nor address the key objectives of tourism-oriented development.

Zone objectives

Subclause 2.3(2) of the CCLEP 2022 requires the consent authority to have regard for the objectives for development in a zone when determining a development application.

The objectives of the SP3 Tourism zone are as follows:

- To provide for a variety of tourist-oriented development and related uses.
- To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.
- To protect and enhance the natural environment for tourist and recreational purposes.

The proposal is considered inconsistent with the objectives of the SP3 Tourist zone, which is primarily intended to provide for a variety of tourist-oriented development and related uses, such as residential shop top buildings, food and drink premises, and dwelling houses. The zone aims to encourage tourism while ensuring that development is compatible with environmental considerations and existing or intended special uses.

Development in SP3 zones typically involves specific controls regarding setbacks, communal open space, planting requirements, and waste management to ensure compatibility with the surrounding environment and amenity. Importantly, the primary objective of the SP3 Tourist zone is to facilitate a range of tourist-related activities and associated developments. While focused on tourism, dwelling houses are often permissible with consent, though specific controls aim to ensure their compatibility with higher-density tourist uses and neighbouring properties.

Whilst it is acknowledged that the proposal includes much needed residential housing, the zone objectives intention is for tourist-oriented development and accommodation and furthermore to limit permanent accommodation to ensure economic viability.

Whilst it is acknowledged that the proposed development seeks to activate the foreshore by providing tourist-oriented development, the scale of the ground floor commercial floor area and resulting car parking deficiency will place additional on-street parking demand on the surrounding street network, and, the appropriate studies have not been undertaken, in terms of contamination and acid sulfate soils to satisfy the consent authority that the natural environment will be protected.

Furthermore, the proposed development will result in poor amenity for future residents of the proposed development. It is not considered that the proposed development displays best practice in the design and will not enhance the residential amenity of the surrounding development as it does not have regard to the physical, spatial, and environmental quality of the surrounding development, including maintaining visual privacy between adjoining properties.

The Panel is advised that the proposed development fails to satisfy the objectives of the SP3 Tourist zone and is recommended for refusal.

- ***The concurrence of the Planning Secretary has been obtained (clause (4)(b)).***

It is understood that the concurrence of the Planning Secretary can be assumed in the current circumstances.

The concurrence of the Secretary can be assumed in accordance with *Planning Circular PS 18-003*. It is considered inappropriate to exercise the flexibility provided by Clause 4.6 in the circumstances of this application. Having regard for the written request provided by Think Planners, and the above assessment, the proposed development is considered to not satisfy the requirements of clause 4.6 and will not achieve an appropriate built form outcome within the immediate neighbourhood and surrounding locality.

- ***In deciding whether to grant concurrence, the Secretary must consider—***
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and***
 - (b) the public benefit of maintaining the development standard, and***
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence (Clause 4.6(5)).***

The applicant states:

As addressed, it is understood the concurrence of the Planning Secretary may be assumed in this circumstance, however the following points are made in relation to this clause:

- a) *The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal;*
- a) *There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the building height control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality.*

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances, specifically in relation to flooding impacts.

The proposal will not have any adverse effect on the surrounding locality, which is envisioned to be characterised by residential development of comparable height and form.

The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed.

The objection is well founded and considering the absence of adverse environmental, social or economic impacts, it is requested that Council support the development proposal...

Comment: The contravention raises no matters of State or regional significance. However, at a localized level the parts of the buildings which exceed the 16 metre height development standard do not maintain a positive development outcome and results in impacts on the privacy or solar access of surrounding properties. The proposal does not offer improved outcomes for and from the development.

The departure from the height standard will further set an undesirable precedent for future development and the development is an incompatible form of development that results in unreasonable environmental amenity impacts. There is no public benefit in departing from the development standard. The public benefit of the variation will not facilitate a superior outcome to that previously approved on adjacent land.

No other matters are required to be taken into consideration by the Planning Secretary.

Summary

In this circumstance, it is considered the requested departure to the development standard for height is unjustified and unreasonable and has not been based on sufficient environmental planning grounds.

In this instance:

- The proposed height variation is not distributed across the whole site rather across level 4 which exceeds the building height plane.
- The proposal is not a suitable fit for the site and surrounds. Development should minimise disruption to views and not result in a loss of privacy and loss of sunlight to existing adjoining properties, as well as provide adequate internal amenity within the development.
- The development's character and architectural language does not demonstrate a consistent representation to all frontages, respect the streetscape character, or enhance this pocket of Canton Beach foreshore.
- There is no substantial landscaping, including mature trees, which could establish a highly landscaped garden setting and provide future corridor opportunities for fauna and birdlife habitat to flourish.
- The development does not comfortably fit within the envelope.

- A more generous and diverse apartment mix should be considered which would result in a superior density. Note: a portion of housing could also be provided as affordable rental housing which is needed within this locality.
- The height departure will result in environmental impacts to neighbouring development.
- The height that exceeds the development standard is discernible as viewed from the public domain and will contribute to additional bulk, scale, or density of the building.
- The proposal will result in unacceptable overshadowing impacts to adjoining properties (the impacts that do occur are not what are anticipated by Council's controls) as well as compromise the internal amenity of the apartments within the development. The shadows caused from the non-compliant built form will cause material adverse impacts as the building has not been designed to respond to the existing and future built form character of the area.
- Additional height will contribute to excessive bulk and the built form reads as an inappropriate solution to the topography.

The Panel, as the consent authority, cannot be satisfied the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard (*RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130).

Clause 5.21 Flood Planning

The site is located within the Northern Lakes Overland Flow (NL-OF) Catchment and Council's records indicate that the site is affected by flooding and/or minimum floor level requirements. Both the site and Beach Parade (for the extent of the street block on which the site is located) are above the Tuggerah Lakes Flood levels (including the PMF).

The site is identified as within the mapped flood planning area (Precinct 3 Flood Storage, Precinct 2 Flood Planning Area, and Precinct 1 PMF) across the majority of 1-7 Kantara Road and 1-5 Crossingham Street, with Precinct 4: High Hazard pockets across 1-3 Crossingham Street.

The site is impacted in even minor storm/flood events by an overland flow path and low points/ponding across the north-eastern $\frac{3}{4}$ of the site (i.e., across 1-3 Crossingham Street and 1 Kantara Road and the front of 3-7 Kantara Rd), as follows:

- *20% AEP* – RL 3.89m AHD; overland flow ~0.3m deep with 0.6m deep ponding
- *5% AEP* – RL 3.92m AHD; overland flow ~0.4m deep with 0.65m deep ponding
- *1% AEP* – RL 3.95m AHD; overland flow ~0.5m deep with ~0.7m deep ponding; H1 and H2 Hazard across most of flood impacted area, with pockets of H3 across 1-3 Crossingham St; safe evacuation from the site is available via multiple routes (to the north and/or east).
- *PMF* – RL 4.3m AHD; overland flow ~0.65m deep with ~1.0m deep ponding; H3 Hazard across most of flood impacted area; safe evacuation and/or emergency access

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)

(maximum H2 Hazard) from the site is available to the north via Kantara Road, Crossingham Street then either Holmes Ave or Victoria Ave through to Main Road, Toukley.



Figure 48: Flood planning map of the site

In accordance with clause 5.21(2) development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) *is compatible with the flood function and behaviour on the land, and*
- (b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

The consent authority must also consider the following in deciding whether to grant development consent in accordance with clause 5.21(3):

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

The development can comply with the provisions of clause 5.21 having regard for the flood behaviour, and safe evacuation would be available from the site and in this regard, risk to life could be adequately managed.

Section 3.1 of the Central Coast DCP 2022 provides the floodplain management related controls for the LGA. The DCP sets the Flood Planning Level at the maximum 1% AEP flood level plus 0.5 metres freeboard, and all habitable floors must be at this level at a minimum. Non-habitable floor levels must be above the 5% AEP flood level.

The Flood Impact Assessment for 9 and 10 Beach Parade, 1-5 Crossingham Street and 1-7 Kantara Road, Canton Beach has been reviewed for the purpose of the Floodplain Management Assessment. WaterRIDE has identified the site is partially located within a low point across Canton Beach, spanning across most of Kantara Rd and Wallis Avenue (and all properties surrounding).

This area is also mapped in Council GIS Mapping as having a Beach soil profile (i.e., sandy soils). Any trapped low spots / ponds across this area will infiltrate into the underlying sandy soils, with excess overland flows exiting the area via 18-20 Beach Parade (i.e., the Waterfront Tourist Park, approximately. 160 metres south of the site), across Beach Parade to Tuggerah Lake.

The site is impacted in even minor storm/flood events by an overland flow path and low points/ponding across the north-eastern 75% of the site (i.e., across 1-3 Crossingham Street and 1 Kantara Road and the front of 3-7 Kantara Road).

The Flood Impact Assessment (FIA) and Drainage and Civil Works Plans include modelling and ground-truthing (i.e., road/drainage invert survey levels, checks on approved nearby developments, adjustments where drainage infrastructure changes). The recommended Flood Planning Level (FPL) of RL 4.42m AHD, is based on the existing max. 1% AEP level of RL 3.92m AHD plus 0.5m freeboard, noting the proposal has been set above this at RL 4.5m AHD (for basement entry and minimum habitable floor levels).

A Shelter in Place strategy has been proposed for all events, due to the flash-flooding nature of the floodwaters in these events (i.e., no warning, quick to occur, but short-lived (~30min – 1hr)) making this the safest option and resulting in a minimal isolation period.

The TUFLOW models demonstrate the proposed flood mitigation measures result in a generally negligible impact of the proposal including a minor increase (less than 0.01 metres) across the adjacent 5-8 Beach Parade site (DA/2017/A). It is noted that the modelling does not appear to accurately reflect the approved 5-8 Beach Parade development, which has built-up paths and retaining walls along the eastern side of the new proposed structure; the flood increase on this site will be trapped/bounded by these walls and should easily infiltrate into the deep soil zone across this trapped/bounded area of that site.

Floodplain Management

There are minor increases in flood level on the road reserve on Beach Parade, Crossingham Street and Kantara Road during the 1% and 5% AEP events. As these increases will not affect vehicle access or change the Flood Hazard Categorisation of the area they are deemed acceptable. Further, it is considered that there could be a negligible difference between existing conditions and post development conditions including climate change.

The proposed flood mitigation measures are:

- Duplication of the 750 mm diameter trunk drainage line under Crossingham Street between 3 Crossingham Street and Beach Parade.
- New drainage within the site along Crossingham Street and Kantara Road.
- An overland flow path diverting flows from Kantara Road, through the southern boundary of the site, to Beach Parade.

Any buildings proposed on the land would be required to be constructed of flood compatible materials capable of withstanding the hydrostatic forces of floodwater and immersion up to the flood planning level (FPL) level. The overland flowpath at the southern boundary of the property would also be required to have a positive covenant which prohibits any buildings, recreation or storage within this area.

The Flood Emergency Response plan for the site states that the development is appropriate due to the short duration flood event and the basement carpark crest level meets the requirement.

The proposed RL 4.5m AHD basement entry and minimum habitable floor levels provide 550mm freeboard above the 1% AEP flood event and 200mm freeboard above the PMF event impacting the site, hence satisfy the CCLEP and CCDCP requirements to minimise risk to life and property. The Panel can be satisfied the provisions of clause 5.21 would be satisfied.

Clause 7.1 Acid Sulfate Soils

The site is mapped as Class 3 (south-west half) and Class 4 (north-east half) acid sulfate soils on Council's Acid Works Sulphate Soils Planning Map and is within 37 metres and 110 metres of Class 2 (Tuggerah Lake Foreshore) and Class 1 (Tuggerah Lake) mapped lands, respectively.

The sampling design does not represent the current conditions of the site and is unable to make an accurate determination without sampling to the proposed maximum depth of 9 metres. Any future development application must provide sampling data, methodology and findings to prove that the sampling design does not represent the current conditions of the site and is unable to make an accurate determination without sampling to the proposed maximum depth of 9 metres.

Due to the extent of cut proposed across the development site, any future development application is to be accompanied by a detailed civil Bulk Earthworks / Cut and Fill Plan with detailed estimated Cut, Fill, and Balance volumes shown.

A Demolition and Construction Waste Management Plan would also be required which matches the volume estimates shown in the Cut and Fill Plan: detailing the total estimated spoil during construction, total volume proposed to be re-used onsite as fill, and total balance expected to be exported off-site and the proposed disposal location of this spoil balance.

Accordingly, the Panel, as the consent authority, cannot be satisfied that the proposed development is consistent with the requirements of clause 7.1 as an acid sulfate soils management plan is required in this instance.

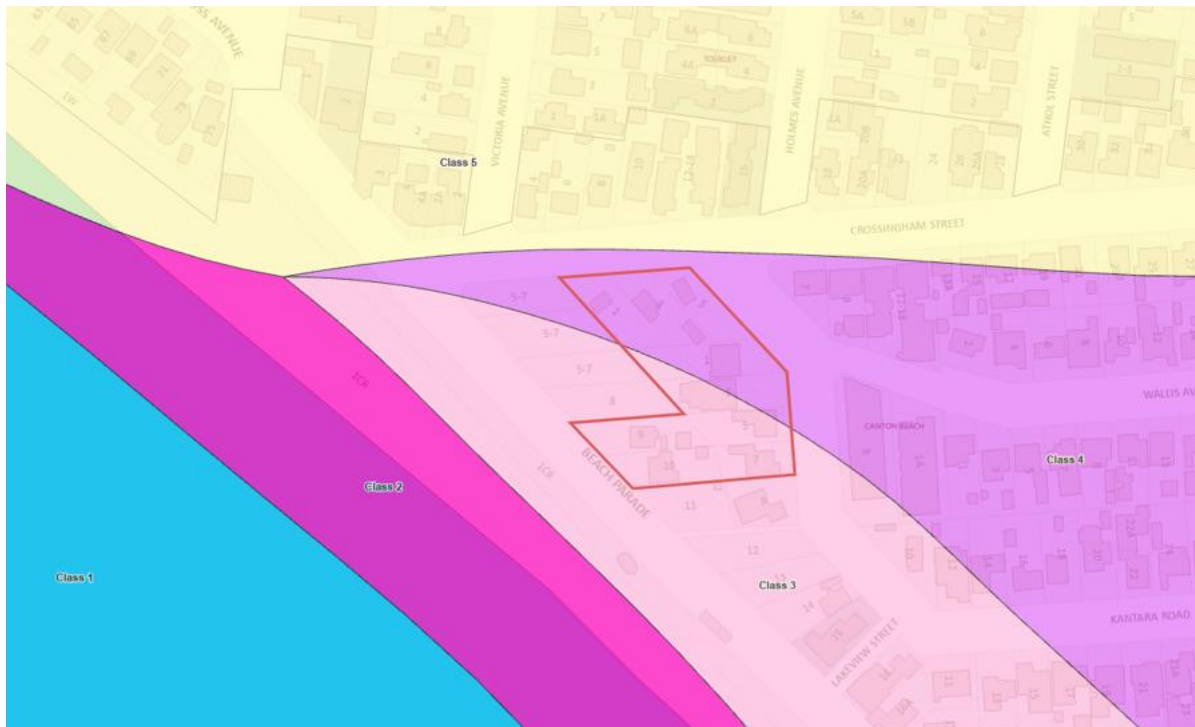


Figure 49: Map of Acid Sulfate Soil at the site and surrounds

Clause 7.6 Essential Services

In accordance with clause 7.6, development consent must not be granted to development unless the consent authority is satisfied that all of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access,*
- (f) the collection and management of waste.*

The BASIX Certificate details no rainwater re-use / rainwater tanks which is required. A detailed roof stormwater design has not yet been developed, however roof run-off calculations were undertaken and accounted for in the scheduled internal pit and pipe network design. It is assumed run-off collected via the RWOs through the exposed impervious Atrium areas, and Basement Pump-Out Rising Main discharge, have been accounted for in a similar manner. The development will directly connect into Council's underground pipe system to prevent the requirement for OSD for the proposal.

The existing lots are connected to Council's reticulated water supply and sewerage drainage infrastructure. All redundant water connections/metres and sewer junctions would be required to be removed during the development works.

The existing 150mm UPVC sewer main and associated manhole along the Beach Parade frontage/setback of the site is not accurately identified on the plans. The footprint should have regard for Council's Building in Proximity to Water and Sewer Pipelines Procedure which outlines minimum clearances from the outside face of the basement wall to the existing sewer infrastructure which is 1.5 metres from the outside edge of the manhole and 900mm from the outside face of the sewer main.

Regardless of the existing flow and pressure in the area, upgrade of the 100mm water main along Beach Parade (and across the intersection with Crossingham Street) to a 150mm main is required. The location of the proposed electrical substation in the north-west corner of 1 Crossingham Street is considered reasonable.

Having regard for the above, insufficient information has been provided in relation to stormwater and on-site conservation, or suitable vehicular access, in accordance with clause 7.6.

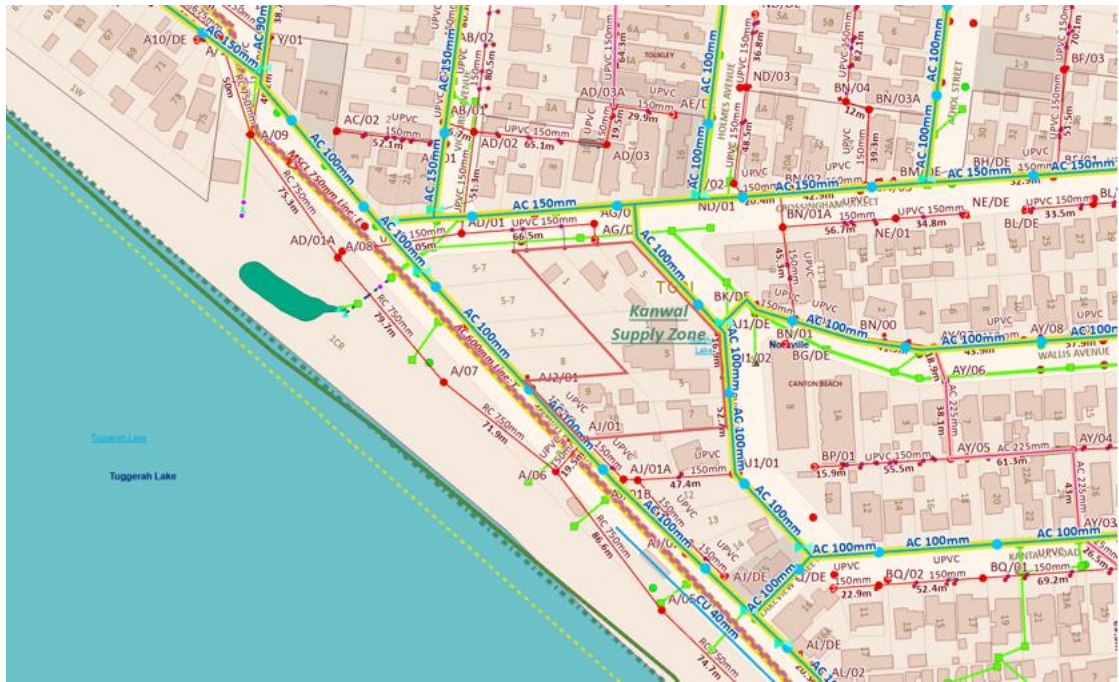


Figure 50: Utilities Map (water, sewer, drainage, Ausgrid)

Section 4.15(1)(a)(ii) – The provisions of any proposed Instrument

There are no draft instruments for consideration in this regard.

Section 4.15(1)(a)(iii) – The provisions of any Development Control Plan

The following application is considered under the remit of the Central Coast Development Control Plan 2022 (CCDCP) with an assessment provided below.

Central Coast Development Control Plan

The following Chapters of CCDCP 2022 are relevant to this application:

Chapter 1.2: Notification of Development Proposals

The application was exhibited between 10 November 2023 and 1 December 2023. The Panel is advised that two submissions were received which raised concern in relation to:

- increased traffic, impacting emergency services accessing the site;
- inappropriate height and overdevelopment of the site which is situated within a predominantly single and two storey environment;
- impact upon solar access to neighbours; and
- Beach Parade is an inappropriate point of access to a high rise development; and
- Increased road congestion on Kantara Road from recent new development.

The above issues have been considered in the assessment. Although, a development greater than two storey is permissible in the zone; the proposal does not comply with the planning controls to mitigate impact to neighbouring development and is not supported in its current form, as discussed within in this report.

Chapter 2.3 Residential Flat Buildings and Shop Top Housing

Chapter 2.3 of CCDCP 2022 applies to the proposed residential apartments component of the development. However, there are several requirements under CCDCP 2022 that are relevant to the proposal but superseded by similar controls within the ADG. The following CCDCP 2022 requirements are relevant to the proposal and are not provided within the ADG:

Part 2.3.3.1 - Building Height

The site is subject to the Height of Building Map under CCLEP 2022, permitting an overall building height of 16m. The objectives are as follows:

- *To ensure that buildings are compatible with the existing and desired future character of the locality*
- *To ensure that the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy, and views*
- *To ensure that building height is not visually obtrusive, is compatible with the scenic qualities of hillside and ridgetop locations and respects the sites natural topography.*

As discussed above, the proposed development seeks consent for a variation to the development standard for height which is not supported.

The proposed built form results in impacts to adjoining properties in terms of visual bulk, access to sunlight, privacy, and views and is not considered compatible with the existing and desired future character of the locality.

Part 2.3.3.3 Natural Landscape Area

Part 2.3.3.3 requires that a minimum 25% of site area at ground level shall be 'soft' landscaping, excluding all hardstand areas. Open space and setback areas may be included in this calculation only where these do not include hardstand surfaces. The objectives are as follows:

- *To provide an area on site that enables soft landscaping and deep soil planting considered appropriate for the Central Coast*
- *To provide a pleasant outlook*

- *To provide areas on site that permit stormwater infiltration*

Communal open space (1668.1m²) at ground and rooftop area is comprised of barbeque with seating, open lawns, children's play areas, roof top gardens. Deep soil zones (815m²) proposed includes roof top level which should be discounted.

A minimum 50% of the required soft landscaped area of the site at ground level shall be a deep soil zone. This may be achieved by optimising the retention provision of consolidated deep soil zones within a site by the design of basement and sub-basement car parking, so as not to fully cover the site; ii the use of front and side setbacks for deep soil planting. It is recommended that the extent of deep soil zones is beyond the site boundaries by locating them contiguous with the deep soil zones of adjoining properties.

Deep soil zones are areas of soil not covered by buildings or structures within a development. They exclude basement car parks, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways, and roof areas.

Part 2.3.4 1 Setbacks for Residential Flat Buildings – 3 Storeys or more

Part 2.4.3.1 requires a 6m front setback for residential flat buildings 3 storeys or above. The objectives of this Part are as follows:

- *To maintain and enhance existing streetscapes*
- *To provide adequate privacy and solar access of adjacent properties*
- *Provide visual and acoustic privacy*

A 4.9 metre street setback to Beach Parade and a 5.7 metre setback is proposed on Kantara Road. These setback non-conformances (together with other issues) add to the unacceptable bulk and density of the form at street level. All street setbacks should be compliant to protect streetscape character and mitigate environmental impacts.

The applicant has not provided suitable justification for the proposed variations to Council's DCP required 6 metre setback. The setbacks should comply with the prescribed distances. The design has excessive built form (height, bulk, and scale), building depth and inadequate building separation and setbacks which are required to maintain privacy, amenity, reduce overlooking and overshadowing.

Part 2.3.5.1 Facades and Articulation

Part 2.3.5.1 requires that:

- *Facades are to be articulated in length and height. Monotonous and unbroken lengths of wall exceeding 10 metres in length and 3 metres in height shall not be permitted. In*

development of two or more storeys, physical design elements shall be used to provide visual interest to the building.

- *For mixed use development, residential apartments are to be separated and distinguished from commercial entries to provide security and an identifiable street address for each of the different users.*
- *Shop-top housing development should be setback from the front street boundary and buffered from the street by providing a balcony or similar.*

The proposed development does not provide for articulated and modulated facades using balconies, glazing and a mix of materials and finishes. This is discussed above in the ADG table.

Part 2.3.6.1 Views

Part 2.3.6.1 requires that new development is designed to minimise view loss. In this circumstance, views are from adjoining properties of the public foreshore and Tuggerah Lake. The proposed development may hinder the level of view enjoyed by properties to the east and north. Having regard to the NSW Land and Environment Court's view sharing principle of the *Tenacity v Warringah Council [2004] NSWLEC 140* (Tenacity) which adopts the proposition that sitting views are more difficult to protect than standing views, the impact on appreciation of a public domain view should not be subject to any eye height constraint. A public domain view is one that is for the enjoyment of the whole population, old or young and whether able-bodied or less mobile.

Matters taken into consideration in relation to the maintenance, protection and enhancement of views are that development should maintain, protect, and enhance views (including night views), furthermore development should minimise any adverse impacts on views and vistas to and from public places and landmarks. In principle, the cumulative impact of development on views should be minimised.

It is accepted that the SP3 Tourist zone permissible height and FSR for a future development could be supportable with a compliant built form, and, that there would likely be some level view enjoyment impacted. However, a development which complies with planning controls such as building separation and setbacks from boundaries would better maintain view line corridors through the site to mitigate the % of view loss.

Part 2.3.8 Earthworks

The Architectural Plan Sections detail significant cut: 6.3 metres to 8 metres below natural ground level (NGL) and further minor retained cut and fill across the site to support pathways, driveways, and overland flows paths. The proposal estimates an excavated material generation of 70m³, to be re-used on site with nil disposal.

Given the proposed basement excavation is within close proximity to Kantara Road, Crossingham Street, and Beach Parade, ground anchors are proposed, and should not protrude into any adjacent road reserves. There are no details to satisfy the consent authority that all works will be within the property boundaries of the subject properties.

A civil Bulk Earthworks / Cut and Fill Plan with detailed estimated Cut, Fill, and Balance volumes has not been provided.

Furthermore, a Spoil Disposal Demolition and Construction Waste Management Plan has not been provided to accurately match the volume estimates shown in the Cut and Fill Plan, and, detailing the total estimated spoil during construction, total volume proposed to be re-used onsite as fill, total balance expected to be exported off-site and the proposed disposal location of this spoil balance.

Part 2.3.10.2 Stormwater Management

Inadequate details have been provided to address drainage and stormwater management. The BASIX Certificate details no rainwater re-use / RWT which is required. A detailed roof stormwater design has not yet been developed.

Any alteration and/or addition to Council's trunk and/or longitudinal street drainage systems will only be supported by Council where an adequate Hydraulic Analysis has been conducted on the system and provided to Council, to demonstrate:

- The existing system(s) has sufficient capacity to convey the additional stormwater flows.
- The Pre-vs-Post-Development impact on the existing systems, both upstream and downstream; Hydraulic Grade Lines (HGLs) are to be provided for both the pre-developed and post-developed scenarios to demonstrate these impacts.
- The proposed works will not have any adverse impacts on the performance of the Council drainage system(s) as a whole (including surcharging or backlogging).

The applicant has previously been advised that Council's asset system does not detail the discharge connection for the Beach Parade pipe culvert to the south of the site to which the proposal is seeking to connect; further investigation of this line is required to be undertaken to determine where this pipe connects/discharges to, to enable proper consideration of the capacity of the existing system.

Without further detail provided the Panel cannot be satisfied that the proposed development can provide adequate stormwater arrangements and on-site conservation.

Chapter 2.13 Transport and Parking

The retail and commercial parking provision falls short of the total requirement. Section 2.13.3.11 allows for large-scale multi-use developments; dual and complementary uses of parking areas warranting a reduction in the cumulative parking allowance for the proposal, where this is identified within the Traffic Impact Assessment (TIA) and specific details for justification for the discount are provided.

Two (2) levels of basement parking comprising 195 spaces (19 accessible spaces) comprised of 112 residential parking spaces (including 6 for serviced apartments and 1 for staff), 20 visitor parking spaces, 63 commercial parking spaces (10 for staff), 6 lifts and 6 stairwells per basement level, one shared Car Wash Bay, 53 bicycle spaces and 4 motorbike spaces. All basement level 2 residential and/or residential visitor parking are separated from the retail parking areas by boom gates and ramps.

The proposed development does not provide enough retail/commercial parking spaces and falls short of the parking requirement by two spaces. The TIA states that the provision is deemed acceptable because the proposed development is a mixed-use development comprising a mix of residents and tourists.

The TIA argues that patronage of the 'on-site' retail activities will be predominantly from residents who would not be reliant upon vehicles therefore the number of commercial spaces required has not been provided. Council does not support the reliance of the on street parking to cater to any overflow.

In this instance, adequate information has not been provided to assess the engineering components of the design including however not limited to:

- AS2890.1 Access Facility Compliance, Ramp and Gradient Compliance, Swept Path Manoeuvrability.
- AS2890.6 Cl. 2.7 Accessible Parking Headroom Compliance – confirmation is required that the "stepped-down" ceiling areas along the outside edges of Basement Level 1 (as detailed within Architectural Section B-B as having a headroom of 2.2 metres through these areas) are not above any accessible parking spaces, where a minimum headroom required is 2.5 metres.
- AS2890.3 Cl. 2.6.4 Bicycle Parking.
- It is noted that the Access Sight Distance Assessment of TIA Attachment 2 is incorrect. The assessment should demonstrate adequate sight distance along the frontage road from the proposed property access and in accordance with AS2890.1 Table 3.1, the driveway comprises a Class 3 Access Facility, which requires a minimum 6 metre entry width and a 4 metre to 6 metre exit width, and a 1metre to 3 metre separation between the driveways.

Regarding the traffic network and expected trip generation, the residential component of the development has been calculated at resulting in 18 vtpd during morning peak (7am -9am) and 14 vtpd during evening peak (4pm -6pm).

For the 6 serviced apartments, the RMS Guide to Traffic Generating Developments provides an indicative peak traffic generation rate of 0.4 vtpd per unit of motel. On this basis, the expected trip rate is 3 vtpd in both the morning and evening peak period.

The specialty retail traffic generation is estimated as 5 vtpd whilst the proposed 446.1m² restaurant generates 22 vtpd and gymnasium would contribute to 53 vtpd in morning peak and 49 vtpd in the evening. It is considered that the anticipated level of traffic generation will not have a significant impact on the surrounding road network.

The development has not considered the provision of Electric Vehicle (EV) charging bays. Charging bays should be provided in accordance with Austroads Guidelines for Low and Zero Emission Vehicle Charging Infrastructure Installation.

Part 2.13.3.8.1 Bicycle Parking Rates

53 bicycle parking spaces (28 resident/staff bike racks, 25 visitor bike racks), 4 motorcycle parking spaces are proposed.

The bicycle parking areas, on the lower basement level, do not comply with the AS2890.3, clause 2.6.4 requirement for any bicycle parking facilities within basement structures to be within one level of the street access points into the development. This is required to enhance cyclist safety and minimise the potential for vehicular / cyclist conflicts on ramps. It must be demonstrated that any cyclists required to stop at boom gates etc., to either enter and/or exit the basement areas with bicycle parking available, will not be required to stop on an incline exceeding 5% and must be on a non-skid surface treatment.

It is noted CCDCP parking "Requirements" detailed in the TIA (Tables 4-1 and 4-2) do not align with the CCDCP Chapter 2.13, Section 2.13.3.2 rates, for Shop-Top Housing. The TIA provides a calculation which is combination of the CCDCP and RMSGTGD rates.

Chapter 2.14 – Site Waste Management

Clause 2.14.2.1 requires a waste management plan (WMP) to be submitted with all development applications requiring consent, including residential development. A suitable waste management plan should be submitted which includes details in relation to demolition/site preparation, construction and the ongoing waste management of the development.

The proposed development fails to comply with the performance requirements of Part 2.14.2 and is recommended for refusal on this basis as no Waste Management Plan has been submitted for the construction stage of this development.

It is noted that the Operational Management Plan states all deliveries are to occur via the Loading Dock/Bay and managed by the appointed Property Management Company. The Dock Management Plan and the Operational Waste Management Plan (OWMP) notes all waste is to be moved by Building Management, from the waste storage rooms through the site to the Commercial and Residential Waste Collection Holding Area (along the side of the HRV Parking / Loading Bay) for collection.

Chapter 2.7 - Tourism Development

The purpose of this chapter is to provide appropriate and relevant requirements for the orderly development of various defined and generally small-scale tourist accommodation forms and specifies Council's requirements relating to individual sites. It aims to provide assistance to people interested in establishing small-scale tourist accommodation premises, to ensure that the standard of accommodation is attractive to visitors and enhances the reputation of the Central Coast as a tourist destination, while also protecting the amenity of adjacent residents.

2.7.7 Serviced Apartments

A serviced apartment is defined in Central Coast LEP 2022 as follows:

serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

Note—

Serviced apartments are a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

Requirements

- a Clause 1.9 (2A) of Central Coast LEP 2022 states that "State Environmental Planning Policy (SEPP) No. 65 – Design Quality for Residential Apartment Development applies in the same way that it applies to residential flat buildings to the following land uses - Boarding houses; Serviced apartments". Information submitted with any development application must consider the SEPP and associated Apartment Design Guide.*
- b In addition to the consideration of SEPP No.65, proposals for serviced apartments are to consider the relevant provisions of this DCP including but not limited to Transport and Parking, Floodplain and Coastal Management.*

- c *Car parking will be required on-site for guests and permanent residents at the rate as specified in Chapter 2.13 Transport and Parking.*

The car parking shall be designed and constructed in accordance with Council's construction and development standards.

Of the 112 residential spaces, the proposal includes 6 spaces for the serviced apartments.

The whole development is proposed to be serviced by providing 10 staff spaces which is not considered reasonable.

There is also a shortfall of the parking required for retail/ commercial and furthermore, it is reasonable to expect that for the serviced apartments that the staff parking space allocation would exceed one space for cleaners and ancillary staff to service the units through the vacation season.

Chapter 3.1 Floodplain Management and Water Cycle Management

Any future building is required to be constructed of flood compatible materials capable of withstanding the hydrostatic forces of floodwater and immersion up to the flood planning level (FPL).

There are minor increases in flood level on the road reserve on Beach Parade, Crossingham Street and Kantara Road during the 1% and 5% AEP events. As these increases will not affect vehicle access or change the Flood Hazard Categorisation of the area, the proposal is considered acceptable with regard to flooding. There is also a negligible difference between existing conditions and post development conditions including climate change.

The proposed flood mitigation measures include:

- Duplication of the 750 mm diameter trunk drainage line under Crossingham Street between 3 Crossingham Street and Beach Parade.
- New drainage within the site along Crossingham Street and Kantara Road.
- An overland flow path diverting flows from Kantara Road, through the southern boundary of the site, to Beach Parade.

The overland flowpath at the southern boundary of the property would also be required to have a positive covenant which prohibits any buildings, recreation, or storage within this area.

The Flood Emergency Response plan for the site states that the development is appropriate due to the short duration flood event and the basement carpark crest level meets the relevant requirements.

Chapter 3.5: Tree and Vegetation Management

63 trees were assessment on the site, 62 trees are proposed to be cleared. Insufficient information has been provided in relation to the removal and replacement of trees on the site. Further, street tree removal of Trees T43 and T44 (proposed in the Preliminary Tree Impact Assessment for retention) are within close proximity to a proposed drainage line immediately inside the property boundary. The Monaco Designs assessment did not adequately assess whether the eight identified "very high retention value" trees should be retained.

Section 4.15(1)(a)(iiia) – Planning Agreements under Section 4.7 of the EP&A ACT

There are no planning agreements or draft planning agreements entered or proposed for the site.

Section 4.15(1)(a)(iv) – Provisions of Regulation

Environmental Planning and Assessment Regulations 2021

The *Environmental Planning and Assessment Regulation 2021* applies to all development applications regarding such items as compulsory contributions, notification of development applications and a range of many other details regarding development application requirements.

A development application is required to be accompanied by the written consent of the owner of the land to which a development application relates in accordance with Section 23(1) of the EP&A Regulation. Whilst owner's consent was obtained from the land owners of the subject properties, owners consent for ground anchor impacts was not provided.

The Geotechnical Site Investigation Report details the possible use of temporary and/or permanent ground anchors to support the basement walls during construction and/or ongoing. Owner's Consent(s) for all properties impacted by proposed development works are required to be provided to the Consent Authority prior to the issue of any consent for those works. Consequently, detailed Basement Structural Engineering Plans would need to be provided to detail the actual required temporary and/or permanent anchors needed and clearly demonstrate which neighbouring properties will be impacted, so that all appropriate Owner's Consent(s) may be obtained to enable the issue of any consent for the proposal.

In accordance with Section 27 of the Regulation, the application was accompanied by a BASIX certificate. The BASIX Certificate does not adequately satisfy the requirements of SEPP BASIX.

The application is accompanied by a revised Design Verification Statement prepared by Team 2 Architects, dated 29 September 2023, as required by Section 29 of the EP&A Regulation 2021, however, the statement provided by Team 2 Architects does not provide a detailed response to the design principles nor address Parts 3 and 4 of the ADG. The submitted statement fails to comply with the provisions of Section 29 of the EP&A Regulation 2021.

Under section 35B(2), the development application is accompanied by a written document that sets out the grounds on which the applicant seeks to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify the contravention of the development standard. Whilst a written document has been provided, it is considered the Panel cannot reach a state of satisfaction in relation to the proposed contravention.

Furthermore, as previously discussed in the report, the applicant submitted amended plans after a recommendation for withdrawal. In accordance with Section 38 of the EP&A Regulations 2021, Council did not accept the amended plans. Council requested the application be withdrawn due to the number of non-compliances and inaccurate and insufficient information which prevents Council from accurately assessing the impacts of the proposed development and compliance with the relevant planning controls.

There are no other specific sections that warrant further discussion.

Section 4.15(1)(b) – Likely Impacts of the development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to the SEPPs, ADG, CCLEP and CCDCP 2022 controls outlined above and below.

Built Environment, Context and Setting

An assessment of the impacts of the proposed development on the built environment has been undertaken in terms of ADG, Housing SEPP, CCLEP 2022 and CCDCP 2022. The proposal fails to comply with a number of planning controls and objectives outlined within the relevant plans and policies.

Natural Environment

The subject site does not contain any threatened species or habitat although does contain 63 trees. 62 trees are proposed for removal. Eight trees of high to very high value are proposed for removal. These trees are in very close proximity to the development footprint and essential services. The arboricultural assessment was inadequate and did not ensure protection of these trees.

Insufficient information has been provided to demonstrate there will be no impact to the environment via disturbance to Acid Sulfate Soils, potential land contamination, or stormwater discharge. The proposal is not satisfactory in relation to impacts on the natural environment.

Social and Economic Impacts – Cumulative Impact

The site is zoned SP3 Tourist Zone. Shop top housing and food and drink premises are permissible with consent. The site and adjoining area is expected to undergo transitional change.

Managing cumulative impacts is a shared responsibility. In undertaking the cumulative impact assessment, the proponent should undertake engagement which may involve: identifying the key matters requiring cumulative impact assessment, collecting and sharing data; undertaking investigations and research; using common methods to predict impacts; agreeing on the assumptions to use in any assessment; collaborating on the analysis of results; identifying what actions can be taken to minimise cumulative impacts

Insufficient information has been provided to Council to demonstrate that suitable consideration has been given to the changing context of Canton Beach and the cumulative impacts of recent approvals with regards to traffic, transport, and parking on the local street network.

It is recommended a Social Impact Assessment (SIA) and an Economic Impact Assessment (EIA) would be required for any future development application of this scale. The incremental assessment approach involves adding the incremental impacts of the proposed project to the existing baseline condition of each relevant assessment matter (e.g. air quality, noise, water, biodiversity, heritage, traffic, employment). This allows the existing impacts of other projects to be considered in the assessment of the project and highlights the likely change to the baseline condition of each matter as a result of the project.

Where possible, the proponent should apply quantitative methods to assessing the relevant cumulative impacts. However, when this is not possible qualitative assessment methods may be applied or suitable sensitivity testing may be carried out for the potential cumulative impacts.

The proposed development is argued to contribute to the supply of housing in the locality and act as a catalyst to help stimulate redevelopment of the area which could on principle be considered appropriate from an economic perspective (if, and importantly if the development adheres to the basic state guided design criteria).

Traffic and Parking

The application has not provided sufficient information to demonstrate that the development has appropriately responded to the site constraints with regards to parking falling short of the numerical requirement of the CCDCP 2022.

Ecologically Sustainable Principles

The proposal has been assessed having regard to ecologically sustainable development principles and is inconsistent with the principles and will result in a decrease on the environmental quality for future generations. The proposed development is considered to not incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is likely to have adverse impacts on the environment.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the development application. The site is located within an area subject to flooding from overland flow rather than flooding from the lake.

This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood, and coastal erosion; as well as how the proposed development may cope, combat, withstand these potential impacts.

Sustainable building design: The residential part of the proposal could include better initiatives for energy and water efficiency under the submitted BASIX Certificate. Sustainability measures for the design of the ground floor tenancies could use better initiatives for lighting, glazing, insulation and construction materials which will also address acoustic impacts.

Reduced Car Dependence: Bicycle and motorcycle parking is provided. However, the development does not provide the bicycle parking in appropriate locations.

Section 4.15(1)(c) – Suitability of the Site

For the reasons identified in the above assessment and contained within Council's reasons for refusal, it is considered that the proposed development results in an overdevelopment of the site and that the site is not suitable for the scale of the mixed-use development proposed by this development application.

The site is ideally situated opposite the beach front, providing future residents with high quality amenity. More broadly, however, the site and its immediate surrounds is undergoing transition and includes other shop top housing developments that have been approved along Beach Parade. Despite this, it is not demonstrated that the generation of the additional parking for the commercial component of the proposed development will not result in

unreasonable traffic and parking impacts and congestion to Beach Parade and the surrounding street network.

A compliant development could seize the opportunity to provide social and tourist benefits to the area consistent with the objectives of the SP3 Zone.

The mixed-use development fails to satisfy:

- Part 2B Building Envelopes;
- Part 2C Building Height Central Coast LEP 2022 Clause 4.3 Maximum Building Height of 16 metres;
- Part 2E Building Depth required 12 metres to 18 metres;
- Part 2F Building Separation required 12 metres to 25 metres;
- Part 2G Street Setbacks required 6 metres;
- Part 2H Side and Rear Setbacks required 6 metres to 9 metres;
- Part 3F Visual Privacy Objective 3F1 and Objective 3F2;
- Part 4A Solar and Daylight Access Objective 4A1, Objective 4A2 and Objective 4A3;
- Part 4G Storage Objective 4G1; and
- Part 4M Facades Objective 4M2.

resulting in a design which is not an appropriate form and scale. The Panel cannot be satisfied that the development will not adversely impact on the amenity of the users and residents of Beach Parade, both existing and future intended. The site is therefore not suitable for the proposed development.

Section 4.15(1)(d) – Public Submissions

The application was notified in accordance with CCDCP 2022 – Chapter 1.2 Notification of Development Proposals between 10 November 2023 and 1 December 2023. Two submissions were received inclusive of a letter from David Harris MP, Member for Wyong. The issues raised in the submissions are discussed in the table below.

Summary of submissions	Response
Traffic - increased traffic impacting emergency services accessing the site and increased road congestion on Kantara Road from recent new development.	<p>Traffic impact has been considered in the assessment.</p> <p>The road network is comprised of:</p> <ul style="list-style-type: none"> • Central Coast Highway – a State Road and arterial route which runs through Noraville to the east connecting Gosford and Doyalson. • Main Road – a State Road and part of a sub-arterial route connecting between the Noraville and Warnervale. • Crossingham Street / Moss Avenue – a local road. • Evans Road/Wallis Avenue/Kantara Road – a local road.

Summary of submissions	Response
<p>Crossingham Street has one traffic lane in each direction and comprises kerbside parking lanes. Beach Parade has a single lane roadway with 45-degree angle parking on the western side.</p> <p>Council Traffic Engineer reviewed the estimated trip volume for the whole development. The total traffic generation estimated is 53vtph in the AM peak and 49vtph in the PM. This level of traffic generation would not have a significant impact on the surrounding road network.</p> <p>The development did not require concurrence from Transport for NSW as not identified as 'traffic generating development'. Notwithstanding this, the proposal does not comply with the planning controls to mitigate impact to neighbouring development and is not supported in its current form. Furthermore, numerical non-compliance with the required commercial and retail parking is proposed without adequate justification.</p> <p>Council does not encourage reliance upon on-street carparking. Any development this scale and type is expected to be fully comply with required road access and parking provisions.</p> <p>The recent development within the area was assessed and parking and traffic volumes considered reasonable.</p>	
<p>Overdevelopment -inappropriate height at a site which is situated within a predominantly single and two storey environment. The development will impact upon solar access to neighbours.</p>	<p>Agreed. The proposal does not comply with the maximum building height permitted which is part of a suite of planning controls to mitigate environmental impact. The proposal is not supported in its current form, and considered an overdevelopment, as discussed within in this report.</p>

Summary of submissions	Response
Street Access - Beach Parade is an inappropriate point of access to a high rise development.	Beach Parade is proposed as one of the points of entry. Council traffic engineer reviewed the site design for points of entry and egress. In principle, Council is not averse to access from this location.

Submissions from Public Authorities

Ausgrid

The application was referred to Ausgrid who have no objection to the proposal subject to consideration of the comments contained in their correspondence.

Internal Consultation

The following internal consultations were undertaken:

Development Engineer	Not supported
Tree Assessment Officer	Not Supported
Water and Sewer	Not Supported
Urban Design	Not Supported
Flood Engineer	Supported, subject to conditions
Waste	Not supported
Environmental Health	Not supported

Other Matters for Consideration:

Development Contribution Plan

Section 7.11 contributions for residential developments in the Toukley District are based on occupancy rates, not Estimated Development Cost. There are no contributions applicable under the Toukley and Shire Wide Section 7.11 Plans for the proposed short term tourist accommodation, nor the retail/commercial component of the proposal, however, they do apply to the residential component of the development. Contributions would be applicable if the application was supported.

Water and Sewer Contributions

Water and sewer contributions would be applicable to the development and Section 306 requirements under the *Water Management Act 2000* if the application was supported.

Section 4.15(1)(e) – Public Interest

The proposed development has failed to meet the minimum requirements of SEPP Resilience and Hazards in relation to consideration of land contamination and Council's LEP with regards to essential services and acid sulfate soils.

The proposal has not provided the minimum necessary requirements under the ADG pertaining to key design criteria including building separation, solar access, setbacks, façade treatment, building depths. Resulting envelopes will result in a mixed-use development with poor internal amenity, compromised privacy and solar access and impacts to neighbouring properties.

A development of this scale and typology should adhere to the planning controls and provide the stipulated parking required rather than rely on the street network to adopt the overflow which in this circumstance would relate to the commercial and retail part of the development.

Council considers that the public interest is maintained by upholding the integrity of the statutory provisions contained within the CCLEP 2022, Housing SEPP, Chapter 4 Design of Residential Apartment Development and on this basis, is recommended for refusal.

Conclusion

The proposed development has been assessed using the heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The application seeks approval for the construction of a mixed-use development and basement parking on the site. The contravention to the building height development standard as the applicant has not demonstrated the standard is unreasonable or unnecessary in the circumstances, nor have they provided sufficient environmental planning grounds to justify a contravention to the development standard. The other variations to planning controls are considered unreasonable and unacceptable in the circumstances.

The proposal does not demonstrate an appropriate scale in terms of bulk, height and building separation which if it did it would contribute positively to the desired future character of the area. Aside from the proposed variations, the development is inconsistent with the objectives of the controls for the site under the relevant SEPPs, CCLEP and CCDCP requirements.

It is generally considered the proposed development is not suitable for the site and will not represent a positive opportunity to provide additional tourist related retail and accommodation in the vicinity of the foreshore.

As set out in this report, the proposed development:

Reference: DA/1904/2023 – D16824656

4.1 **DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)**

Author: Emma Brown, Senior Development Planner. Employment and Urban Release
Manager: Emily Goodworth, Section Manager Employment and Urban Release
Executive: Andrew Roach, Unit Manager Development Assessment

Summary

An application has been received for a five storey mixed use development composed of two buildings (Site 1 and Site 2) comprising 91 residential apartments, six serviced apartments, nine retail tenancies, gymnasium, two levels of basement parking accessed from a double width vehicular cross-over, driveway and graded ramp on Kantara Road. Three pedestrian entrances are proposed on the Beach Parade, Kantara Road and Crossingham Street frontages. Communal open space (1010m²) provides deep soil zones (815m²). Sixty two trees are proposed to be cleared of which eight trees are rated as high value retention. No demolition or subdivision is proposed as part of this application.

The application has been examined having regard to the matters for consideration detailed in section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The application is required to be referred to the Local Planning Panel for determination in accordance with Schedule 2 (point 4(c) of the *Local Planning Panels Ministerial Directions* (dated 6 March 2024). The development seeks to vary the 16 metre development standard for maximum building height control permitted by Clause 4.3 of the Central Coast Local Environmental Plan 2022.

A Clause 4.6 written request seeking to vary the development standard has been submitted. Site 1 proposed height is 18.7 metres (16.2% variation) and Site 2 is 18.6 metres (16.8% variation). The lift overruns exceed the height limit by 2.9 metres (18.1% variation) and 3.8m (23.75% variation) respectively. The proposed FSR of 1.5:1 (9523.2m² GFA) includes an overall area/volume of non-compliant GFA on level 4 which protrudes above the allowable height plane. This equates to 1,797m² or 18% of the overall development.

The Clause 4.6 request has not demonstrated that the proposal in its current form is suitable for the site. The proposal is deemed an overdevelopment which will cause environmental impact. The design has excessive built form (height, bulk, and scale), building depth and inadequate building separation and setbacks which are required to maintain privacy, amenity, reduce overlooking and overshadowing.

Two public submissions by way of objection were received during the notification period of 23 November 2023 to 1 December 2023.

The application is recommended for refusal. The proposal is non-compliant with relevant SEPPs, Housing SEPP, Apartment Design Guide, and the provisions of the Central Coast

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)

Local Environmental Plan 2022 (CLEP 2022), Central Coast Development Control Plan 2022 (CDCP 2022).

Applicant	Universal Group Pty Ltd
Owner	Canton Shore Pty Ltd
Application No	DA/1904/2023
Description of Land	9,10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, CANTON BEACH, Lot 312 and Lot 313 DP755266, Lot 318 to 321 DP755266, Lot 315 to Lot 317 DP755266.
Proposed Development	Five storey mixed use development (Site 1 and Site 2) comprising 91 residential apartments, six serviced apartments, nine retail tenancies, gymnasium, two levels of basement parking accessed from a double width vehicular cross-over, driveway and graded ramp from Kantara Road, pedestrian entrances on Beach Parade, Kantara Road and Crossingham Street. Communal open space (1668.1m ²) at ground and rooftop and deep soil zones (815m ²). 62 trees cleared. No subdivision nor demolition.
Site Area	6349m ²
Zoning	SP3 Tourism
Existing Use	Nine single storey dwellings and detached ancillary development
Employment Generation	Yes
Estimated Value	\$88,360,897.56

Recommendation

- 1 That the Local Planning Panel refuse the application DA/1904/2023 at 9,10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, CANTON BEACH subject to the reasons for refusal detailed in this report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.***
- 2 That Council advise those who made a written submission of the Panel's decision.***
- 3 That Council advise AUSGRID of the decision.***

Key Issues

- Variation to the performance requirements of Clause 4.3 – Height of Buildings under the *Central Coast Local Environmental Plan 2022* (CCLEP 2022). The height exceedance is not considered consistent with the underlying intent of the control and

the variation is not considered appropriate in this circumstance, further coupled with the other ADG non-compliances.

The resulting built form is unacceptable outcome and will set an undesirable precedent. There are insufficient environmental planning grounds provided to justify a contravention to the development standard.

- Technical non-compliances with the requirements of the Apartment Design Guide (ADG) resulting in an overdevelopment of the site with unpalatable envelopes, density and built form (height, bulk, scale). The design has excessive building depth and inadequate building separation and setbacks which are required to maintain privacy, amenity and reduce overlooking and overshadowing.

The external appearance is not articulated; where composition should include vertical, horizontal, recessing, and protruding elements that vary the scale, materiality and colour to create visual interest. The resulting building form and scale fail the character test of Clause 4.6; the objectives of which are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development.

The request does not demonstrate that a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the circumstances of this application. As the request does not demonstrate a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the circumstances of this application, the request is not supported.

The proposal does not demonstrate that compliance with the height for the site which would not be unreasonable or unnecessary in the circumstances of this case, and there are not sufficient environmental planning grounds to justify the variation. Further, the proposal is not in the public interest because it is inconsistent with the objectives of the development standard and the SP3 zone.

The character expressed by the architectural language is mundane when viewed from all street frontages. The buildings and architecture read as two independent yet divorced volumes, which follows the topographical constraints but provides no visual interest in the choice of textures which frame the building's elements.

The proposal does not satisfy the desired future locality character test. Consideration of the present proposal must be undertaken in a slightly broader context as to compatibility and permissibility rather than one of strict conformity to the existing development pattern.

The proposal has aimed to reflect only the future character of the streetscapes without respecting consistency with the existing future character. The proposed development does not provide adequate amenity or visual interest.

Council considers that the proposal does not demonstrate that compliance with the 16 metre height standard for the whole of the site is unreasonable, and, there are insufficient environmental planning grounds to justify the variation to the prescribed height. Further, the proposal is not in the public interest because it is inconsistent with the objectives of the development standard and the SP3 zone for the site.

- Retail/commercial parking shortfall to that required by CCDCP 2022 Chapter 2.13, Section 2.13.3.11. The Traffic Impact Assessment does not provide adequate justification.
- The proposal is an overdevelopment and not in the public interest.
- Insufficient and inaccurate information has been provided to accurately assess the application including:
 - Submission of an inadequate Design Verification Statement
 - Inconsistent arboricultural assessment. The Preliminary Tree Assessment report by Paul Monaco does not align with Team 2 Architectural and Landscape Plans.
 - Incorrect Estimated Development Cost (EDC) which ordinarily would have required the application to be referred to the Hunter and Central Coast Regional Planning Panel (RRP) for determination.

Precis:

Proposed Development	<p>Five (5) storey mixed use development composed of two buildings (Site 1 and Site 2) comprising 91 residential apartments, six (6) serviced apartments, nine (9) retail tenancies, gymnasium, two (2) levels of basement parking accessed from a double width vehicular cross-over, driveway and graded ramp from Kantara Road, three (3) pedestrian entrances on Beach Parade, Kantara Road and Crossingham Street frontages. Sixty two (62) trees are proposed to be cleared. No demolition or subdivision is proposed.</p> <p>The mixed use development will comprise a total site area of 6,348.8m² and 9523.2m² GFA/1.5:1 FSR composed of:</p> <ul style="list-style-type: none"> • 131.7m² GFA ground floor gymnasium • 676m² GFA ground floor retail tenancies
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	<ul style="list-style-type: none"> 91 residential apartments on levels 1-4 (8157.5m² GFA): 10 x 1 bedroom, 59 x 2 bedroom, 22 x 3 bedroom. 6 serviced apartments on level 1 (557.9m² GFA): 5 x 2 bedroom, 1 x 3 bedroom to permit short term accommodation. Four lifts and 4 stairwells per residential level. Two (2) levels of basement parking: 195 spaces (19 accessible spaces) comprised of 112 residential parking spaces (including 6 for serviced apartments and 1 for staff), 20 visitor parking spaces, 63 commercial parking spaces (10 for staff), 6 lifts and 6 stairwells per basement level. Communal open space (1668.1m²) at ground and rooftop area is comprised of barbeque with seating, open lawns, children's play areas, roof top gardens. Deep soil zones (815m²) proposed includes roof top level which should be discounted as deep soil zones are areas of soil not covered by buildings or structures within a development. They exclude basement car parks, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways and roof areas.
Permissibility and Zoning	SP3 Tourism Zone under the Central Coast LEP 2022. Surrounding land is zoned Residential (R1, R2, R3). Mixed use development and subdivision are permissible in the zone.
Relevant Legislation	<p>The following planning policies and control documents are relevant to the development and were considered as part of the assessment:</p> <ul style="list-style-type: none"> <i>Environmental Planning and Assessment Act 1979 (EP&A Act)</i> <i>Biodiversity Conservation Act 2016</i> <i>State Environmental Planning Policy (BASIX)</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> <i>State Environmental Planning Policy (Transport and Infrastructure)</i> <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> <i>State Environmental Planning Policy (Housing) 2021 Chapter 4 Design of Residential Apartment Development</i>

	<ul style="list-style-type: none"> • <i>Apartment Design Guide</i> • <i>Central Coast Local Environmental Plan 2022 (CCLEP 2022)</i> • <i>Central Coast Development Control Plan 2022 (CCDCP 2022)</i>
Current Use	Nine (9) single storey residential dwellings, detached ancillary development, 62 trees (8 high to very high tree retention value)
Integrated Development	No
Submissions	Two submissions received including one letter from David Harris MP, Member for Wyong

Variations to Policies

Clause	4.3 Height of buildings
Standard	Maximum building height = 16 metres
SEPP/LEP/DCP	CCLEP 2022
Departure basis	Numerical. >10% variation sought across two buildings (Site 1 and Site 2) with maximum heights 18.7 metres/16.2% variation (Site 1) and 18.6 metres/16.8% variation (Site 2). Lift overruns exceeding the height limit by 2.9 metres (18.1% variation) and 3.8 metres (23.75% variation) respectively.

Clause	Part 2B Building Envelopes Part 2C Building Height Part 2E Building Depth Part 2F Building Separation Part 2G Street Setbacks Part 2H Side and Rear Setbacks Part 3F Visual Privacy Part 4A Solar and Daylight Access Part 4G Storage Part 4M Facades
Standard	<p>Building Height: Central Coast LEP 2022 Clause 4.3 MBH 16 metres. Building Depth: Requires 12 metres to 18 metres.</p> <p>Building Separation: Requires minimum 12 metres to 25 metres.</p> <p>Street setbacks: Central Coast DCP 2022, Chapter 2.3 Residential Flat Buildings and Shop Top Housing, Clause 2.3.4.1 Setbacks for Residential Flat Buildings required 6 metres.</p> <p>Side and Rear Setbacks: Central Coast DCP 2022 Chapter 2.3 Residential Flat Buildings and Shop Top Housing, Clause 2.3.4.1 Setbacks for Residential Flat Buildings required 6 metres to 9 metres.</p>

	<p>Visual privacy: Objective 3F1 – Adequate building separation shared equitably for external and internal visual privacy.</p> <p>Objective 3F2 – Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p> <p>Solar and daylight access: Objective 4A1 – Optimise apartments receiving sunlight to habitable rooms, primary windows, and private open space. Objective 4A2 – Daylight access maximised. Courtyards, skylights and high-level windows only as a secondary light source.</p> <p>Objective 4A3 – Design for shading and glare control.</p> <p>Storage: Objective 4G1 – Adequate, well-designed storage provided in apartments.</p> <p>Facades: Objective 4M1 – Provide visual interest, respect local character. Objective 4M2 – Building functions are expressed by the façade. Central Coast DCP 2022, Chapter 2.3 Residential Flat Buildings and Shop Top Housing Clause 2.3.5.1 – Facades and Articulation Requirements.</p>
SEPP/LEP/DCP	Housing SEPP/Chapter 4 Design of Residential Apartment Development/ADG/CCDCP 2022.
Departure basis	Numerical non-compliances. Discussion within the body of the report.

Clause	Section 2.13.3.11 Car Parking Requirements
Standard	To allow applicants the ability to reduce parking numbers where a dual or complementary use of facilities within a development is proposed.
SEPP/LEP/DCP	CCDCP 2022
Departure basis	Numerical non-compliance with the required commercial and retail parking. The Traffic Impact Assessment states residents using the onsite retail offerings will not require parking. Council does not encourage reliance upon on-street carparking.

The Site

The site is located at 9,10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach. The site is bounded by Beach Parade, Kantara Road and Crossingham Street.

The site has an area of 6,349m².

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)

The site consists of nine allotments legally described as Lot 312 and Lot 313 DP755266, Lot 318 to 321 DP755266, Lot 315 to Lot 317 DP755266. The site contains nine single story residential dwellings with detached ancillary development.

The site supports 63 trees of which 8 are considered to have a high to very high retention value, 8 trees are situated in close proximity to essential services and the proposed development footprint.

The site is predominantly mapped as 'Precinct 3: Flood Storage', with a section mapped 'Precinct 4: High Hazard'.

The road network is comprised of:

- Central Coast Highway – a State Road and arterial route which runs through Noraville to the east connecting Gosford and Doyalson.
- Main Road – a State Road and part of a sub-arterial route connecting between the Noraville and Warnervale.
- Crossingham Street / Moss Avenue – a local road.
- Evans Road/Wallis Avenue/Kantara Road – a local road.

Crossingham Street in the vicinity of the site has one traffic lane in each direction and comprises kerbside parking lanes. Beach Parade has a single lane roadway with 45-degree angle parking on the western side.

The traffic controls on the road system in the vicinity of the site comprise:

- Traffic control signals along Main Road including the Evans Road, Victoria Avenue and Street intersections.
- Roundabouts at the Beach Parade and Crossingham Street intersection.
- 50 km/hr speed restriction on the local road system.
- One-way south restriction along Beach Road south of Crossingham Street.
- Sections of 45-degree angle parking along Beach Parade.

Bus services are provided by Bus Ways (Routes 29, 90, 91, 92 and 93) which operate along Main Road with Route 91 also travelling along Crossingham Street and Route 90, 92 and 93 along Evans Road. Bus stops for these routes are located approximately 500m east on Crossingham Street and 850m east on Evans Road.

The site elevation ranges between 3.0 metres AHD and 5.4 metres AHD. Along Crossingham Street and Kantara Road, the site is set lower than the road level.

Most of the site grades gradually northwards towards Crossingham Street although set below road level which causes ponding. The south-western section of the site slopes towards Beach Parade.

4.1 **DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)**

Kerb and guttering are present along the Beach Parade and Crossingham Street frontage. There is no kerb and guttering along the site's frontage onto Kantara Street.

Wallis Avenue is a sealed carriageway, with no kerb and guttering.

The avenue has a generally unformed Low Profile grassed verge, and overhead and underground utilities and services (including a combined power/light/street signage pole at the southern end of the site frontage (at the intersection between Wallis Avenue and Kantara Road) and a power pole toward the northern end of the frontage).

Kantara Road has a sealed carriageway, and no kerb and guttering other than for a kerb return off the Crossingham Street intersection at the northern end, generally unformed Low Profile grassed verge, a street tree (toward the southern end of the frontage), a letterbox inlet pit (near the intersection with Wallis Avenue), and overhead and underground utilities and services (including a power pole south of the centre of this frontage).

The site is zoned SP3 Tourist under the *Central Coast Local Environmental Plan (CCLEP 2022)* 2022. 'Food and Drink Premises', 'Recreational Facilities (indoor)' 'Shop Top Housing', and 'Tourist and Visitor Accommodation' are permissible with consent in the SP3 Tourist zone.

The development site is permitted a maximum building height of 16 metres, and a maximum floor space ratio (FSR) of 1.5:1, demonstrating that the site is earmarked for future higher density development.



Figure 1: Aerial maps of the site and the local Canton Beach context (Source: Council GIS Mapping)

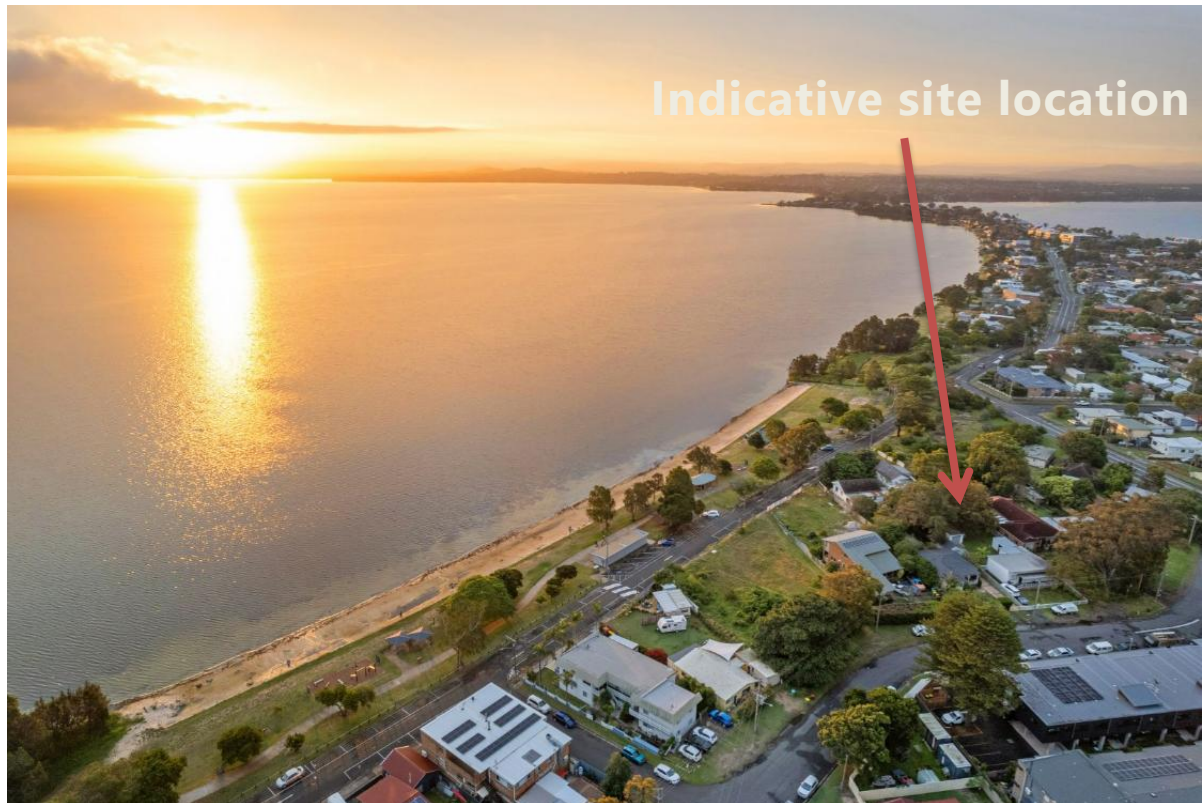


Figure 2: Aerial view north of the site (Source: Google)



Figure 3: Site as viewed from the north east from the Crossingham Street intersection

Surrounding Development

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)

The immediate surrounding locality comprises predominantly of older style 1-2 storey low density housing, interspersed by commercial land uses and older style tourist and visitor accommodation.

The site is separated by Beach Parade from Canton Beach and foreshore area.

Beach Parade currently has 3 speed humps between Crossingham Street and Belbowrie Street.

The site is within the wider vicinity of Toukley commercial precinct along Main Road, which provides the essential services to the locality.

Canton Beach is subject to transitional development with relevant and adjoining development and modification applications discussed below.



Figure 4: Canton Beach (Tuggerah Lake) public foreshore open space opposite the site



Figure 5: Canton Beach Foreshore (Tuggerah Lake) public open space and toilet blocks

On 3 October 2024, **DA/4077/2022** for 12 Beach Parade was refused by the Local Planning Panel. The proposal sought approval for removal of one tree and construction of a five storey, mixed use shop top housing development including a basement car park, one ground level retail tenancy (food and drink premises), at grade parking comprising one disabled parking space and one café loading/parking space, and four dwellings on the four levels above the ground floor. The proposed floor space ratio was 1.249:1.



Figure 6: DA/4077/2022 Montage of 12 Beach Parade, Canton Beach refused on 3 October 2024 by the Local Planning Panel.

DA/1691/2021 for 8 Kantara Road approved a Residential Flat Building (14 Units) on 2 August 2022 including the Wallis Avenue and Kantara Road intersection upgrade works; SCC/25/2023 approval issued on 28 February 2023, with approved amended plans issued 6 September 2023; approved by Local Traffic Committee (LTC) 20 September 2023.

Completed in June 2024, the two-storey complex comprises 14 units, offering a mix of social, affordable and market-rate rental units. The complex was constructed by Skope Constructions and offers a high standard of living for its residents. This development received \$1.92M in grant funding under the NSW Department of Communities and Justice (DCJ) program known as the Community Housing Innovation Fund (CHIF) which will ensure six units will be used for social housing allocations, addressing the critical need for more affordable housing on the Central Coast. All apartments in Pacific Lakes are architecturally designed, featuring private terraces and courtyards on the ground floor and balconies on the upper floor.



Figure 7: DA/1691/2021 Montage of 8 Kantara Road, Canton Beach



Figure 8: Image of DA/1691/2021 Pacific Lakes at 8 Kantara Road, Canton Beach
(Source: Pacific Link)



Figure 9: Aerial Image of DA/1691/2021 Pacific Lakes at 8 Kantara Road, Canton Beach (Source: Pacific Link)

On 14 December 2017, Deferred Development Consent was issued by Hunter and Central Coast Regional Planning Panel for **DA/7/2017** seeking a 'Mixed use, shop top housing development including food and drink premises (4 tenancies), 36 residential dwellings and basement parking' at 5-8 Beach Parade. This application is adjoining the site's north eastern boundary.

This application is adjoining the subject site's north eastern boundary. This application was subject to *Wyang Local Environmental Plan 2013* (WLEP 2013) not the *Central Coast Local Environmental Plan 2022*. This site was identified as a 'key site' under WLEP 2013 key site maps. The proposal did not rely on the provisions of Clause 7.11 of WLEP 2013 which allow for a bonus building height of 23 metres (rather than 16 metres) which was the subject to the provision of significant public benefit to the community.

The approved design exceeded the height limit at 18.41 metres (21.83 AHD) or 2.41 metres / 15% above the standard. A 22% parking variation was supported where 83 parking spaces were required and 68 spaces were provided at basement level along with five at-grade parking spaces. The consent was due to lapse on 31 May 2025 if physical commencement had not occurred.

DA/7/2017/A: A modification application was sought amending the basement level design, ground floor and upper-level floor layouts including the addition of four units, unit mix and associated changes. Changes also included five additional parking spaces in the approved basement level in lieu of residential storage areas.

This application was determined by the Regional Planning Panel. The modification was assessed against the matters for consideration under Section 4.15 of the Act and found to be satisfactory.



Figure 10: DA/7/2017 Aerial site plan of 5-8 Beach Parade, Canton Beach (Source: Council GIS Mapping)

The site has previously been identified as part of a "Key Site" under Wyong former planning controls.



Figure 11: Wyong Local Environmental Plan 2013 Key Site



Figure 12: DA/7/2017 Montage of 5-8 Beach Parade, Canton Beach lapsing 31 May 2025.



Figure 13: DA/7/2017/A Montage of 5-8 Beach Parade, Canton Beach lapsing 31 May 2025.



Figure 14: DA/7/2017/A Montage of 5-8 Beach Parade, Canton Beach lapsing 31 May 2025

On 3 March 2017, **DA/243/2015** was approved at 11 Beach Parade for a shop top housing comprising basement car parking, two commercial tenancies and seven residential units including demolition of existing structures.

The development complied with the height provisions as required by the WLEP 2013 albeit sought a 27% variation to the minimum number of parking spaces required, providing 11 out of the 15 total residential parking spaces wholly contained within the basement level. Construction Certificate No. CC/242/2024 was approved on 29 February 2024.



Figure 15: DA/243/2015 Montage of 11 Beach Parade, Canton Beach approved on 3 March 2017 for shop top housing with basement parking

The Proposed Development

The subject development application seeks consent for construction of a 5 storey mixed use development with basement level parking at 9, 10 Beach Parade, 1, 3, 5 Crossingham Street and 1, 3, 5, 7 Kantara Road, Canton Beach.

The application proposes the removal of 62 trees resulting in an irregular shaped site with a total site area of 6,348.8m². Vehicular access to the site is via a new double width vehicular cross-over, driveway and graded ramp from Kantara Road in the north eastern side of the site.

Pedestrian entries are provided on all three street frontages (Beach Parade, Kantara Road and Crossingham Street). No subdivision is proposed as part of this development application.

Specifically, the proposal seeks consent for:

- Two x five storey buildings (Site 1 and Site 2) divided by a central pedestrian thoroughfare / 'eat street'.
- Ground floor gymnasium (131.7m² GFA).
- 9 ground floor retail tenancies in Site 2 (676m² GFA).
- 91 residential apartments on levels 1- 4 (8157.5m² GFA).

- 6 serviced apartments on level 1 (557.9m2 GFA).

The apartment (residential and serviced) mix includes:

- 6 serviced comprised of 5 x 2 bedroom and 1 x 3 bedroom to permit short term accommodation.
- 91 residential comprising 10 x 1 bedroom, 59 x 2 bedroom and 22 x 3 bedroom.

Communal open space (1668.1m2) at ground and rooftop area is comprised of barbeque with seating, open lawns, children's play areas, roof top gardens and deep soil zones (815m2). Deep soil zones (815m2) proposed includes roof top level which should be discounted. It is expected that a minimum 50% of the required soft landscaped area of the site at ground level shall be a deep soil zone. This may be achieved by optimising the retention provision of consolidated deep soil zones within a site by the design of basement and sub-basement car parking, so as not to fully cover the site and the use of front and side setbacks for deep soil planting.

The car parking requirement is 186 spaces and a total provision of 195 car spaces complies with the RMS and DCP requirement. Two (2) levels of basement parking: 195 spaces (19 accessible spaces) comprised of 112 residential parking spaces (including 6 for serviced apartments and 1 for staff), 20 visitor parking spaces, 63 commercial parking spaces (10 for staff), 6 lifts and 6 stairwells per basement level.

All deliveries are proposed via a loading dock bay managed by a Property Management Company Dock Management Plan. It is noted that the subject site could have formed a more refined development if amalgamated with Site O, which was approved at 5-8 Beach Parade (DA/7/2017, lapsing on 31 May 2025). See **Figure 16 - Figure 20** below.



Figure 16: 3D render of the approved DA at 5-8 Beach Parade (lapses 31 May 2025) and the proposed development as they will be viewed from the public domain (Source: Think Planners)

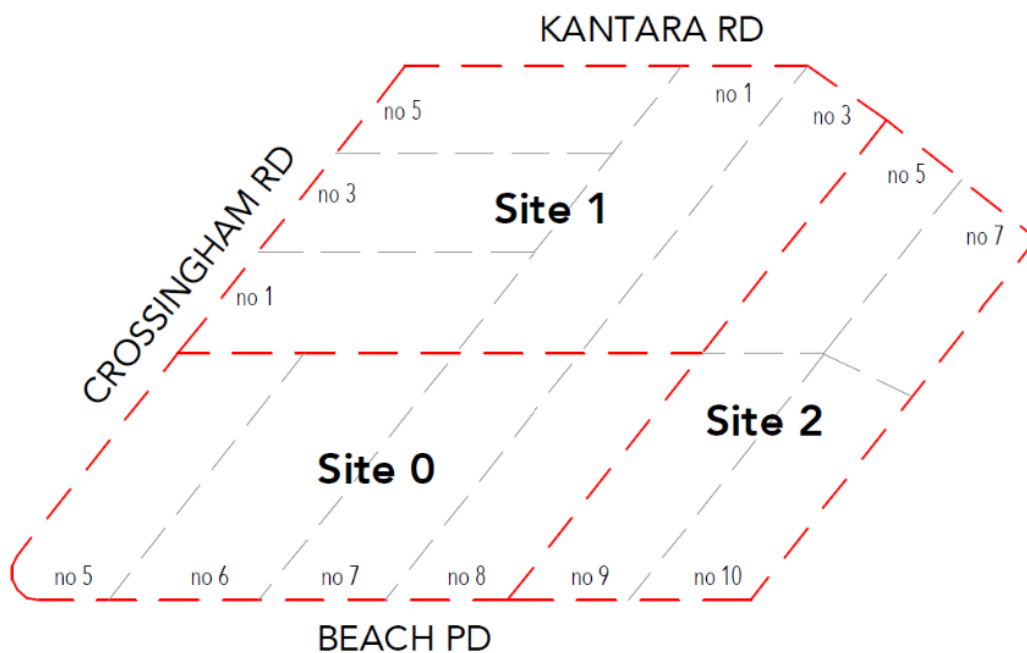


Figure 17: Site plan of proposed development site amalgamation of the subject site (Site and Site 2) and Site O (5-8 Beach Parade) (Source: Think Planners)

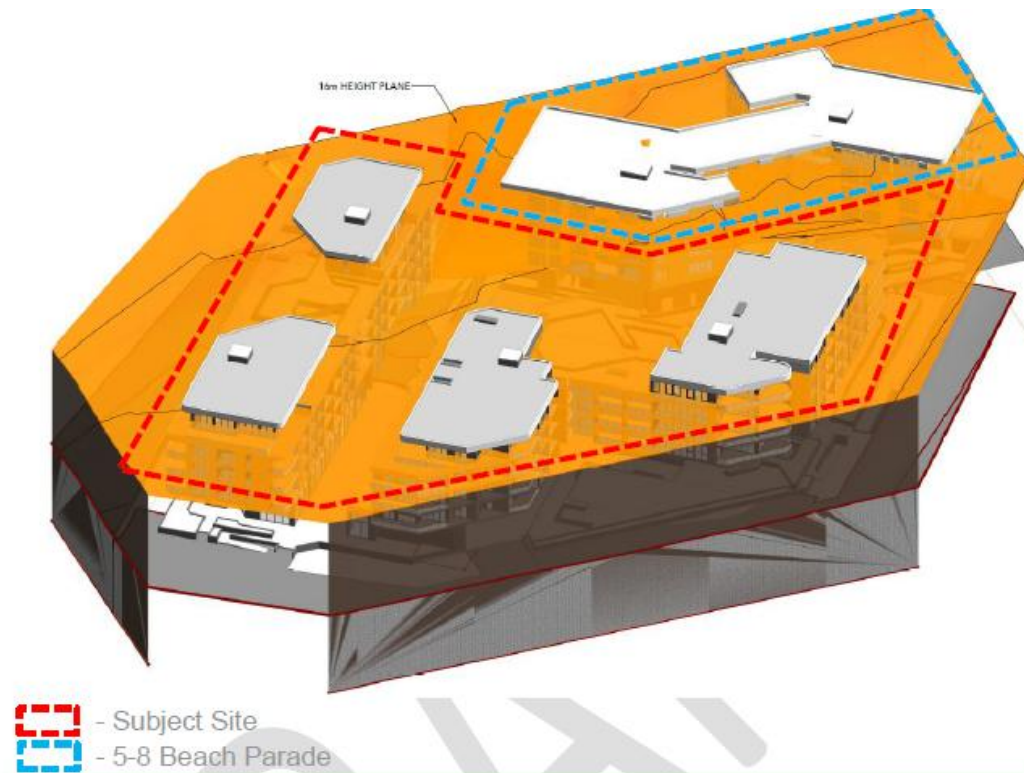


Figure 18: Team 2 Architects 3D Height Plane showing the subject site (Site 1 and Site 2) and Site O (5-8 Beach Parade) (Source: Think Planners)



Figure 19: Team 2 Architects Montage of the proposed development from Beach Parade

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)



Figure 20: Team 2 Architects Montage of the proposed development from Beach Parade

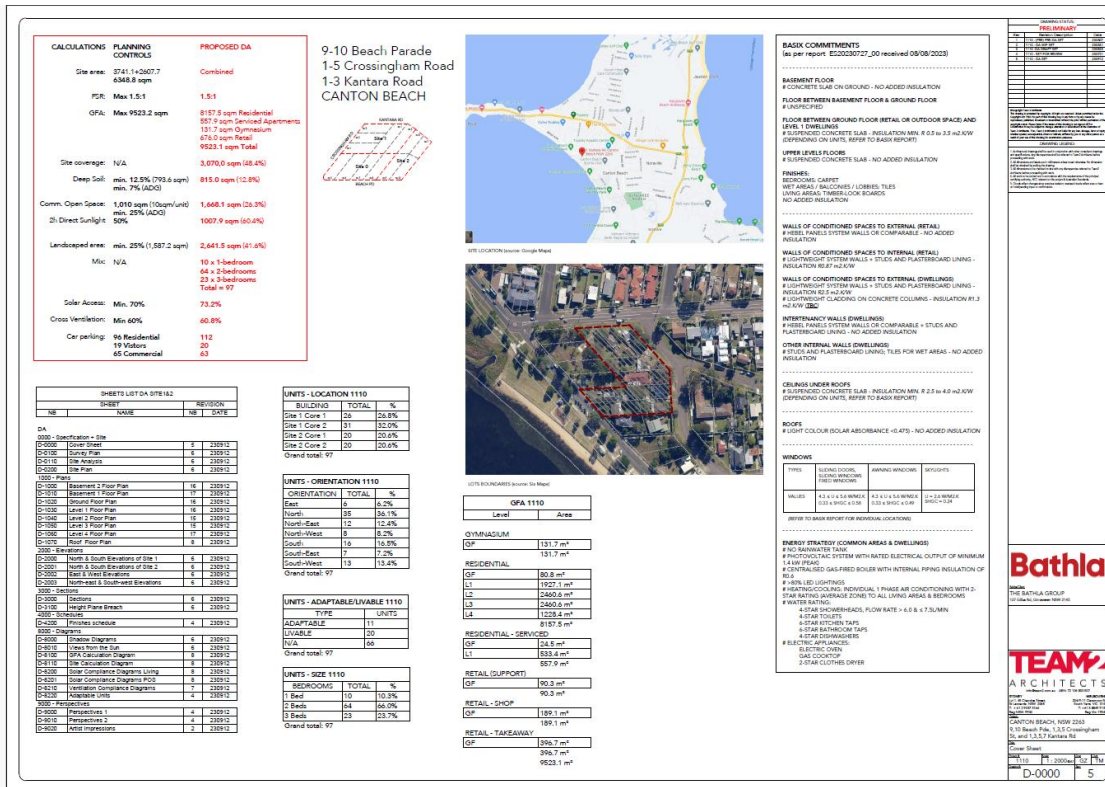




Figure 22: Team 2 Architects Site Survey

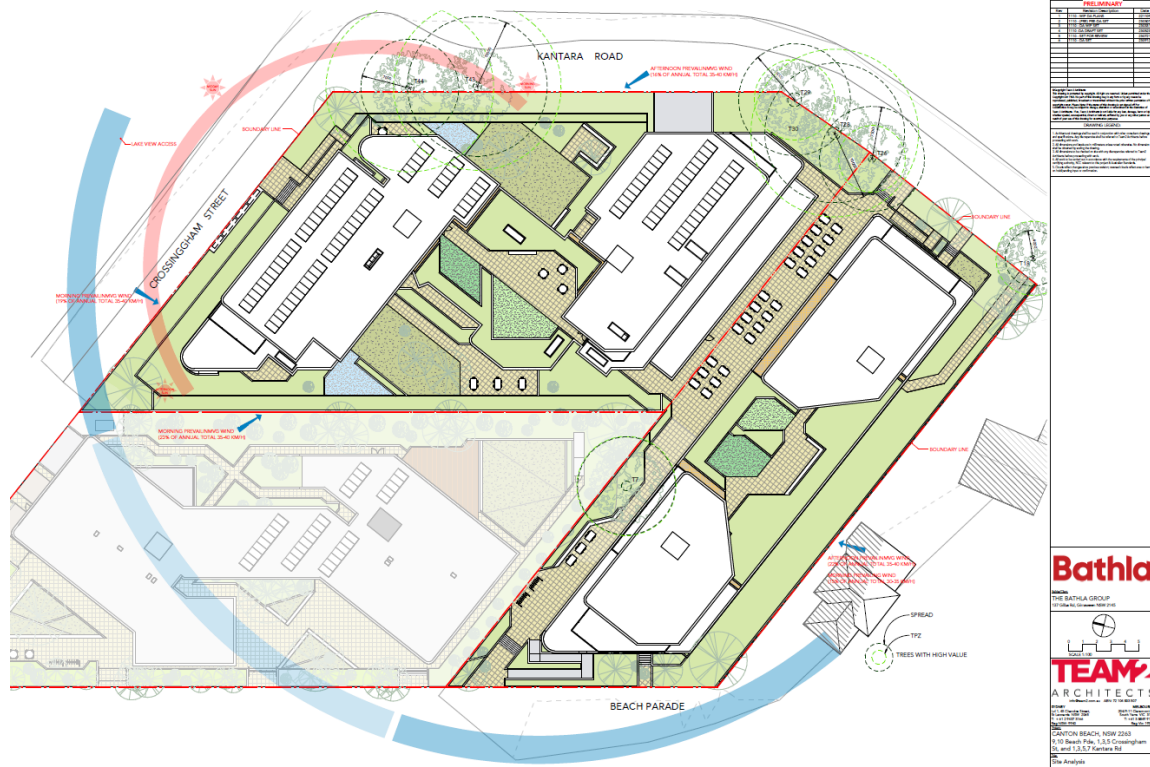


Figure 23: Team 2 Architects Site Analysis

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)



Figure 24: Team 2 Architects Site Plan



Figure 25: Team 2 Architects Demolition Plan

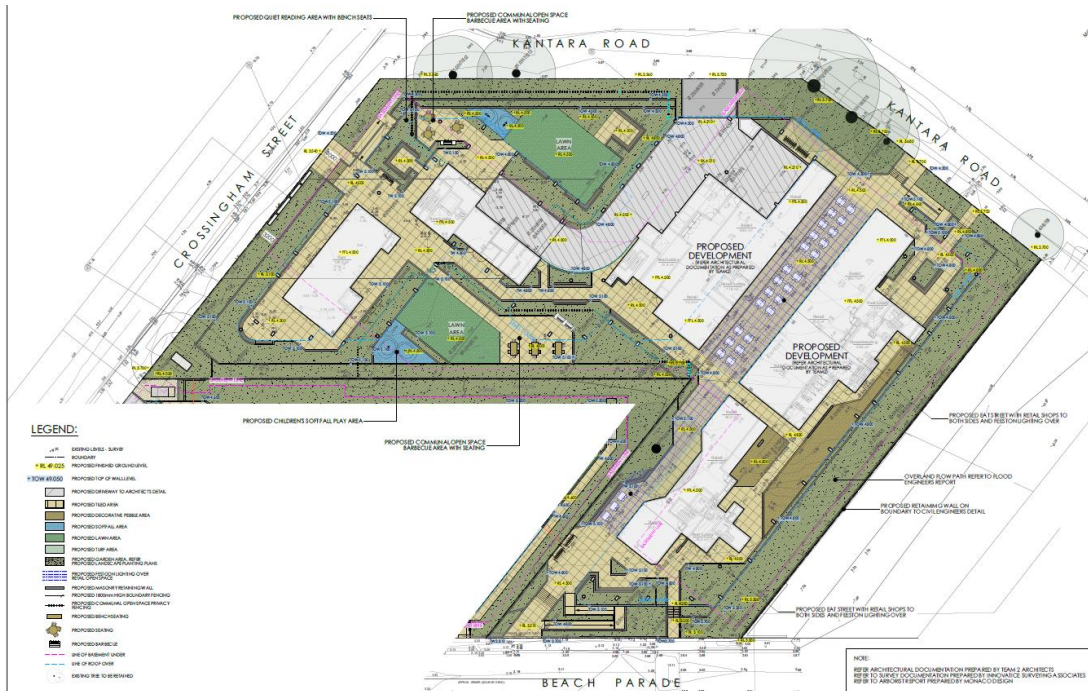


Figure 26: Team 2 Architects Landscape Plan

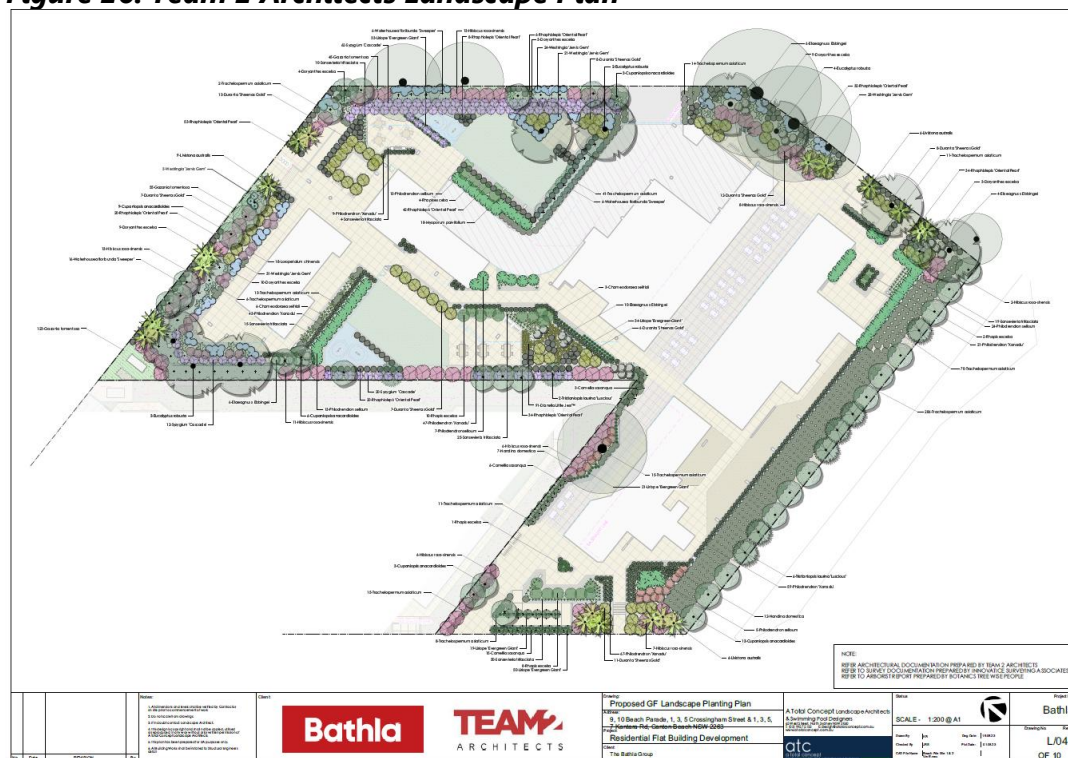


Figure 27: Team 2 Architects Ground Floor Landscape Plan

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)

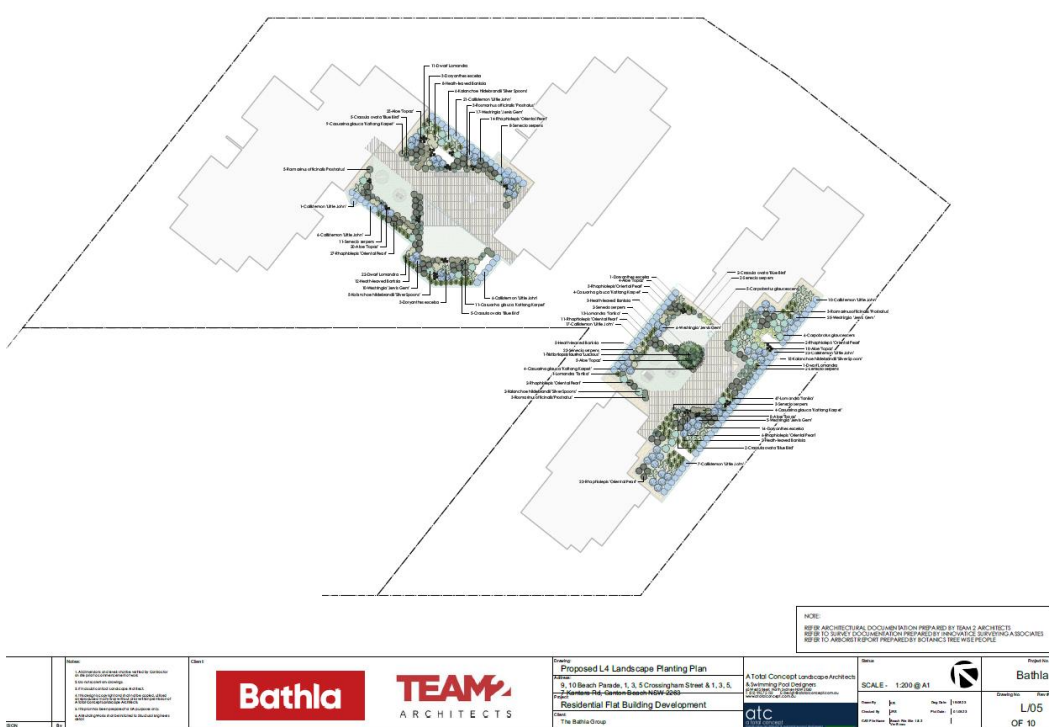


Figure 28: Team 2 Architects Proposed level 4 landscape planting

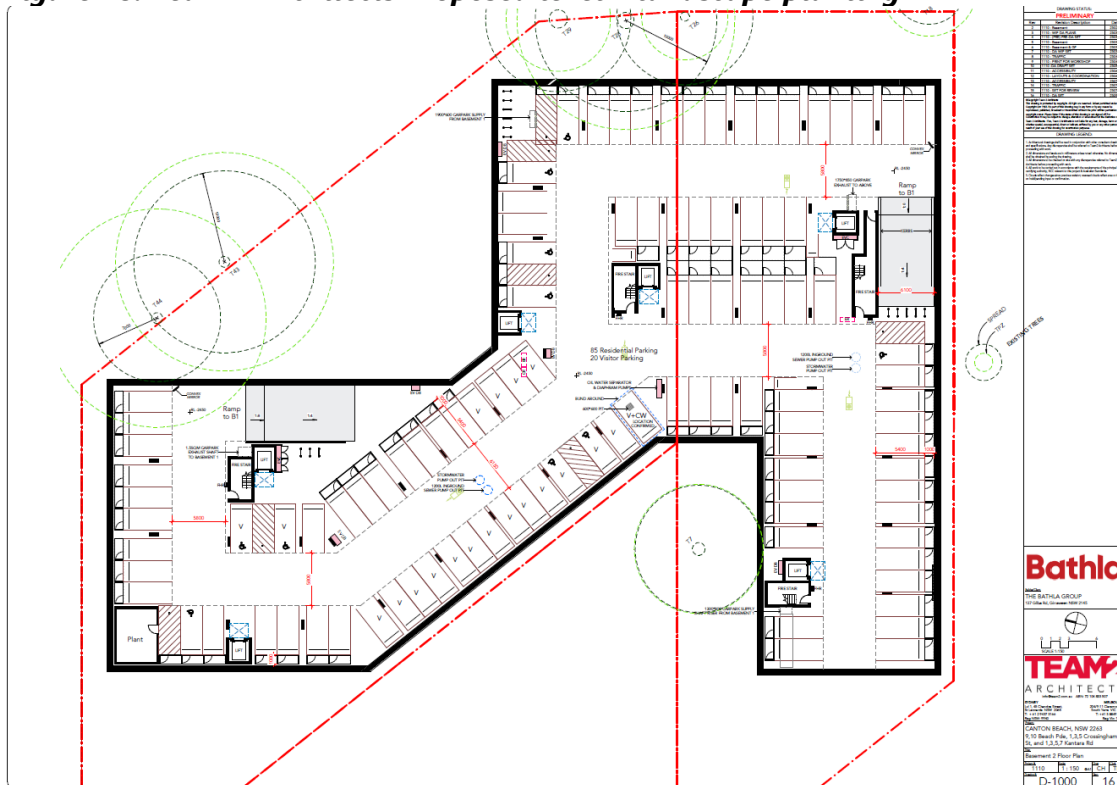


Figure 29: Team 2 Architects Basement 2 Floor Plan

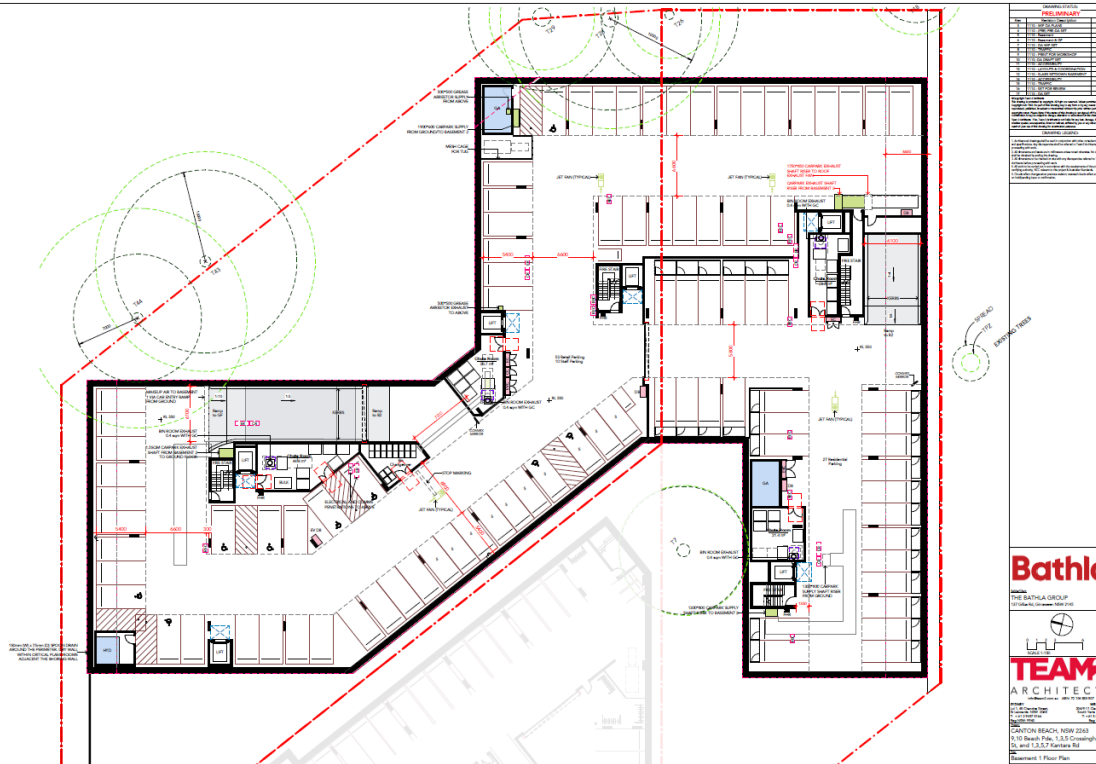


Figure 30: Team 2 Architects Basement Floor Plan

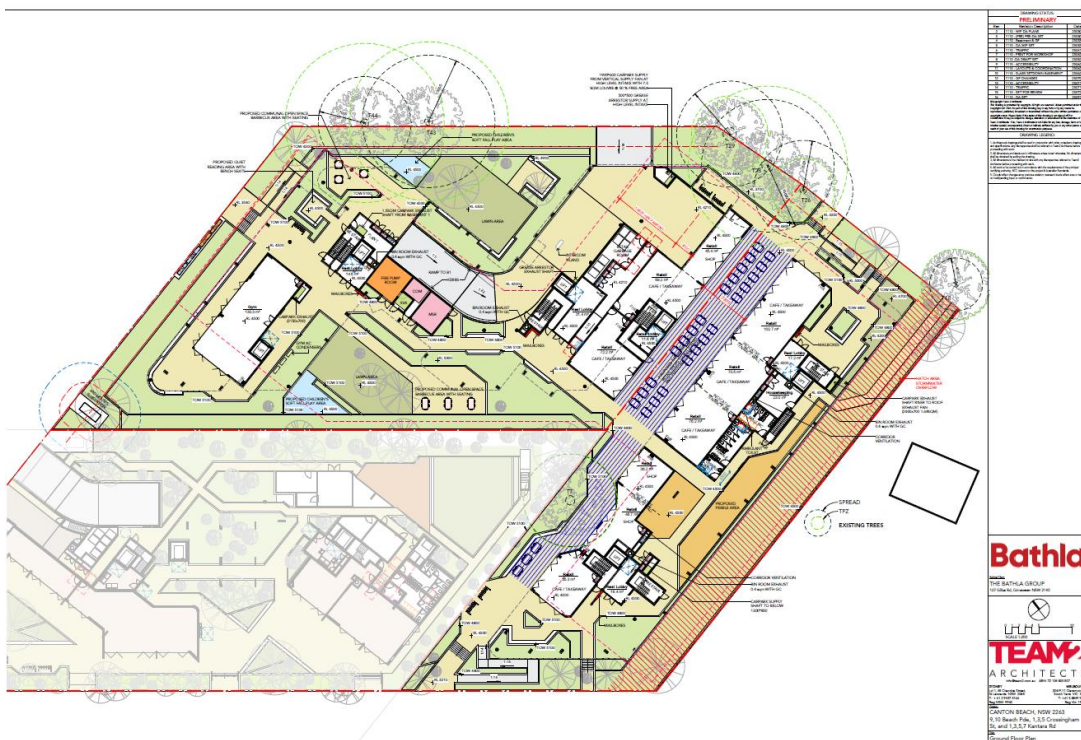


Figure 31: Team 2 Architects Ground Floor Plan

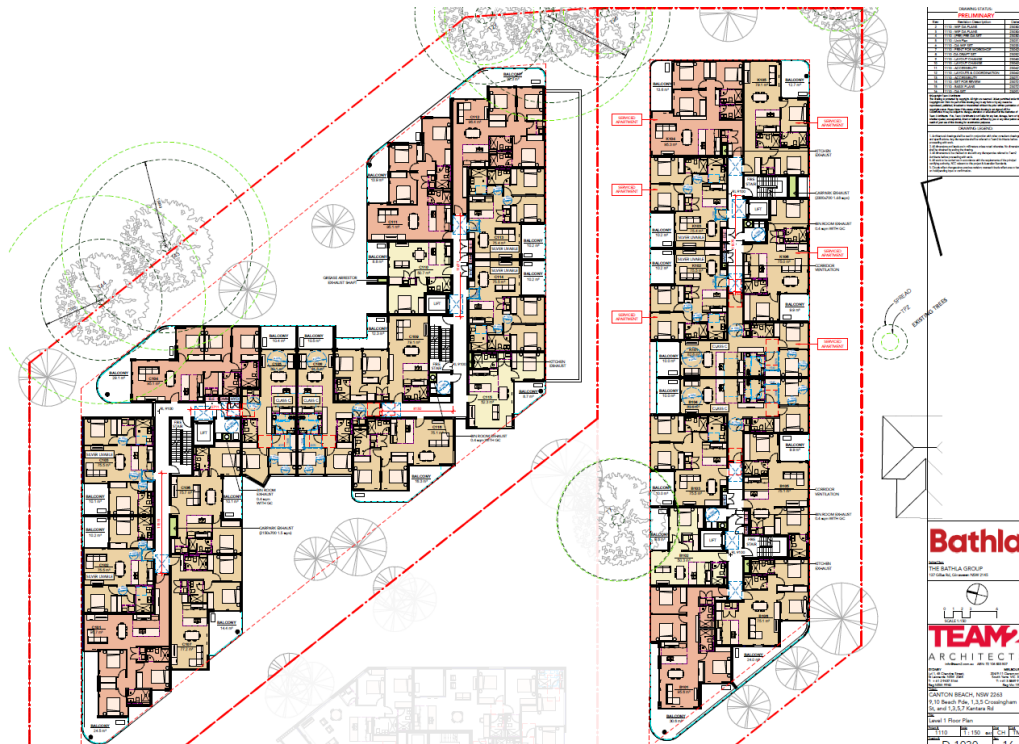


Figure 32: Level 1 Floor Plan

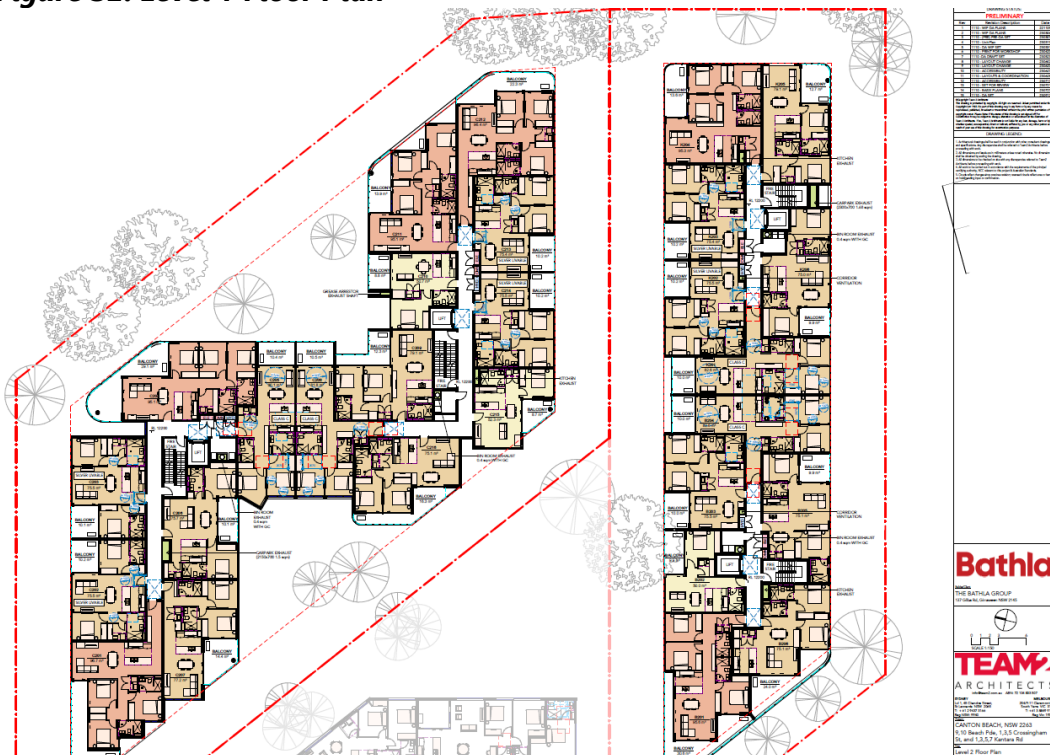


Figure 33: Team 2 Architects Level 2 Floor Plan

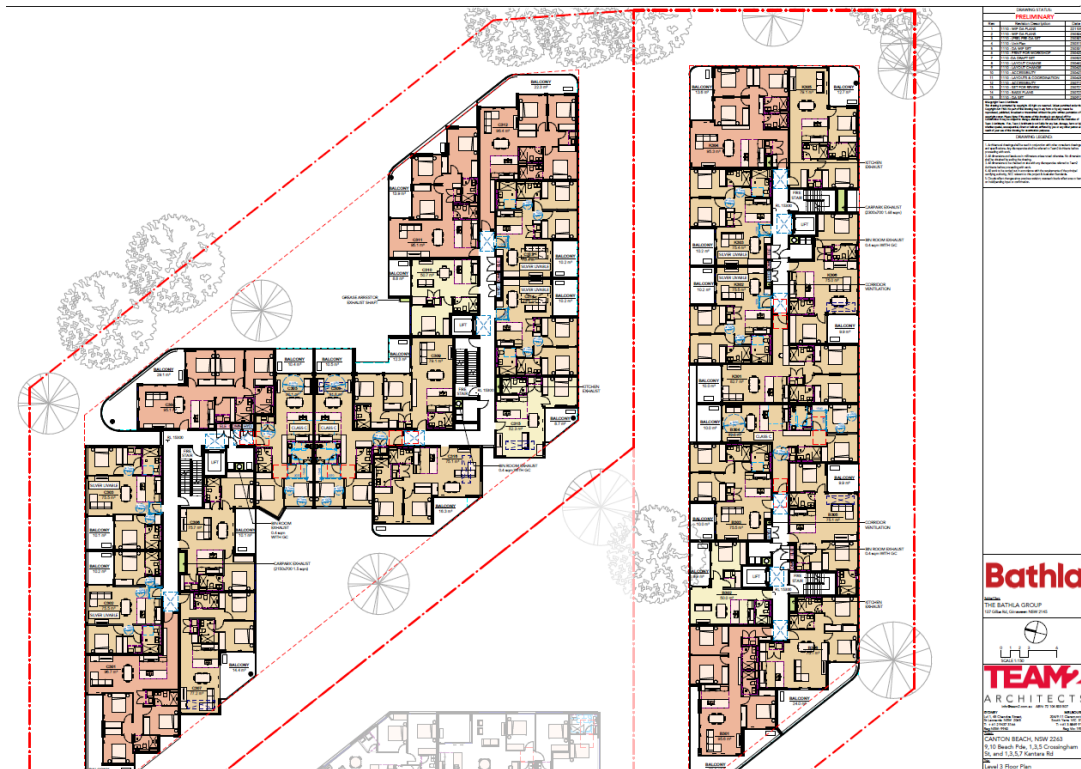


Figure 34: Team 2 Architects Level 3 Floor Plan

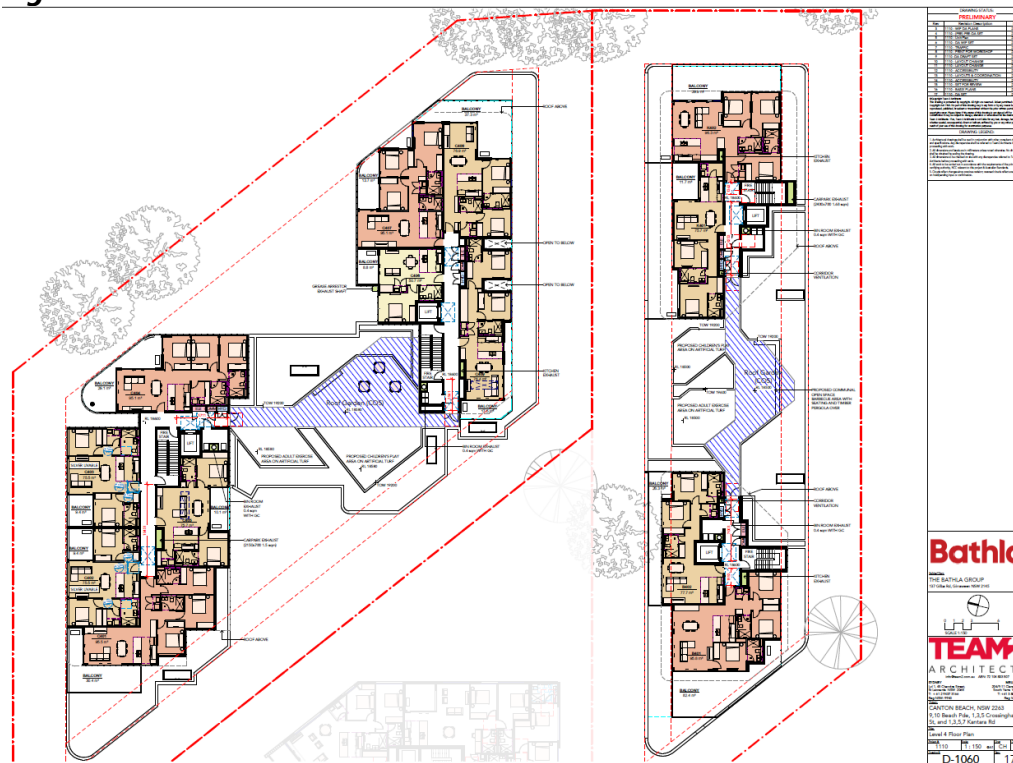


Figure 35: Team 2 Architects: Level 4 Floor Plan

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)



Figure 36: Team 2 Architects Roof Floor Plan



Figure 37: Team 2 Architects North east and South west Elevations

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)



Figure 38: Team 2 Architects East and West Elevations



Figure 39: Team 2 Architects North and South Elevations (Site 1)

4.1

DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)



Figure 40: Team 2 Architects North and South Elevations (Site 2)



Figure 41: Team 2 Architects Sections

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)



Figure 42: Team 2 Architects GFA Calculation Diagram



Figure 43: Team 2 Architects Perspectives

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)



Figure 44: Team 2 Architects Perspectives

History

A search of Council records reveals the following previous applications for the site and surrounds:

- PDA/12/2023 Pre-Lodgement Meeting for Shop-Top Housing development consisting of basement parking, ground floor retail use and 98 upper floor residential units – minutes issued 11 May 2023.
- DA/910/2023 which sought demolition of existing structures at 1-5 Crossingham Street Canton Beach, 1-7 Kantara Road, Canton Beach and 9-10 Beach Parade, Canton Beach NSW 2263 was withdrawn.

The movement of trucks and machinery on site will likely have an impact upon existing trees. There is more than 10+ trees located within the properties and trees consisted of Cheese tree, Pittosporum, Lilly Pilly etc. It is recommended that the applicant obtain an Arboricultural Impact Assessment report advising as to which trees require removal and which trees are to be retained along with suitable Tree Protection Measures assessment of the application can be finalised.

Furthermore an Arboricultural Impact Assessment report submitted for DA/1904/2023 (the subject development application) cannot be used for this DA/910/2023 as the demolition of existing buildings/structures will not likely require the same number of trees to be removed as would be required for 5 Storey Mixed Use Development consisting of 91 Units, 6 Serviced Apartments, Gymnasium and 9 Retail Tenancies ie Council cannot allow tree removal in the anticipation of future development that has not been approved.

In this circumstance, Council recommended a future combined development application for demolition and construction within the one application. A request to remove all trees in the building footprint and within 3m of the outside of the footprints and subsequent tree applications for each site which would be required to remove the remainder of the trees would not be supported.

- DA/4077/2022 for 12 Beach Parade was refused by the Local Planning Panel. The proposed development sought consent for the construction of a 5 storey shop top housing development comprising 4 residential units with ground floor retail and associated basement car parking. The proposed development failed to meet the minimum requirements of SEPP Resilience and Hazards in relation to consideration of land contamination and Council's LEP with regards to essential services and acid sulfate soils.

The proposal did not provide the minimum necessary requirements under the ADG pertaining to deep soil planting and communal open space. The proposal did not satisfactorily meet the requirements or objectives of *State Environmental Planning Policy (Housing) 2021* nor the associated Apartment Design Guidelines. The design failed to meet the objectives and provisions of the *Central Coast Local Environmental Plan 2022* or Central Coast Development Control Plan 2022 and has unsatisfactory and unreasonable impacts. The proposal was deemed unsuitable for the site and not considered to be in the public interest. This site immediately is immediately adjoining the development site to the northeast.

- DA/1691/2021 for 8 Kantara Road was approved for a Residential Flat Building (14 Units) on 2 August 2022 including the Wallis Avenue and Kantara Road intersection upgrade works.
- DA/7/2017 for 5-8 Beach Parade, Canton Beach, was granted a deferred commencement consent on 24 of December 2017 for a mixed use, shop top housing development including food and drink premises (4 tenancies), 36 residential dwellings and basement parking. The Deferred Commencement consent was made operational on 31 May 2018.
- DA/7/2017/A for 5-8 Beach Parade, Canton Beach Section 4.55(2) modification was lodged on the 31st of May 2023 to provide additional units, increasing the yield to 40 units, reconfiguration of the internal layout, revision of the façade design and other minor changes.

Application Background

- On 23 October 2022, the application was formally lodged with Central Coast Council. The proposed development is permissible in the SP3 Tourist zone.

- The development application was notified between 10 November 2023 and 1 December 2023, one submission, dated 28 November 2023 was received from a neighbouring property which raised the following issues:
 - *Traffic generation that will come from this development. Considering Main Road through Toukley, leading to Canton Beach is one lane over Gorokan bridge, and traffic congestion will hinder both emergency services, being Ambulance and Fire station that are located Main Road, Toukley.*
 - *Proposing 5 storey apartments, among single level or double storey houses, will not be consistent to the area, and would devalue homes surrounding proposed development.*
 - *Overdevelopment will affect nature conservation at Canton Beach.*
 - *Loss of light in adjoining houses will be significant.*
 - *Road access to 9 Beach Parade to support a large commercial and high rise building is not adequate.*

Note: Access to Kantara Rd from Wallis Ave, of which I am a resident, has become significantly congested due to Councils dept of housing development that has put two blocks of 2 storey units on the corner of Kantara Road.

Suggestions are: any dwelling should not be more than 2 storeys, staying consistent and being appropriate for the area of Canton Beach. Council planning for the future of this area will dramatically effect whether the area becomes sought out and valuable for investors and home owners.

A supplementary submission letter was provided by David Harris MP, Member for Wyong with the above submission attached.

- On 21 January 2025, Council wrote to the applicant to request a revised estimated cost of development stating inter alia:

... application seeks development consent to construct 2 storeys of basement parking, 9 retail tenancies and gym, 6 serviced apartments and 91 residential apartments over 9,523.1m² with a cost of \$25,644,580.00 ...

- On 6 February 2025, the estimated cost of development was revised from \$22,644,580.00 to \$88,360,897.56.
- On 19 February 2025, the Hunter and Central Coast Regional Planning Panel (RPP) advised Council they were not the relevant determining authority stating inter alia:

The determining authority is set on the value accepted on lodgement of the DA as a matter of jurisdictional fact. Fluctuations in CIV / EDC as a result of the assessment process have no bearing on the relevant determining

authority. The only way to change the determining authority in this case would be for the applicant to withdraw the DA and relodge with an estimated cost of development that would now meet the threshold for an RSDA.

- On 22 April 2025, the applicant was sent correspondence advising the key issues associated with the proposal. Council requested the application be withdrawn.
- On 24 April 2025, the applicant wrote to Council seeking an extension to provide additional information on 20 May 2025. The applicant was again reminded of the recommendation for withdrawal and advised additional information would not be accepted.
- On 29 April 2025, the applicant submitted a revised suite of documentation through the NSW Planning Portal.
- On 29 April 2025, Council wrote to the applicant to advise that Council does not accept the information provided and that the application would be determined on the information available.

Council, in accordance with the *Environmental Planning and Assessment Regulations 2021, Division 2 Amendment, rejection and withdrawal of development applications—the Act, ss 4.12 and 4.64 Clause 38 Determination of application for amendment of development application* rejected the information. Notwithstanding, a preliminary review of this documentation identified Council remain of the same opinion that the application be refused.

- On 29 April 2025, the applicant submitted a revised suite of documentation through the NSW Planning Portal with a letter stating the following inter alia:

...

... refer to the above development and Council's additional information letter dated 22 April 2025. Council's letter requests that the application be withdrawn within 7 days and broadly outlines Council's main concerns with the development application from an urban design and stormwater disposal perspective.

Our client does not wish to withdraw the development application that was formally lodged on 31 October 2023 with only one previous letter received since lodgment around the Estimated Development Cost. It is disappointing that it has taken over 17 months to be advised of Council's merit concerns with the application.

As you are aware the applicant had requested until 20 May 2025 to provide a comprehensive response to all issues of concern outlined in Council's 12 page letter. Council has denied this reasonable request.

Given that 4 working days have been provided to potentially respond to Council's concerns, this resubmission is accompanied by revised architectural plans and an architectural response letter prepared by Team2 architects that responds to and clarifies the urban design comments.

It is considered that other concerns including around stormwater disposal and acoustic clarification could be appropriately managed via conditions of consent. Notwithstanding this if more time is able to be provided, a comprehensive response to all issues including stormwater issues is able to be provided by 20 May 2025.

This application will deliver retail facilities and 91 apartments to assist with delivering much need housing on the Central Coast to assist with addressing the current housing crisis in Australia.

We urge Council to give serious consideration to the revised information and seek to impose conditions of consent to address remaining clarification and assist with the delivery of this development that will both assist with the ongoing revitalization of Canton Beach and delivering houses and employment opportunities within the Central Coast.

I trust the above comments, satisfactorily responds to Council 's substantive issues and that any remaining concerns with the project can be conditioned to allow the application to be approved in May 2025.

...

Accordingly, Council has not accepted the amended plans having regard for the provisions of Section 38 of *Environmental Planning and Assessment Regulation 2021* and the requests of the applicant to determine the application.

ASSESSMENT:

Having regard for the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

Provisions of Relevant Instruments/Plans/Policies:

Relevant Legislation

Biodiversity Conservation Act 2016 (BC Act)

The site is not mapped as containing biodiversity values nor is a Biodiversity Development Assessment Report required to be prepared for the proposed clearing of 62 trees.

Notwithstanding, the tree removal was assessed by council's Tree Assessment Officer who raised concern with the Arboricultural Assessment which does not advise appropriate reasons for tree removal nor tree protection measures for that retained.

The Panel can be satisfied there are no further matters required to be considered under the BC Act.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 of the SEPP contains planning rules and controls from the former Vegetation SEPP relating to the clearing of native vegetation in NSW on land zoned for urban and environmental purposes that is not linked to a development application. This chapter seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation.

The proposal is supported by a Preliminary Tree Assessment report by Paul Monaco who has assessed 63 trees, 62 of which have been recommended for removal and Tree 44 is to be retained. Tree 44 has no Tree Protection Measures for retention. The Architectural Plans and Landscape Plans are showing trees 7,18,26,28,29,30,43,44 to be retained and incorporated into the development. These trees have been given a retention value from high to very high. The Preliminary Tree Assessment report does not advise as to why these trees are to be removed. It must be noted that the majority of the trees with high to very high value are located in close proximity to services.

State Environmental Planning Policy (Planning Systems) 2021

Clause 2.19 (1) of SEPP (Planning Systems) 2021 outlines that the development is deemed to be regionally significant development. Therefore, the determining authority for this type of development being with a value greater than \$30 million will be the Regional Planning Panel. On 6 February 2025, the estimated cost of development was revised from \$25,644,580.00 to \$88,360,897.56. However, as previously advised, the Hunter and Central Coast Regional Planning Panel (RPP) are not the determining authority as the determining authority is set on the value accepted upon lodgement of the DA. This application did not meet the criteria for referral to the RPP when it was lodged.

State Environmental Planning Policy (Resilience and Hazards) 2021

The relevant provisions of the SEPP are addressed as follows:

Chapter 2: Coastal Management

The Resilience and Hazards SEPP applies to land within the coastal zone. The site is located within the Coastal Use Area and the Coastal Environment Area and is therefore subject to the provisions of Section 2.10 and partially Section 2.11 of Chapter 2.

The development proposal is not consistent with the relevant provisions of Section 2.10 in respect of the Coastal Environment Area as it may cause an adverse impact on the following matters for consideration.

The development is not designed and sited to avoid an adverse impact on the issues referred to in subclause (1):

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

Matters for consideration	Compliance
<i>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</i>	<p>The proposal does not demonstrate that it may not cause impacts on the biophysical, hydrological, or ecological environment.</p> <p>Drainage System Connection and Capacity – any alteration and/or addition to Council's trunk and/or longitudinal street drainage systems will only be supported by Council where an adequate Hydraulic Analysis has been conducted on the system and provided to Council, to demonstrate the:</p> <ul style="list-style-type: none"> • The existing system(s) has sufficient capacity to convey the additional stormwater flows. • The Pre-vs-Post-Development impact on the existing systems, both upstream and downstream; Hydraulic Grade Lines (HGLs) are to be provided for both the pre-developed and post-developed scenarios to demonstrate these impacts. • The proposed works will not have any adverse impacts on the performance of the Council drainage system(s) as a whole (including surcharging or backlogging).
<i>(b) coastal environmental values and natural coastal processes,</i>	<p>The proposal may impact on the geological and geomorphological coastal processes. While the site is located close to the foreshore (35 metres), it is part of the</p>

Matters for consideration	Compliance
	existing built-up area. The proposed development will not impact on coastal environmental values or natural coastal processes.
<i>(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</i>	The proposal may result in an adverse impact on the water quality of the marine estate and does not drain to a sensitive lake contained in Schedule 1. Subject to appropriate stormwater management and the implementation of erosion and sediment control measures during construction, water quality of Tuggerah Lakes will not be impacted by the proposed development.
<i>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</i>	The proposal is unlikely to adversely impact marine vegetation, native vegetation and fauna and their habitats, underdeveloped headlands, and rock platforms subject to implementation of appropriate water quality protection as discussed above.
<i>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	The proposal will not adversely impact on existing public open space and safe access to and along the foreshore.
<i>(f) Aboriginal cultural heritage, practices and places,</i>	There are no identified aboriginal cultural heritage items on the site including a clear AHIMS search.
<i>(g) the use of the surf zone.</i>	Not Applicable. There is no site frontage to any beach/surf zone.

In accordance with Section 2.10(2), the consent authority must be satisfied that –

- (a) the development is designed, sited, and will be managed to avoid an adverse impact referred to in subsection (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Further the development proposal is not wholly consistent with relevant provisions in Section 2.11 in respect of the Coastal Use Area in that it is not likely to cause an adverse impact on the following matters for consideration.

Matters for consideration	Compliance
<i>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—</i>	
<i>(a) has considered whether the proposed development is likely to cause an adverse impact on the following—</i>	
<i>(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	The proposal will not impact existing safe access to and along the foreshore for members of the public.
<i>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</i>	The proposal may not cause an adverse impact on access, overshadowing, wind funnelling or view loss from public places to any foreshore.
<i>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</i>	The proposal will improve the quality and visual amenity of development in the area. It will not impact on the scenic qualities of the foreshore; however, the proposal in seeking a variation to development standards in particular exceeding the height limit, have compounded the non-compliances in building form and bulk, visual privacy and solar access to units. The external appearance of the buildings is not well considered or reasonably articulated. The composition does not have a variety of building elements defining both vertical and horizontal elements. The façade does not have recessing and protruding elements that vary the scale and create interest in the building. The building form and scale of the buildings is not in keeping with the character of the area. The matters raised and once addressed in a refined scheme will ensure better overall compliance with the ADG and other planning requirements. The bulk, form, and façades of both buildings (site 1 and site 2) are not in keeping with the character of the area and do not

Matters for consideration	Compliance
	conform with the objectives of this Part 4M Facades clause of the ADG. There are non-compliance issues regarding heights, solar access, privacy, and amenity which are not adequately addressed in the submitted development application documentation.
<i>(iv) Aboriginal cultural heritage, practices and places,</i>	There are no known objects, areas, or items of heritage significance on the land, and no potentially adverse impacts on cultural or environmental heritage have been identified.
<i>(v) cultural and built environment heritage, and</i>	There are no known objects, areas, or items of heritage significance on the land, and no potentially adverse impacts on cultural or environmental heritage have been identified. AHIMS search / mapping is clear.
<i>(b) is satisfied that—</i>	
<i>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</i>	The proposed development has been designed and sited to avoid any adverse impact referred to in paragraph (a).
<i>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i>	N/A
<i>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</i>	N/A
<i>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</i>	The bulk and scale of the proposed development is considered unsatisfactory for its type and location. The proposed development has considered surrounding coastal and built environment, having regard to Council's objectives for the area as well as development approved but not yet built. The proposed bulk, scale and size of the development requires greater design resolution having regard for the provision of waste servicing, landscaping, deep soil planting, parking, and equitable accessibility arrangements, setbacks, building separation,

Matters for consideration	Compliance
	building depth, solar access, and general built form (height, bulk, and scale).

Section 2.11 requires the consent authority to consider those matters outlined in Section 2.11(1)(a)(i)-(v) as discussed in the table above, and be satisfied that (Section 2.11(1)(b))-

- (i) the development is designed, sited, and will be managed to avoid an adverse impact referred to in paragraph (a), or
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact

The Panel cannot be satisfied with Section 2.10(2)(a)-(c).

In addition, the provisions of Section 2.11(1)(c) require the consent authority to take into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development. The relevant matters have been considered in the assessment of this application and the Panel cannot be satisfied the proposed development is of an appropriate bulk and scale within the existing site context.

Having regard to the above, the Panel can be satisfied that the proposed development can be amended to be designed, sited, and managed to avoid an adverse impact and is unlikely to cause increased risk of hazards on the subject site or other land. However, the Panel cannot be satisfied the bulk, scale and size of the development is satisfactory as the development requires greater design resolution.

Chapter 4 – Remediation of Land

The Resilience and Hazards SEPP applies to any land defined in Section 4.3 (1)(a) or (b).

The provisions of Section 4.6 have been considered in the assessment of the development application and consideration has been given as to whether the land is contaminated, and if the land is contaminated, the consent authority is satisfied that the land is suitable in its contaminated state (or will be made suitable, after remediation) for the purpose for which the development is proposed to be carried out.

Further under Section 4.6(2) before determining an application for consent to carry out development that would involve a change of use of land, the approval authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

The site has historically been used for residential development. Council's records indicate that the site has never been used for industrial or commercial land uses.

Section 4.6(2) requires the consent authority to consider a report specifying the findings of a preliminary investigation, prepared in accordance with the contaminated land planning guidelines, for any development that would involve a change of use on any land specified in s.4.6(4).

In accordance with Section 4.6, the consent authority can be satisfied that the land is suitable for the proposed development. A Preliminary Site Investigation has been undertaken for the proposed development by Geotesta Pty Ltd, which concludes the following:

"The PSI conducted at 9,10 Beach Parade, Canton Beach NSW 2263 (Lot/Section/Plan no: 311,312/-/DP755266), 1-5 Kantara Road, Canton Beach NSW 2263 (Lot/Section/Plan no: 318- 320/-/DP755266), and 1-5 Crossingham Street, Canton Beach NSW 2263 (Lot/Section/Plan no: 315-317/-/DP755266) was undertaken by Geotesta to investigate the likelihood of the presence of contamination on the site.

Based on the assessment undertaken, the following conclusions and recommendations can be made:

- *All the contaminant concentrations of interest were found to be within the site assessment criteria (SAC).*
- *The Preliminary Site Investigation's limited soil sampling and analysis program conducted indicated a low risk of soil and groundwater contamination. It is the opinion of Geotesta Pty Ltd that the site is suitable for the proposed high-density development pending on the results of an additional Data Gap Contamination Assessment*

Due to the existence of a significant data-gap in this investigation, a further Data Gap Contamination Assessment post demolition of the existing structures/dwellings is required to address further potential areas of concern (main emphasis on the footprint of the structures/dwellings) identified in the AECs and to determine if any contamination hotspots exist around the existing sheds and dwellings. The Gap Assessment scope must also include the following:

- *Any stockpiles that were not assessed at the time of the PSI or are new to site, will require sampling as part of the Data Gap Assessment. Sampling of stockpiles must adhere to the "NSW EPA, Contaminated Land Guidelines, Sampling Design Application (2022)". Classification of stockpiles must be conducted as per "NSW EPA (2014), Waste Classification Guidelines, Part 1: Classifying Waste."*

The application is to be undertaken in accordance with the recommendations made in the report, and therefore, is deemed appropriate with regards to site contamination and remediation.

In accordance with s.4.6, the consent authority can be satisfied that the land is suitable for a future proposed development.

State Environmental Planning Policy (Sustainable Buildings) 2023

Development applications submitted on the NSW planning portal on or after 1 October 2023 are subject to the provisions of SEPP (Sustainable Buildings) 2022 rather than SEPP (Building Sustainability: BASIX) 2004. The development application was formally accepted on 31 October 2023. A BASIX certificate is valid if issued no earlier than 3 months before the day of submission of a DA, in this circumstance the BASIX prepared by ESD Synergy is dated 13 September 2023.

The BASIX Certificate details no rainwater re-use / RWT is required for this proposal. The *FIA* notes the detailed roof stormwater design has not yet been developed for the proposal, however roof run-off calculations were undertaken and accounted for in the scheduled internal pit and pipe network design; it is assumed run-off collected via the RWOs through the exposed impervious Atrium areas, and Basement Pump-Out Rising Main discharge, have been accounted for in a similar manner.

The proposal seeks to directly connect into Council's underground pipe system to prevent the requirement for OSD for the proposal (as would be required if discharging stormwater to the street surface, such as kerb and guttering drainage system). Standard water quality controls will be required to treat gross pollutants and sediment, prior to discharge from the site.

Drainage System Connection and Capacity – any alteration and/or addition to Council's trunk and/or longitudinal street drainage systems will only be supported by Council where an adequate Hydraulic Analysis has been conducted on the system and provided to Council, to demonstrate:

- The existing system(s) has sufficient capacity to convey the additional stormwater flows.
- The Pre-vs-Post-Development impact on the existing systems, both upstream and downstream; Hydraulic Grade Lines (HGLs) are to be provided for both the pre-developed and post-developed scenarios to demonstrate these impacts.
- The proposed works will not have any adverse impacts on the performance of the Council drainage system(s) as a whole (including surcharging or backlogging).

Drainage System Connection and Capacity – as advised in the Council's system does not have details of the discharge connection for the Beach Pde pipe culvert to the south of the site to which the proposal is seeking to connect; further investigation of this line is required to be undertaken. The Applicant is required to demonstrate the existing system(s), which are proposed to be altered and/or connected into by the development, have adequate capacity

to convey the additional stormwater and the proposed works will not have any detrimental impacts on this system (such as backlogging or surcharging).

Having regard for this, the proposed development does not satisfy the requirements of the SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Council referred the application to AUSGRID to ensure the development would not be in conflict / within 5 metres of an exposed overhead electricity power line. Ausgrid provided comment on 23 May 2025 advising they consent to the development subject to conditions.

This chapter identifies a number of types of development that require concurrence from Transport for NSW where development is identified as 'traffic generating development'. The current proposal is not identified as traffic generating development as the site does not trigger the threshold requirements. Therefore, concurrence from the TfNSW is not required.

In accordance with this chapter, the application is not required to be referred to Trains NSW as the proposal is not in the vicinity of rail infrastructure. Given the distance from Rail infrastructure and in accordance with this chapter, an acoustic and vibration report is not required to be prepared.

The development site is not located within proximity to a classified road and as a result, it is not necessary to consider the provisions of this chapter that requires a consent authority to consider the impact of arterial roads on buildings used for residential purposes.

Industry and Employment State Environmental Planning Policy

The relevant provisions of the Industry and Employment SEPP are addressed as follows:

Chapter 3: Advertising and signage

Part 3.2 – Signage generally

Part 3.2, Clause 3.6 of the Industry and Employment SEPP states that Council must not grant consent to the proposed development unless it is satisfied that the proposal upholds the aims and objectives in Clause 3.1 and the assessment criteria in Schedule 5 before to granting consent to the development. No signage or advertising is proposed.

State Environmental Planning Policy (Housing) 2021 (Housing SEPP)

Chapter 4: Design of residential apartment development

The former SEPP 65 was repealed by the Housing SEPP on 14 December 2023. An amendment to the Housing SEPP notified on 15 March 2024, which retrospectively amended

the Housing SEPP, with subsection 2A of Schedule 8 being introduced which clarifies the new Chapter 4 applies to applications that were made, but not finally determined, before 14 December 2023, when SEPP 65 was repealed.

The development application was lodged on 31 October 2023, accordingly, the provisions of Chapter 4 *Design of residential apartment development* apply to the proposed development. There are no material changes to prescribed development controls of the Apartment Design Guide.

Under s.145(2), a consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice, prior to the determination of the application. However, a design review panel has not been constituted for the Central Coast local government area therefore this section does not apply (s.145(3)).

Under s.147(1), development consent must not be granted to residential apartment development unless consideration has been given to the design principles set out in Schedule 9 (s.147(1)(a)) and the Apartment Design Guide (s.147(1)(b)). An assessment in relation to the design principles and the ADG is provided below.

The provisions of s.148 (2) identify non-discretionary standards for residential apartment development as follows:

- b) car parking must be equal to, or greater than the minimum amount of car parking specified in Part 3J of the ADG,*

Part 3J does not apply to the subject site as the site is not within 800 metres of a railway station nor is it within 400 metres of land zoned B3 (now E2) and B4 (now MU1 Mixed Use).

- (b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the ADG,*

The proposed apartments comply with the minimum internal area required of 90m².

- (c) the ceiling heights for the building must be equal to, or greater than, the recommended ceiling heights specified in Part 4C of the ADG,*

The ceiling heights comply with the minimum 2.7 metre for habitable rooms and 2.4 metre for non-habitable rooms.

Section 147(1) of the Housing SEPP requires the consent authority to not grant consent unless the following are considered:

- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) the Apartment Design Guide,*
- (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel*

Note: Section 147(1)(c) is not applicable, as there is no Central Coast Design Review Panel constituted. The assessment below has been undertaken by council's consultant Urban Designer.

Design Quality Principles

The application is accompanied by a revised *Design Verification Statement* prepared by Team 2 Architects, dated 29 September 2023, as required by *Section 29 of the EP&A Regulation 2021* to reference the plans submitted with the development application through the NSW Planning Portal.

Section 29 requires that the Design Verification Statement explain how the development addresses:

- the design principles for residential apartment development, and
- the objectives in Parts 3 and 4 of the Apartment Design Guide.

The statement provided by Team 2 Architect states:

The below statement is to address cl. 29 (Residential apartment development) of the Environmental Planning and Assessment Regulation 2021.

(2)(a) I hereby confirm that, I Richard Webster (NSW Reg 9947) designed the modification of the development

(2)(b)(i) The 9 design quality principles have been addressed starting page 2 onwards in Team2's LEP, DCP, SEPP & ADG CONTROLS, DESIGN STATEMENT. Please read in conjunction with Team2 drawing package:

o 1110_ADG SEPP65 compliance_230906

(2) (b)(ii) The objectives in the Apartment Design Guideline are outlined in Team2's ADG Compliance Schedule

o 1110_ADG SEPP65 compliance_230906

(3) A Basix certificate accompanies this DA application

o BASIX Certificate no: 1411097M

The statement does not provide a detailed response to the design principles nor address Parts 3 and 4 of the ADG. The submitted statement fails to comply with the provisions of Section 29 of the EP&A Regulation 2021.

Independent Design Review

Dyer Design Company (DDC) was engaged by Council to undertake an independent design review to consider the proposal against the Design Quality Principles and the associated ADG. DDC also considered relevant provisions in the CCDCP 2022. DDC reviewed the architectural plans submitted with the application and provided a report dated 26 January 2024 and mark ups of the architectural plans outlining the defects in relation to compliance with the *Design of Residential Apartment Development* (ADG) (please see **Attachment 2**).

Section 147(1)(a) – Design Principles for Residential Apartment Development

The design quality principles outlined in Schedule 9 of the Housing SEPP are assessed in the table below. In summary, the proposal is seeking a variation to development standards in particular exceeding the height limit compounded with non-compliances with the ADG required building setbacks and separation resulting in an unacceptable built form (height, bulk and scale). The apartments will receive insufficient natural light and ventilation and compromised visual privacy and amenity.

The external appearance of the buildings is not well considered or reasonably articulated. The composition does not have a variety of building elements defining both vertical and horizontal elements. The façade does not have recessing and protruding elements that vary the scale and create interest in the building. The building form and scale of the buildings is not in keeping with the character of the area. The matters raised would ensure better overall compliance with the ADG and other planning requirements.

The proposed development demonstrates non-compliance with *State Environmental Housing (Housing) 2021* and the Apartment Design Guide (ADG), *Central Coast Local Environmental Plan 2022* and Central Coast Development Control Plan 2022. The proposed development is considered an overdevelopment of the site.

The external appearance of the buildings is not well considered or reasonably articulated. The composition does not have a variety of building elements defining both vertical and horizontal elements. The façade does not have recessing and protruding elements that vary the scale and create interest in the building. The building form and scale of the buildings is not in keeping with the character of the area.

A clause 4.6 written request seeking a variation to the development standard for maximum building height has not demonstrated that non-compliance is unreasonable or unnecessary in the circumstances of the case and that the non-compliance with the standard has sufficient environmental planning grounds.

The proposed development is not in the public interest because it is inconsistent with the objectives of the development standards and the objectives for development within which the development is proposed to be carried out. Insufficient information has been provided to accurately assess the proposed development.

The development application is accompanied by a Design Verification Statement by the Registered Architect at Team 2 Architects verifying that they have directed and designed the proposal, and that the design quality principles set out in Part 2 of the SEPP are achieved for the development.

Chapter 4: Design of residential apartment development

Section 147(1) of the Housing SEPP requires the consent authority to not grant consent unless the following are considered:

- (a) *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) *the Apartment Design Guide,*
- (c) *any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel*

Note: Section 147(1)(c) is not applicable, as there is no Central Coast Design Review Panel. The assessment below has been provided by council's consultant Urban Designer.

Principles – DDC assessment and response

Principle	Response
<i>Principle 1: Context and neighbourhood character</i>	Compliance is not achieved, and objectives are inadequately addressed in the documentation.
<i>Principle 2: Built form and scale</i>	Objectives are not adequately addressed in the documentation. Non-compliance issues, including technical non-compliances with the overall building height, building separation, setbacks, and solar access. Building Envelopes objectives are not adequately addressed in the documentation. Three are non-conformance issues with heights, setbacks, and articulation.

	<p>The building height is quoted as approximately 17.5 metres in the design statement which is incorrect. The sections show the incorrect proposed heights exceeding the limit that is dimensioned are to the underside of ceiling but should be shown to the roof and the overrun to properly indicate the actual extent of the impact and non-conformance. Note all elevations should have the height limit indicated to show the full extent of the impact and non-compliance.</p> <p>It should also be noted the overall area/volume of the non-conformance (refer to drawing D-3100). These are excessive non-conformances to the height limit (together with other issues) and adds to the unacceptable bulk and density of the form which also contribute to additional overlooking and overshadowing of adjoining properties.</p>
<i>Principle 3: Density</i>	<p>Objectives adequately addressed in the documentation. Technically the design complies with the numerical values, however coupled with non-compliance issues as noted above regarding heights, solar access, privacy, and amenity are not adequately addressed in the documentation.</p>
<i>Principle 4: Sustainability</i>	<p>Compliance is achieved and objectives are adequately addressed in the documentation.</p>
<i>Principle 5: Landscape</i>	<p>Generally, the quality of design of the landscaping meets the objectives of this principle. However, an improved outcome could include a landscape design which features:</p> <ul style="list-style-type: none"> • Use of larger canopy trees proposed in discontinuous clumps located away from the proposed building. • Mature canopies of these proposed trees designed not to overhang the proposed building. • Larger Shrub planting for screening located around the boundaries, in discontinuous clumps, to remove the threat of continuous fuel loads. • The planting mix includes a range of fire-retardant type species, such as Blueberry Ash and Lilly Pillies • Ground covers of the southern side of the proposal primarily fire retardant / shade tolerant fern and succulent species. • Organic mulch throughout gardens (equal to ANLs 'Forest Blend')

	<ul style="list-style-type: none"> • Non-combustible (gravel) mulch will be specified for the rooftop / COS gardens associated with the building footprint. • Ground cover species proposed to the north of the building are primarily native grasses < 800mm height. • Tiered courtyard gardens to include species generally < 1 metre when mature to prevent overlooking and mitigate overshadowing.
<i>Principle 6: Amenity</i>	<p>Objectives are not adequately addressed in the documentation.</p> <p>The Building Depth is an approximately 18.5-20.6 metres. This is contributing to the bulk of the building and possible lack of natural light and ventilation to units. All building separations should be compliant to maintain privacy and amenity and street seatbacks are to be reviewed. Beach Parade requires 6 metres, 4.9 metres is proposed, Kantara Road requires 6 metres, 5.7metres is proposed.</p> <p>These setback non-conformances (together with other issues) add to the unacceptable bulk and density of the form at street level. All street setbacks should be compliant. All building side and setbacks should be compliant to maintain privacy, amenity and reduce overlooking and overshadowing.</p>
<i>Principle 7: Safety and Security</i>	Objectives are adequately addressed in the documentation.
<i>Principle 8: Housing and diversity and social interaction</i>	<p>Objectives are adequately addressed in the documentation. The proposal needs to provide development that is tourist-orientated. A market analysis could provide insight into what tourist facilities or uses would be in demand in the area. Permanent accommodation is to be limited.</p> <p>The applicant should investigate the demand for so many permanent apartments in the area. The plans propose 6 serviced apartments on level 1. Serviced apartments permit short term stay which will cater for tourists. Furthermore, the development proposes a central thoroughfare and dining area with café/takeaway premises adjoining both sides, creating an 'eat street', which is envisaged to be a destination for tourists.</p> <p>It is assumed other units in the development may be for short-term rental accommodation, which could be considered a form</p>

	of tourist accommodation. The units would be capable of achieving the general requirements of clause 113 of the SEPP.
<i>Principle 9: Aesthetics</i>	Objectives are not adequately addressed in the documentation.

Section 147(b) – Apartment Design Guide (ADG)

In the absence of an assessment of Part 3 and 4 of the ADG prepared by a registered architect engaged by the applicant, an assessment of the development against the ADG design criteria is provided below.

The proposal could include large, landscaped setbacks with deep soil to ensure that the buildings, site and the curtilage and gardens will enhance the setting. The proposal's height is not compliant, and the development is not the same as its neighbours which presents as an incompatible character and which will not fit into the streetscapes, with the scale not visually broken up into distinct (ADG compliant) modules.

Existing site characteristics that reduce visual dominance are not retained and topographical constraints although embraced do not provide for a site that has the need for height breaches. To improve the design presentation new materials and forms could be introduced to achieve sensitivity towards the existing forms and materials of the neighbouring buildings.

Presently, the proposed buildings are not capable of existing together in harmony within the urban context and do not demonstrate a compatible character rather than mimic development typologies formerly promised on adjacent land.

Buildings can exist together in harmony without having the same density, scale, or appearance, though as the difference in these attributes increases, congruence is more difficult to achieve. Compatibility between the proposed and the existing is also not always desirable as where extreme differences in scale and appearance produce great urban design involving landmark buildings.

Planning controls recognise the evolving nature of an area and in this circumstance where the zone permits a higher density development than what is currently in-situ, this is an indication that an envisaged change of character is supportable, in which case compatibility with the future character is more appropriate than with the existing examples where there are older stock building environments that are unattractive that it is best not to reproduce them.

Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In this circumstance, the proposal's physical and environmental impacts on surrounding development (as well as compromising internal amenity) are unacceptable.

The physical impacts include constraints on the development potential of surrounding sites and the building's appearance should be in harmony with the buildings around it and the character of the street. Physical impacts, such as noise, overlooking, overshadowing, and constraining development potentially are objective. Conversely, arguing whether a new development appears to be in harmony with its surroundings is subjective.

Notwithstanding this, it is considered the development is not a good planning outcome for the site. With consideration of the above, it is recommended that the external appearance of the buildings is not well considered or reasonably articulated. The composition does not have a variety of building elements defining both vertical and horizontal elements. The façade does not have recessing and protruding elements that vary the scale and create interest in the building. The building form and scale of the buildings is not in keeping with the character of the area.

The proposed development does not comply with several of the ADG requirements. The relevant design criteria where the design is non-conforming with Parts 2, Parts 3 and 4 of the ADG is discussed in the table below.

Dyer Design Company independent advice was sought and is referenced below. In summary, it is considered that the proposed separation distances, setbacks, building depths, and general facade treatments are inappropriate. The design, in its current form, should not be supported by the Panel.

Design Criteria	Required	Proposed	Compliance
Part 2B	Building Envelopes	The objectives are not adequately addressed in documentation. There are non-conformance issues with heights, building separation, building depth, side, rear and front setbacks, and façade articulation and materiality.	No
Part 2C	Building Height - Central Coast LEP 2022 Clause 4.3 16m height limit	The objectives are not adequately addressed in documentation. The height is quoted as 17.5 metres approximately in design statement which is incorrect and shown on the architectural plans as 17.5 metres. Therefore, the section drawings show the incorrect proposed heights exceeding the limit that is dimensions are to underside of ceiling when should be shown to the roof and the overrun to properly indicate the actual extent of the impact and non-	No

Design Criteria	Required	Proposed	Compliance
		<p>conformance. Further, all elevations should have the height limit indicated to show the full extent of the impact and non-compliance.</p> <ul style="list-style-type: none"> Site 1 building height exceeds the permitted limit by 2.6 metres, this equates to 18.4 metres (15%) – 18.6 metres (16.2%). The lift overrun exceeds the height limit by 3.8 metres (23.75%). Site 2 proposed height of 18.7 metres exceeds the maximum permitted by 16.8% with the lift overrun exceeding the height limit by 2.9 metres or 18.1% <p>This non-conformance with the numerical values has further implications as the overall area/volume of the non-conformance triggers the level 4 protrusion beyond the allowable height plane. The non-conforming GFA is 1,797m² or 18% of the overall development cause level 4 to protrude above the maximum permitted height of 16 metres. These are excessive non-conformances to the height limit add to the unacceptable bulk and density of the form which also contribute to additional overlooking and overshadowing of adjoining properties.</p>	
Part 2E	Building Depth 12 metres -18 metres ADG required.	The general objectives are not adequately addressed in documentation. A depth of 20.6 metres to 18.5 metres is proposed which contributes to the bulk of the building and possible lack of natural light and ventilation to apartments,	No

Design Criteria	Required	Proposed	Compliance
		this equates to a non-conformance of between 10.6 metres to 2.6 metres.	
Part 2F	<p>Building Separation ADG requirements:- Minimum separation distances for buildings in ADG are: Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies <p>9m between habitable and non-habitable rooms</p> <ul style="list-style-type: none"> • 6m between non-habitable rooms <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms 	<p>General objectives and design criteria not adequately addressed in the documentation. All building separations should be compliant to maintain privacy and amenity.</p> <ul style="list-style-type: none"> • Level 1-3 (four stories by definition) shows non-compliances (although minor) with 6 metres (half 12 metres) setback to boundary between site 0 and site 1. • There is a significant non-compliance between buildings on site 0 and site 2. 12 metres is required where 9.7 metres is provided. • At level 4 (fifth storey) there are non-compliances (although minor) with 9 metres (half 18 metres) setback to boundary between site 0 and site 1. • Further, there are significant non-compliances between buildings on site 0 and site 2 where 18 metres is required and only 12.6 metres is provided. • All building separations should be compliant to maintain privacy and amenity to both the mixed use development apartments and future neighbouring developments. <p>The development fails to provide suitable building separation which impacts severely upon the quality of the apartments liveability and impacts upon natural light and ventilation.</p>	No

Design Criteria	Required	Proposed	Compliance
	Where applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes the building separation equally between sites (consider relationship with section 3F Visual privacy). At the boundary between a change in zone from apartment buildings to a lower density	These non-compliances have ramifications such as occupant health and well-being unreasonably affected.	
Part 2G	Street setbacks Central Coast DCP 2022 Chapter 2.3 Residential Flat Buildings & Shop Top Housing Clause 2.3.4.1 – Setbacks for Residential Flat Buildings – 3 Storeys or more 6 metres applies to all aspects of the development, with the exception of a portico, or an approved structure required for a waste collection area.	General objectives and design criteria not adequately addressed in documentation. <ul style="list-style-type: none"> Beach Parade requires 6 metres, 4.9 metres is proposed, Kantara Road requires 6 metres, where 5.7 metres is proposed. These setback non-conformances (together with other issues) add to the unacceptable bulk and density of the form at street level. All street setbacks should be compliant in any future development application at the site and/or neighbouring sites. 	No
Part 2H	Side and rear setbacks Central Coast DCP 2022	General objectives and design criteria are not adequately addressed in documentation.	No

Design Criteria	Required	Proposed	Compliance
	<p>Chapter 2.3 Residential Flat Buildings & Shop Top Housing Clause 2.3.4.1 – Setbacks for Residential Flat Buildings – 3 Storeys or more</p> <p>i. First to fourth Storey: 6.0 m ii. Fifth to eighth Storey: 9.0 m iii. Ninth storey & above: 12.0 m</p> <ul style="list-style-type: none"> Note: No more than 4 consecutive storeys of the building shall be at the same setback. 	<p>Site 1 (south west boundary to Site 0):</p> <ul style="list-style-type: none"> Level 1-3 (four stories by definition) non-compliances (although minor) with 6 metres setback. A 5 metres to 5.8 metres setback is provided at certain points. Level 4 (fifth storey) non-compliances (although minor) with 9 metre setback required, the proposal offers a 7.3 metre to 8.2 metre setback. <p>Site 2 (southern boundary to neighbouring site):</p> <ul style="list-style-type: none"> Level 4 (fifth storey) has significant non-compliances with the required 9 metre setback. Setbacks proposed are between 7.3 metres and 8.2 metres provided roof overhang and stairwell. <p>Site 2 (northern boundary to Site 1 and Site 0):</p> <p>Level 4 (fifth storey)</p> <ul style="list-style-type: none"> Significant non-compliances with 9 metre setback is required, where a 7.8 metre is proposed to the building line and roof overhang. <p>All building setbacks should be compliant to maintain privacy, amenity and reduce overlooking and overshadowing at both the subject site mixed use development and/or any future neighbouring developments.</p>	

Design Criteria	Required	Proposed	Compliance
Part 3F-1 Visual Privacy	Separation from boundaries and buildings: <ul style="list-style-type: none"> up to 12m / 4 storeys – 6m to habitable, 3m to non-habitable up to 25m / 5-8 storeys – 9m to habitable, 4.5m to non-habitable 	<p>General objectives and design criteria not adequately addressed in documentation. Please also refer to Part 2F Building Separation and Part 2H Side and rear setbacks discussed above).</p> <p>Site 1 (south west boundary to Site 0) Level 1-3 (four stories by definition):</p> <ul style="list-style-type: none"> Non-compliances (although minor) with 6 metre setback providing a 5 metre to 5.8 metre setback at certain points. Privacy issue between habitable room/balconies on building internally. <p>Level 4 (fifth storey)</p> <ul style="list-style-type: none"> Non-compliances (although minor) with 9 metre setback required with 7.3 metre to 8.2 metres provided at certain points. Privacy issues between habitable room/balconies on Site 1 and Site 2. Privacy issue between common area and balcony <p>Site 2 (northern boundary to Site 1 and Site 0)</p> <ul style="list-style-type: none"> Level 4 (fifth storey): Significant non-compliances with 9 metre setback as a 7.8 metre setback is provided to building line. Privacy issues between habitable room/balconies on Site 1 and Site 2 	No

Design Criteria	Required	Proposed	Compliance
		All building setbacks should be compliant to maintain privacy, amenity and reduce overlooking and overshadowing. There are no constraints that would limit full compliance at the former 'Key Site'.	
Part 4A-1 Solar and Daylight Access	Solar and daylight access Objective 4A1 – To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space. Design Criteria 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas (<i>not applicable to this site</i>) 2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a <u>minimum of 3 hours direct sunlight between 9am and 3pm at mid-winter</u>	<p>Objectives and design criteria are not adequately addressed in the documentation.</p> <p>The design criteria states:</p> <p><i>...To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</i></p> <p>The design criteria also notes that skylights are used only as a secondary light source in habitable rooms.</p> <p>Therefore, the development is non-compliant to this requirement due to units that depend on a skylight do not provide the required sunlight to the primary windows and private open space and should be discounted in the overall compliance calculation revealing that only 60 units (61.9%) achieve 3 hours of solar access.</p> <p>Note: The NSW LEC decision in <i>Construction Development Management Services Pty Ltd v City of Sydney</i> [2023] NSWLEC 1620 held that the specific criteria relating to sunlight in the Apartment Design Guide (ADG) does not have to be strictly complied with for residential developments, though optimising sunlight is still a requirement. The SEPP requires a consent authority to take the ADG and its objectives into consideration,</p>	No

Design Criteria	Required	Proposed	Compliance
	<p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter</p> <p><i>Note that the requirement for solar access is for living rooms and private open space not either/or.</i></p> <p>Objective 4A2 – Daylight access is maximised where sunlight is limited. Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms</p> <p>Objective 4A3 – Design incorporates shading and glare control, particularly for warmer months.</p>	<p>including the objective of optimising the number of apartments receiving sunlight to habitable rooms, primary windows, and private open space.</p> <p>For Sydney CBD, one of the design criteria under this objective is that <i>"living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter"</i>.</p> <p>The main issues related to whether consent could be granted for a residential apartment development which did not strictly adhere to the ADG and whether the proposed development "optimised" sunlight.</p> <p>Horton C determined that the design criteria referred to above <i>"is not, of itself, a development standard but one means of achieving the objective at 4A-1 of the ADG"</i> which is to optimise sunlight. The applicant did not have the option of adhering to the design criteria of 70% of apartments receiving sunlight due to the site being overshadowed by neighbouring development in the CBD. Canton Beach is not a CBD nor affected by the same mitigating factors.</p> <p>Previous cases in which inadequate solar access was held to be grounds for refusal were distinguished on the basis that the applicant's in those cases chose not to comply with criteria, while in this case the design could not achieve compliance despite attempts to do so.</p>	

Design Criteria	Required	Proposed	Compliance
		<p>Horton C found that the development application optimised direct sunlight by incorporating ADG design features, and so determined to grant consent for the development. In doing so, the Commissioner held that adequate regard had been given to the ADG and so clause 30(2)(b) of SEPP 65 had been satisfied.</p> <p>The apartment layout and the design of openings to the perimeter of apartments to allow for sunlight were considered to be ways to achieve this objective. While this case is authority for the proposition that the 'requirements' in the ADG do not have to be strictly complied with if it is not practically possible to do so. However, in such circumstances, design choices to optimise sunlight should be implemented.</p>	
Part 4G-1 Storage	<p>Storage</p> <p>Objective 4G1 – Adequate, well designed storage is provided in each apartment.</p> <p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided; –</p> <ul style="list-style-type: none"> • Studio Apartments – 4m³ • 1 Bed Apartments – 6m³ • 2 Bed Apartments – 8m³ 	<p>Objectives and Design Criteria not adequately addressed in the documentation.</p> <ul style="list-style-type: none"> • The plans are required to indicate the location and size of the storage provided in unit to determine if compliant. It is unclear what is "built-in" or freestanding furniture. • All storage to units must be indicated as built-in to the unit to comply. 	No

Design Criteria	Required	Proposed	Compliance
	<ul style="list-style-type: none"> • 3+ bed Apartments – 10m3 <p>At least 50% of required storage is to be located within the apartment.</p>		
Part 4M Facades	<p>Facades</p> <p>Objective 4M1 – Building facades provide visual interest along the street while respecting the character of the local area.</p> <p>Design solutions for front building facades may include:</p> <ul style="list-style-type: none"> • a composition of varied building elements • a defined base, middle and top of buildings • revealing and concealing certain elements • changes in texture, material, detail and colour to modify the prominence of elements. <p>Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include:</p>	<p>Objectives and Design Criteria not adequately addressed in the documentation.</p> <p>The bulk, form, and façades of both buildings (Site 1 and Site 2) are not in keeping with the character of the area.</p> <p>The building form and façades of the buildings does not conform with the objectives of this clause.</p> <p>Site 1 - the building form and façade of the building on Site 1 does not conform with the objectives of this clause.</p> <ul style="list-style-type: none"> • Level 4 (fifth storey) has building form which is beyond the allowable height limits. • This building form is located on the street façade and adds to the dominance and overpowering nature of the building form on the street character. • This building form does not step back and create a positive discernible variable "top" element to the building. • The building form should be recessed back from the street façade or located towards the middle of the site to reduce its impact. 	No

Design Criteria	Required	Proposed	Compliance
	<ul style="list-style-type: none"> • well composed horizontal and vertical elements • variation in floor heights to enhance the human scale • elements that are proportional and arranged in patterns • public artwork or treatments to exterior blank walls • grouping of floors or elements such as balconies and windows on taller buildings <p>Objective 4M2 – Building functions are expressed by the façade.</p> <p>Central Coast DCP 2022 Chapter 2.3 Residential Flat Buildings & Shop Top Housing Clause 2.3.5.1 – Facades & Articulation Requirements a) Facades are to be articulated in length and height. Monotonous and unbroken lengths of wall exceeding 10 metres in length and 3 metres in height shall not be permitted. In</p>	<p>Site 2 - the building form and façade of the building on Site 2 does not conform with the objectives of this clause.</p> <ul style="list-style-type: none"> • The southern and northern facades are very linear, monotonous, and relatively unbroken in length for 64 metres. • There are some recessive balcony elements however in general the façade provides for no visual interest, articulation, or materiality changes to ensure design excellence can be achieved. • The blank façade with no discernible breaks, articulation of the building form, no protecting elements, and a very limited pallet of materials. • There should be a physical break in this continuous façade form and multiple vertical elements introduce to break down the scale. • The form should be broken into more decisive strong "blocks" with significant breaks in the façade and different façade treatments to create variety and interest. • The northern façade fronting the "eat street" is not at a sympathetic scale for the pedestrian. It is effectively a 5 storey vertical façade fronting this promenade making it very dominating and overpowering, which could effectively render this space not desirable or usable as intended. 	

Design Criteria	Required	Proposed	Compliance
	<p>development of two or more storeys, physical design elements shall be used to provide visual interest to the building. These elements may include roof, wall and eave projections and indentations roofed decks, pergolas, awnings and other permanent shading structures, etc. A mixture of building materials including masonry, timber and glass is encouraged.</p> <p>b) For mixed use development, residential apartments are to be separated and distinguished from commercial entries to provide security and an identifiable street address for each of the different users.</p> <p>c) Shop-top housing development should be setback from the front street boundary and buffered from the street by providing a balcony or similar.</p>	<p>A great deal more articulation (stepping back), projections, awning and texture is required to improve this façade.</p> <p>The bulk, form and façades of both buildings are not in keeping with the character of the area.</p>	

Central Coast Local Environmental Plan 2022 (CCLEP 2022)

Clause 2.7 Demolition

No demolition is proposed.

Permissibility

The site is zoned SP3 Tourism under the CCLEP 2022. Other beachfront properties on Beach Parade are zoned SP3 Tourism, with Canton Beach being zoned RE1 Public Recreation and the surrounding land is zoned residential (R1, R2, R3).

The proposed development includes *Food and Drink Premises, Recreational Facilities (indoor), Shop Top Housing, and Tourist and Visitor Accommodation* which are permissible with consent in the SP3 Tourist zone.

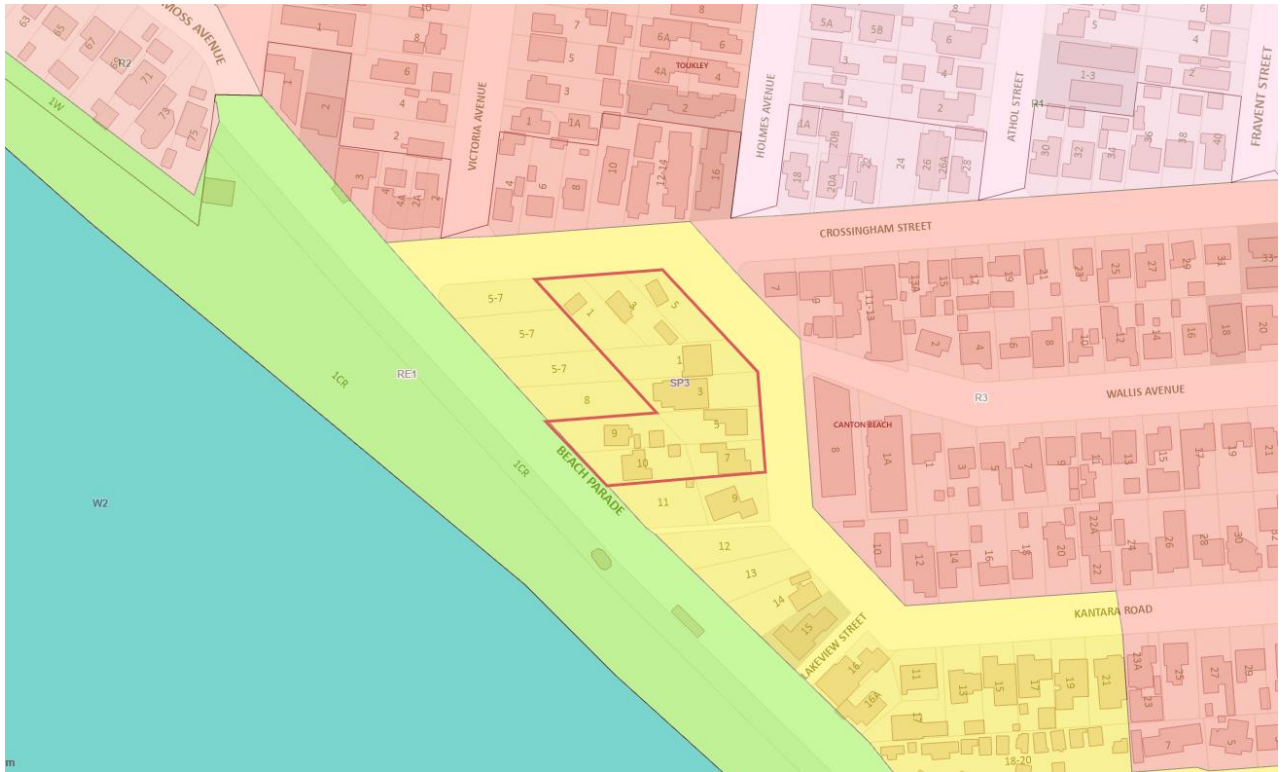


Figure 45: Zoning map of the site and surrounding development

Zone objectives

Subclause 2.3(2) of the CCLEP 2022 requires the consent authority to have regard for the objectives for development in a zone when determining a development application.

The objectives of the SP3 Tourism zone are as follows:

- *To provide for a variety of tourist-oriented development and related uses.*
- *To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.*
- *To protect and enhance the natural environment for tourist and recreational purposes.*

The proposal is considered to be inconsistent with the objectives of the SP3 zone and whilst the five storey mixed use development comprising 91 residential apartments, 6 serviced apartments, gymnasium, 9 retail tenancies and basement parking proposal will provide additional housing to the community, it is considered that the proposed development will result in poor amenity for future residents of the proposed development.

The proposed development does not display best practice in the design of shop-top housing and will not enhance the residential amenity of the surrounding development as it does not have regard to the physical, spatial, and environmental quality of the surrounding development, including maintaining visual privacy between adjoining properties.

Whilst the proposed development seeks to activate the foreshore by providing tourist-oriented development, the scale of the ground floor commercial floor area and resulting car parking deficiency will place additional on-street parking demand on the surrounding street network, and the appropriate studies have not been undertaken, in terms of contamination and acid sulfate soils to satisfy the consent authority that the natural environment will be protected.

The Panel is advised that the proposed development fails to satisfy the objectives of the SP3 Tourist zone and is recommended for refusal on this basis.

General Controls and Development Standards (Parts 2, 4, 5, 6 and 7)

CCLEP 2022 contains controls relating to development standards, miscellaneous provisions, and local provisions. The relevant controls to the proposal are further set out in the table below.

Key controls under CCLEP 2022

Clause	Requirement	Proposal	Complies
4.3(2) – Height of buildings	Clause 4.3(2) permits a maximum overall building height of 16 metres.	The proposal seeks a maximum height of 18.7 metres/16.2% variation (Site 1) and 18.6 metres/16.8% variation (Site 2) with the lift overruns exceeding the height limit by 2.9 metres (18.1% variation) and 3.8m (23.75% variation) respectively.	No
4.4(2) – Floor Space Ratio	Clause 4.4(2) permits a maximum overall FSR of 1.25:1.	Floor space ratio of 1.5:1.	No, but subject to clause 4.4B.
4.4B (2) - Exceptions to floor space	1:25:1 with a bonus 20% for buildings located in Canton Beach Local Centre	Floor space ratio of 1.5:1	Yes

Clause	Requirement	Proposal	Complies
ratio -town centres and village centres	on land greater than 4,000m ² in area.		
4.6 – Exceptions to Development Standards	Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other EPI instrument.	The application is accompanied by a written Clause 4.6 submission seeking to vary the maximum permissible building height in accordance with Clause 4.3 of the CCLEP 2022.	It is considered the Panel cannot reach an acceptable state of satisfaction.
5.21 Flooding	Development consent must not be granted within a flood planning area unless the consent authority is satisfied of the relevant matters in 5.21(2).	While the site is within a flood planning area, Council's Development Assessment Engineer has advised that the development has been designed to ensure compatibility with matters identified in 5.21(2).	Yes.
7.1 – Acid Sulfate Soils	Development consent must not be granted until an ASS Plan in accordance with the Acid Sulfate Soils Manual has been prepared.	<p>The site is mapped as Class 3 (south-west half) and Class 4 (north-east half) on Council's Acid Works Sulphate Soils Planning Map and is within 37 metres and 110 metres of Class 2 (Tuggerah Lake Foreshore) and Class 1 (Tuggerah Lake) mapped lands, respectively.</p> <p>In accordance with the NSW ASSMAC Acid Sulfate Soils Manual (ASSM), and enclosed Acid Sulfate Soils Assessment Guidelines, Section 4.1.b., sampling for ASS should occur to a depth minimum 1 metre below the depth of the proposed excavation or estimated drop in watertable height, whichever is greater.</p>	No

Clause	Requirement	Proposal	Complies
		<p>The Site Investigation Report has identified the potential for hazardous building materials within the existing structures on the property. Therefore, a Hazardous Material Assessment must be undertaken by a suitably qualified consultant to sample and analyse these structures and determine the best management approach in handling and disposing of these materials.</p> <p>The sampling design does not represent the current conditions of the site and is unable to make an accurate determination without sampling to the proposed maximum depth of 9 metres.</p> <p>Accordingly, the Panel, as the consent authority, cannot be satisfied that the proposed development is consistent with the requirements of clause 7.1 and an acid sulfate soils management plan would also be required in this instance.</p>	
7.6 – Essential Services	Essential services must be made available or adequate arrangements be made to make them available.	The proposed development has failed to demonstrate how suitable waste collection can occur during the ongoing operation of the site in addition to failing to demonstrate how suitable vehicular access is achieved for the development.	No

Clause 4.3 Height of buildings

Under the CCLEP 2022 maximum height of building maps (Clause 4.3), the site is prescribed a maximum building height of 16 metres.

The objectives of the maximum height of building clause are as follows:

- (a) to establish a maximum height of buildings to enable appropriate development density,*
- (b) to ensure that the height of buildings is compatible with the character of the locality.*

The application is referred to the Local Planning Panel because a clause 4.6 request seeking a variation to the development standard has been submitted. Clause 4.3 specifies the building height for the site shall not exceed that indicated on the applicable map below.

The development is broken into two buildings (Site 1 and Site 2). The proposal seeks a maximum height of 18.7 metres/16.2% variation (Site 1) and 18.6 metres/16.8% variation (Site 2) with the lift overruns exceeding the height limit by 2.9 metres (18.1% variation at Site 1) and 3.8 metres (23.75% variation at Site 2) respectively.

The variation is considered unacceptable having regard for the provisions of Clause 4.6. The overall area/volume of non-conformance results in level 4 protruding above the allowable height plane. This equates to 1,797m² (18% of the overall development). The request to vary the development standard has not demonstrated that the proposal in its current form will have minimal environmental impact upon adjoining properties.

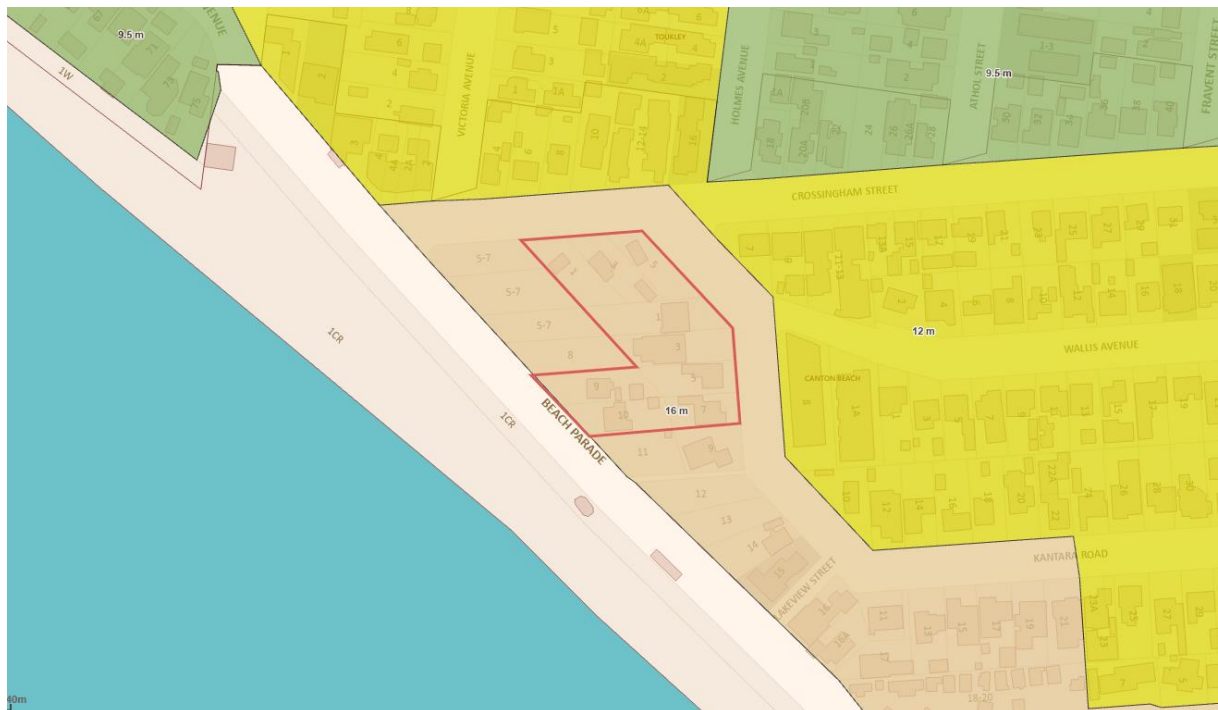


Figure 46: Height of Buildings Map for the site and surrounds

Clause 4.4 Floor space ratio

Clause 4.4 specifies the floor space ratio for the site shall not exceed that indicated on the applicable map.

The objectives of the maximum Floor Space Ratio clause are as follows:

- (a) to establish standards for the maximum development density and land use intensity,*
- (b) to ensure the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located,*
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (d) to facilitate design excellence by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.*

Clause 4.4(2) of CCLEP 2022 specifies the floor space ratio (FSR) for the site shall not exceed that indicated on the applicable map. The maximum permitted FSR is 1.25:1. However, there are exceptions to FSR provided for town centres and village centres under clause 4.4B. A building on land identified as "Canton Beach Local Centre" may exceed the maximum floor space ratio by the percentage shown in Column 2 of clause 4.4B (2). The proposed development has a floor space ratio of 1.5:1. which is compliant.

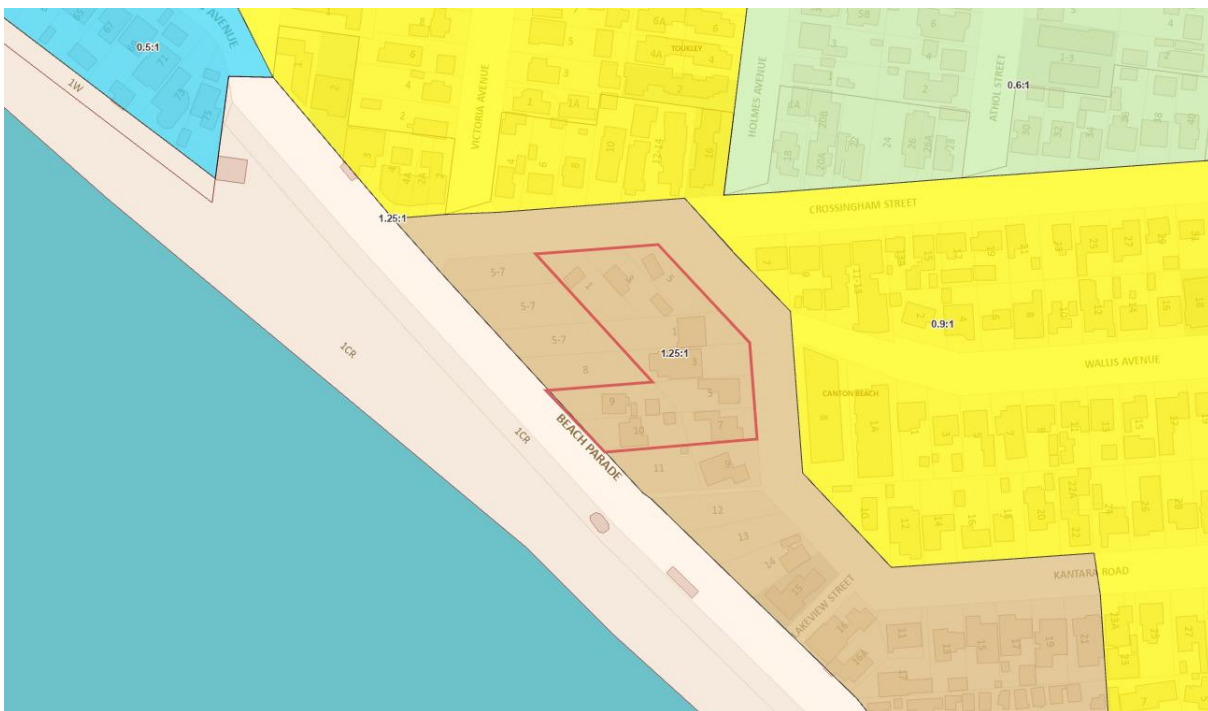


Figure 47: FSR Map for the site and surrounds

Clause 4.4B – Exceptions to Floor space ratio – Town Centres and villages centres

The provisions of Clause 4.4B of the CCLEP 2022 establish a FSR of 1.25:1 with a bonus 20% for buildings located in Canton Beach Local Centre on land which is greater than 4,000m² in area. The site is permitted an FSR of 1.5:1 (1.25:1 + 20%), which is equivalent to a GFA of 9,523.2m². The development proposes a GFA of 9,523.1m² (FSR 1.5:1).

The proposal complies with this control.

Clause 4.6 Exceptions to development standards

A formal written request that has been prepared in accordance with Clause 4.6 of the CCLEP 2022 to support a mixed-use development which complies with the numerical FSR standard applicable, being 1.5:1 although breaches a height development permitted being 16 metres.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development. The request prepared by Think Planners does not demonstrate that a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the circumstances of this application. As the request does not demonstrate a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the circumstances of this application, the request is not supported.

The proposal does not demonstrate that compliance with the height for the site which would not be unreasonable or unnecessary in the circumstances of this case, and there are not sufficient environmental planning grounds to justify the variation. Further, the proposal is not in the public interest because it is inconsistent with the objectives of the development standard and the SP3 zone.

The development standard breaches are spread across all apartments within the mixed use development which is consequential to the development and it is considered that the built form will not achieve a good planning outcome for the site. The character expressed by the architectural language is mundane when viewed from all street frontages. The buildings and architecture reads as two independent yet divorced volumes, which follows the topographical constraints but provides no visual interest in the choice of textures which frame the building's elements.

The proposal does not satisfy the desired future locality character test. Consideration of the present proposal must be undertaken in a slightly broader context as to compatibility and permissibility rather than one of strict conformity to the existing development pattern. The proposal has aimed to reflect only the future character of the streetscapes without respecting consistency with the existing future character.

The proposal mimics those previously proposed on adjacent land which have not been developed (and approved under Wyong Local Environmental Plan 2013), however the neighbouring development approved under DA/7/2017 which had a bonus height provision afforded by the previous planning regime and more importantly amenity is optimised

through appropriate room dimensions and open plan room configurations, sunlight access and natural cross ventilation. Furthermore, the approved design provides articulation and uses face brick and glazing to differentiate the commercial use and provide a distinct base to the building and an improved streetscape appearance and interface when viewed from adjoining properties.

The proposed development does not provide adequate amenity or visual interest. Council considers that the proposal does not demonstrate that compliance with the 16 metre height standard for the whole of the site is unreasonable, and, **there are insufficient environmental planning grounds to justify the variation to the prescribed height.**

Further, the proposal is not in the public interest because it is inconsistent with the objectives of the development standard and the SP3 zone for the site.

Assessment against Clause 4.6

Clause 4.6 requires a consent authority to be satisfied of certain matters before granting consent to a development that contravenes a development standard (see *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Rebel MH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245) at [23] and *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 at [76]-[80] and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31]. On 1 November 2023, *Standard Instrument (Local Environmental Plans) Amendment (Exceptions to Development Standards) Order 2023* was commenced. Under this amendment clause 4.6 was amended to omit 4.6 (3)-(5) and (7) and inserted instead:

- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—The *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).
- (4) The consent authority must keep a record of its assessment carried out under subclause (3).

The amendment to the *Environmental Planning and Assessment Amendment (Exceptions to Development Standards) Regulation 2023* inserted savings provisions in Schedule 6 which specify the amendments to clause 4.6 apply only to development applications made on or after 1 November 2023. The subject development application was lodged on 31 October

2023 therefore the amendments to clause 4.6 do not apply and the assessment below refers to the former clause 4.6 provisions.

- ***That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)];***

The applicant states:

Clause 4.6(3) Compliance Unreasonable or Unnecessary

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved.

The objectives of the building height development standard are stated as:

(a) to establish a maximum height of buildings to enable appropriate development density,

(b) to ensure that the height of buildings is compatible with the character of the locality. As previously states, the uppermost levels of the buildings and the lift cores vary this development standard. The proposal remains consistent with the objectives based on the following:

- *The variation of habitable areas to the control is minor, and the proposal is compliant with the maximum FSR control applying to the site, indicating that the development proposes an appropriate density for the development site.*
- *The approved development at 5-8 Beach Parade has set the precedent for 5 storey buildings within the SP3 Tourist zoned block, and therefore, the bulk and scale of the current proposal is compatible with the character of the locality.*

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances.

Sufficient Environmental Planning Grounds and Design Response

The below points demonstrate suitable environmental planning grounds exist to justify contravening the height development standard and further demonstrates that the height departure does not give rise to any environmental impacts, and therefore the proposal is an appropriate design response for the subject site:

- *The variation is minor, to the extent that the non-compliance will be largely imperceptible as viewed from the public domain or surrounding properties.*
- *Level 4 is provided with additional setbacks to comply with the ADG visual separation requirements, resulting in a smaller floorplate and reduced bulk and*

scale when viewed from the public domain. This is supported by the GFA calculations provided in the architectural plan set, which demonstrate that Level 3 GFA (2460.6m²).

- *The approved development at 5-8 Beach Parade has set the precedent for 5 storey buildings within the SP3 Tourist zoned block, and therefore, the bulk and scale of the current proposal has been designed to respond to the adjoining development to be compatible with the character of the locality.*
- *The development has been designed to retain the amenity of adjoining properties:*
 - *The development is fully compliant with the setbacks/separation requirements provided by the ADG and DCP,*
 - *The development is accompanied by an acoustic report which confirms that the application will have an appropriate outcome.*
 - *The shadow diagrams show that the development will result in an adequate level of solar access for adjoining properties, by virtue of the compliant boundary setbacks.*
- *Compliance with the FSR standard is achieved and therefore, the departure assists in achieving planned density.*
- *The site is identified as being flood prone and the building needs to be raised above natural ground level to appropriately respond to this constraint;*
- *The height breach and design response enable a suitable design outcome on the site and is consistent with the following Objects of the Environmental Planning and Assessment Act 1979:*

*(c) to promote the orderly and economic use and development of land,
(g) to promote good design and amenity of the built environment,
(h) to promote the proper construction and maintenance of buildings,
including the protection of the health and safety of their occupants,*

Therefore, the current proposal is a preferred outcome from an environmental planning perspective and demonstrates that there is merit in varying the height control to achieve a better design response on the site which demonstrates sufficient environmental planning grounds to support the departure.

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest as it remains consistent with the objectives of the building height control. In addition, the proposal is consistent with the objectives of the SP3 zone, being:

- To provide for a variety of tourist-oriented development and related uses.
 - To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.
 - To protect and enhance the natural environment for tourist and recreational purposes.
- Consistency with the objectives is evident as –

The development meets the objectives of the SP3 zone by proposing 6 serviced apartments on level 1. Serviced apartments permit short term stay which will cater for tourists. Furthermore, the development proposes a central thoroughfare and dining area with café/takeaway premises adjoining both sides, creating an 'eat street', which is envisaged to be a destination for tourists.

In addition, the proposal complements and enhances the local streetscape by virtue of the careful siting of the development and the landscape embellishment works within the setbacks. As addressed previously the proposal presents as a 5 storey form that provides a quality address to the street frontage.

It is understood that the concurrence of the Planning Secretary can be assumed in the current circumstances.

Comment: The objectives of the height development standard are not achieved notwithstanding the proposed contravention (Test 1 under Wehbe). The quantum of density proposed on the actual development site is inappropriate for the scale of the development within the immediate vicinity. The distribution of the density within the overall site is inappropriate for the scale of the area because the development has not incorporated ADG compliant building setbacks from all boundaries of the site, proposes inadequate building separation and excessive building depth.

The proposal has not distributed floor space away from the part of the site that would be most visible to the public domain. If this were the case, there would be a perceived reduction to its bulk and scale. The development has a built form and density which is considered incompatible with the size of the land to be developed, its environmental constraints and its contextual relationship. Therefore, both the character of development and the environment do not respect one another.

The applicant refers to adjacent development. This development was approved on 14 December 2017 (DA/7/2017), and was for a mixed use, shop top housing development including food and drink premises (4 tenancies), 36 residential dwellings and basement parking. This application is adjoining the site's north-eastern boundary and was subject to *Wyong Local Environmental Plan 2013* not the *Central Coast Local Environmental Plan 2022*. The site was also identified as a 'Key Site' under WLEP 2013 key site maps.

The proposal did not rely on the provisions of Clause 7.11 of WLEP 2013 which allow for a bonus building height of 23 metres (rather than 16 metres) which was the subject to the

provision of significant public benefit to the community. The approved design exceeded the height limit at 18.41 metres (21.83 AHD) or 2.41 metres / 15% above the standard. A 22% parking variation was supported where 83 parking spaces were required and 68 spaces were provided at basement level along with five at-grade parking spaces. The approved design provided optimal ADG compliance.

Having regard for the provisions of clause 4.6(3)(a), it is considered the applicant has not demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and the Panel cannot reach a state of satisfaction that the applicant has demonstrated the standard is unreasonable or unnecessary (*RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130).

- ***That the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b));***

Comment: There are insufficient environmental planning grounds to justify contravening the height. The development does not contribute to the provision of adaptable nor affordable apartments catering to the first home, key worker, elderly and less mobile within an LGA and broader area which has an ageing population, improved tourism market and high need for affordable and social housing. The development will cause impacts and will not contribute to the variety of high-end architecture attributed to this part of Canton Beach, which remains largely undeveloped apart from the Pacific Link project adjacent offering 14 apartments.

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that for there to be 'sufficient' environmental planning grounds to justify a written request under Clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole. There has been little discussion by the applicant on the element of the building that breaches the height limit, rather a focus on the development as a whole (***STM 123 No. 7 Pty Ltd v Waverley Council* [2020] NSWLEC 1495**).

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the site. In this circumstance, the architecture and breach to the mapped building height, has not demonstrated that compliance with the development standard will result in a better outcome than a compliant development. It does not promote good design and amenity of the built environment and will not result in improved urban design and amenity considerations for both the existing neighbours and the future occupants of the buildings. It provides inadequate building separation to the adjoining properties and within the development causing unreasonable amenity impacts and overshadowing.

Neighbouring privacy and amenity are not protected, and setbacks are unreasonable. The deviation will be visible from the public domain, is visually intrusive, will impact upon views from any adjoining property, and will cause additional overshadowing and cause overlooking to adjoining properties. The proposed breach to the height does not represent a better design outcome.

The grounds relied on by the applicant must be "environmental planning grounds" by their nature (*Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009), and the applicant is required to show that environmental planning grounds exist "particular to the circumstances of the proposed development on the subject site" to justify contravening the development standard. The Panel, as the consent authority, cannot be satisfied the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

- **The applicant's written request has adequately addressed the matter required to be demonstrated by subclause (3) (cl.4.6(a)(i)).**

The applicant states:

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Comment: The applicant's written request to justify a contravention to the development standard for the mapped building height under clause 4.3 of the Central Coast Local Environmental Plan 2022 does not demonstrate that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case.
- The development achieves the objectives of the development standard and is consistent with the objectives of the SP3 Tourism zone.
- There are sufficient environmental planning grounds to justify the contravention.
- The proposal does not respond to the topography of the site; the building could step down from east to west approaching the intersection to alleviate the bulk at the corner.

Accordingly, it is considered the Panel, as the consent authority, cannot reach a state of satisfaction in relation to the proposed contravention.

- ***The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out (clause 4.6(4)(a)(ii)).***

The applicant states:

As addressed the proposed development is in the public interest as it remains consistent with the objectives of the building height control. In addition, the proposal is consistent with the objectives of the SP3 zone, being:

- *To provide for a variety of tourist-oriented development and related uses.*
 - *To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.*
 - *To protect and enhance the natural environment for tourist and recreational purposes.*
- Consistency with the objectives is evident as –*

The development meets the objectives of the SP3 zone by proposing 6 serviced apartments on level 1. Serviced apartments permit short term stay which will cater for tourists. Furthermore, the development proposes a central thoroughfare and dining area with café/takeaway premises adjoining both sides, creating an 'eat street', which is envisaged to be a destination for tourists.

In addition, the proposal complements and enhances the local streetscape by virtue of the careful siting of the development and the landscape embellishment works within the setbacks. As addressed previously the proposal presents as a 5 storey form that provides a quality address to the street frontage.

Comment: The development is not in the public interest; a better planning outcome will not be achieved, and the development is inconsistent with the objectives of the SP3 zone. The proposed development overall does not achieve the objectives of the development standard.

Objectives of the standard

Comment: The development standard to be varied is the mapped building height prescribed under clause 4.3, which is 16 metres. The proposal seeks a maximum height of 18.7 metres/16.2% variation (Site 1) and 18.6 metres/16.8% variation (Site 2) with the lift overruns exceeding the height limit by 2.9 metres (18.1% variation at Site 1) and 3.8 metres (23.75% variation at Site 2) respectively.

The objectives of the clause are as follows:

- (a) to establish a maximum height of buildings to enable appropriate development density,
- (b) to ensure that the height of buildings is compatible with the character of the locality.

There could be more effort made to improve the streetscape outcomes for all three frontages. The development could include substantial and attractive landscaping both to enhance the garden setting within the more natural bushland environment and to obscure building walls, incorporate green walls and provide landscaping with mature tree plantings.

A development in this location could provide for a variety of residential apartment types including adaptable and affordable units, and the façade, which is not articulated, could have improved interfaces with the public domain. Given the large site, the impacts from overshadowing, the visual dominance, and loss of privacy and amenity, will be significant, particularly given the extent of non-compliances with the relevant controls. The proposed breach to the height does not represent a better design outcome, nor does it afford future residents' acceptable amenity.

Departure from the development standard does not result in a development that achieves the objectives of the standard, and compliance with the standard would not thwart the ability of the proposal to achieve the objectives of the standard. The additional height is not directly attributable to the topography of the land. It is considered that a better planning outcome is not achieved by isolating the neighbouring sites previously not included in an approved development. The proposal is not consistent with the objectives of the development standard and the objectives for development within the zone and therefore that non-compliance with the height development standard is unreasonable and unnecessary in the circumstances.

The breach in height coupled with proposed non-compliances, particularly in relation to setbacks, does not result in a suitable built form. The Beach Parade frontage requires 6 metres, 4.9 metres is proposed, Kantara Road requires 6 metres, 5.7 metres is proposed. These setback non-conformances (together with other issues) add to the unacceptable bulk and density of the form at street level. All street setbacks should be compliant. All building setbacks should be compliant to maintain privacy, amenity and reduce overlooking and overshadowing.

Objectives of the zone

The site is zoned SP3 Tourism. The objectives of the zone are as follows:

- *To provide for a variety of tourist-oriented development and related uses.*
- *To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.*
- *To protect and enhance the natural environment for tourist and recreational purposes.*

In this circumstance, the proposed five storey mixed use development comprising 91 residential apartments is not consistent with the objectives of the zone which principally aims to facilitate tourism related activities and short-term holiday accommodation rather than long term housing opportunities.

The proposed development incorporates a far greater percentage (93% / 91 units) of residential dwellings in lieu of what could be holiday / short term rental accommodation. The proposal merely provides 7.5%/7 serviced short term accommodation units. This quantum of the development does not facilitate the desired outcome for the zone nor address the key objectives of tourism-oriented development.

Zone objectives

Subclause 2.3(2) of the CCLEP 2022 requires the consent authority to have regard for the objectives for development in a zone when determining a development application.

The objectives of the SP3 Tourism zone are as follows:

- To provide for a variety of tourist-oriented development and related uses.
- To facilitate the provision of limited permanent accommodation in the form of mixed use development to improve the off-season viability of tourist-based development.
- To protect and enhance the natural environment for tourist and recreational purposes.

The proposal is considered inconsistent with the objectives of the SP3 Tourist zone, which is primarily intended to provide for a variety of tourist-oriented development and related uses, such as residential shop top buildings, food and drink premises, and dwelling houses. The zone aims to encourage tourism while ensuring that development is compatible with environmental considerations and existing or intended special uses.

Development in SP3 zones typically involves specific controls regarding setbacks, communal open space, planting requirements, and waste management to ensure compatibility with the surrounding environment and amenity. Importantly, the primary objective of the SP3 Tourist zone is to facilitate a range of tourist-related activities and associated developments. While focused on tourism, dwelling houses are often permissible with consent, though specific controls aim to ensure their compatibility with higher-density tourist uses and neighbouring properties.

Whilst it is acknowledged that the proposal includes much needed residential housing, the zone objectives intention is for tourist-oriented development and accommodation and furthermore to limit permanent accommodation to ensure economic viability.

Whilst it is acknowledged that the proposed development seeks to activate the foreshore by providing tourist-oriented development, the scale of the ground floor commercial floor area and resulting car parking deficiency will place additional on-street parking demand on the surrounding street network, and, the appropriate studies have not been undertaken, in terms of contamination and acid sulfate soils to satisfy the consent authority that the natural environment will be protected.

Furthermore, the proposed development will result in poor amenity for future residents of the proposed development. It is not considered that the proposed development displays best practice in the design and will not enhance the residential amenity of the surrounding development as it does not have regard to the physical, spatial, and environmental quality of the surrounding development, including maintaining visual privacy between adjoining properties.

The Panel is advised that the proposed development fails to satisfy the objectives of the SP3 Tourist zone and is recommended for refusal.

- ***The concurrence of the Planning Secretary has been obtained (clause (4)(b)).***

It is understood that the concurrence of the Planning Secretary can be assumed in the current circumstances.

The concurrence of the Secretary can be assumed in accordance with *Planning Circular PS 18-003*. It is considered inappropriate to exercise the flexibility provided by Clause 4.6 in the circumstances of this application. Having regard for the written request provided by Think Planners, and the above assessment, the proposed development is considered to not satisfy the requirements of clause 4.6 and will not achieve an appropriate built form outcome within the immediate neighbourhood and surrounding locality.

- ***In deciding whether to grant concurrence, the Secretary must consider—***
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and***
 - (b) the public benefit of maintaining the development standard, and***
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence (Clause 4.6(5)).***

The applicant states:

As addressed, it is understood the concurrence of the Planning Secretary may be assumed in this circumstance, however the following points are made in relation to this clause:

- a) *The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal;*
- c) *There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the building height control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality.*

...

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances, specifically in relation to flooding impacts.

The proposal will not have any adverse effect on the surrounding locality, which is envisioned to be characterised by residential development of comparable height and form.

The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed.

The objection is well founded and considering the absence of adverse environmental, social or economic impacts, it is requested that Council support the development proposal...

Comment: The contravention raises no matters of State or regional significance. However, at a localized level the parts of the buildings which exceed the 16 metre height development standard do not maintain a positive development outcome and results in impacts on the privacy or solar access of surrounding properties. The proposal does not offer improved outcomes for and from the development.

The departure from the height standard will further set an undesirable precedent for future development and the development is an incompatible form of development that results in unreasonable environmental amenity impacts. There is no public benefit in departing from the development standard. The public benefit of the variation will not facilitate a superior outcome to that previously approved on adjacent land.

No other matters are required to be taken into consideration by the Planning Secretary.

Summary

In this circumstance, it is considered the requested departure to the development standard for height is unjustified and unreasonable and has not been based on sufficient environmental planning grounds.

In this instance:

- The proposed height variation is not distributed across the whole site rather across level 4 which exceeds the building height plane.
- The proposal is not a suitable fit for the site and surrounds. Development should minimise disruption to views and not result in a loss of privacy and loss of sunlight to existing adjoining properties, as well as provide adequate internal amenity within the development.
- The development's character and architectural language does not demonstrate a consistent representation to all frontages, respect the streetscape character, or enhance this pocket of Canton Beach foreshore.

- There is no substantial landscaping, including mature trees, which could establish a highly landscaped garden setting and provide future corridor opportunities for fauna and birdlife habitat to flourish.
- The development does not comfortably fit within the envelope.
- A more generous and diverse apartment mix should be considered which would result in a superior density. Note: a portion of housing could also be provided as affordable rental housing which is needed within this locality.
- The height departure will result in environmental impacts to neighbouring development.
- The height that exceeds the development standard is discernible as viewed from the public domain and will contribute to additional bulk, scale, or density of the building.
- The proposal will result in unacceptable overshadowing impacts to adjoining properties (the impacts that do occur are not what are anticipated by Council's controls) as well as compromise the internal amenity of the apartments within the development. The shadows caused from the non-compliant built form will cause material adverse impacts as the building has not been designed to respond to the existing and future built form character of the area.
- Additional height will contribute to excessive bulk and the built form reads as an inappropriate solution to the topography.

The Panel, as the consent authority, cannot be satisfied the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard (*RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130).

Clause 5.21 Flood Planning

The site is located within the Northern Lakes Overland Flow (NL-OF) Catchment and Council's records indicate that the site is affected by flooding and/or minimum floor level requirements. Both the site and Beach Parade (for the extent of the street block on which the site is located) are above the Tuggerah Lakes Flood levels (including the PMF).

The site is identified as within the mapped flood planning area (Precinct 3 Flood Storage, Precinct 2 Flood Planning Area, and Precinct 1 PMF) across the majority of 1-7 Kantara Road and 1-5 Crossingham Street, with Precinct 4: High Hazard pockets across 1-3 Crossingham Street.

The site is impacted in even minor storm/flood events by an overland flow path and low points/ponding across the north-eastern $\frac{3}{4}$ of the site (i.e., across 1-3 Crossingham Street and 1 Kantara Road and the front of 3-7 Kantara Rd), as follows:

- 20% AEP – RL 3.89m AHD; overland flow ~0.3m deep with 0.6m deep ponding
- 5% AEP – RL 3.92m AHD; overland flow ~0.4m deep with 0.65m deep ponding
- 1% AEP – RL 3.95m AHD; overland flow ~0.5m deep with ~0.7m deep ponding; H1 and H2 Hazard across most of flood impacted area, with pockets of H3 across 1-3

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Crossingham St; safe evacuation from the site is available via multiple routes (to the north and/or east).

- PMF – RL 4.3m AHD; overland flow ~0.65m deep with ~1.0m deep ponding; H3 Hazard across most of flood impacted area; safe evacuation and/or emergency access (maximum H2 Hazard) from the site is available to the north via Kantara Road, Crossingham Street then either Holmes Ave or Victoria Ave through to Main Road, Toukley.

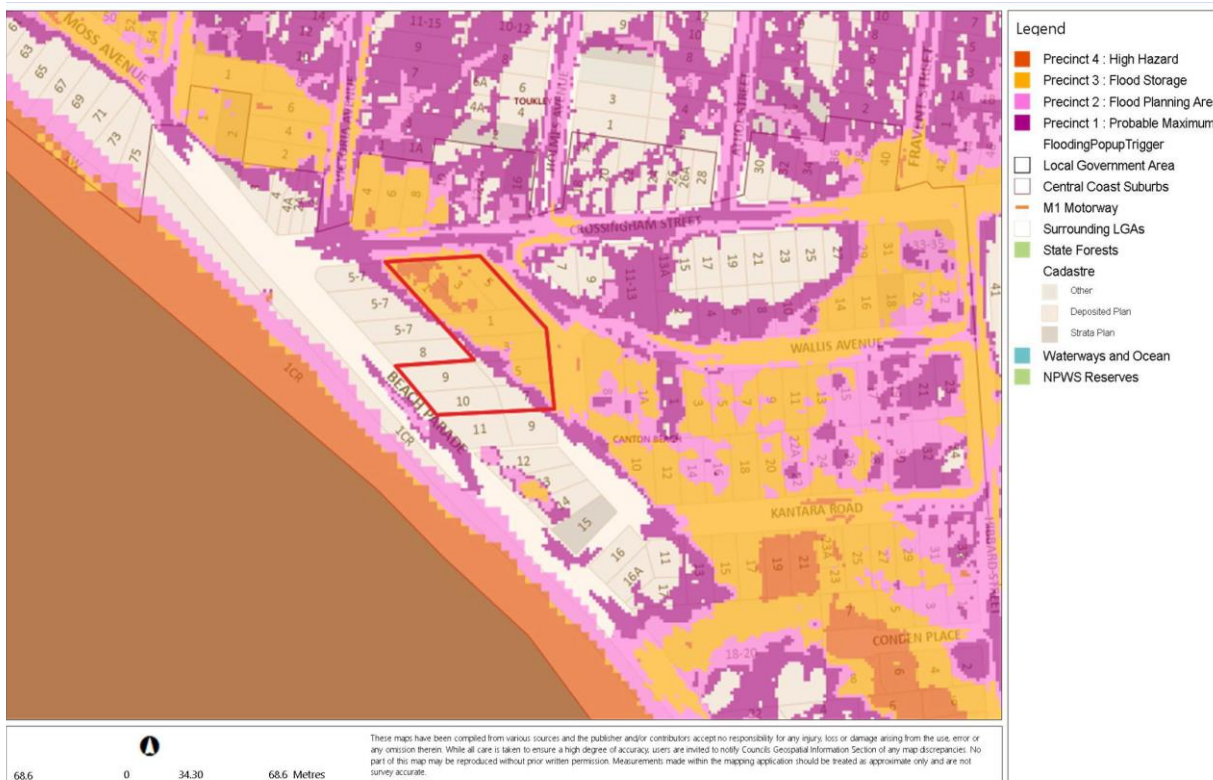


Figure 48: Flood planning map of the site

In accordance with clause 5.21(2) development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (f) *is compatible with the flood function and behaviour on the land, and*
- (g) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (h) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (i) *incorporates appropriate measures to manage risk to life in the event of a flood, and*

- (j) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

The consent authority must also consider the following in deciding whether to grant development consent in accordance with clause 5.21(3):

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
(b) the intended design and scale of buildings resulting from the development,
(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,
(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

The development can comply with the provisions of clause 5.21 having regard for the flood behaviour, and safe evacuation would be available from the site and in this regard, risk to life could be adequately managed.

Section 3.1 of the Central Coast DCP 2022 provides the floodplain management related controls for the LGA. The DCP sets the Flood Planning Level at the maximum 1% AEP flood level plus 0.5 metres freeboard, and all habitable floors must be at this level at a minimum. Non-habitable floor levels must be above the 5% AEP flood level.

The Flood Impact Assessment for 9 and 10 Beach Parade, 1-5 Crossingham Street and 1-7 Kantara Road, Canton Beach has been reviewed for the purpose of the Floodplain Management Assessment. WaterRIDE has identified the site is partially located within a low point across Canton Beach, spanning across most of Kantara Rd and Wallis Avenue (and all properties surrounding).

This area is also mapped in Council GIS Mapping as having a Beach soil profile (i.e., sandy soils). Any trapped low spots / ponds across this area will infiltrate into the underlying sandy soils, with excess overland flows exiting the area via 18-20 Beach Parade (i.e., the Waterfront Tourist Park, approximately. 160 metres south of the site), across Beach Parade to Tuggerah Lake.

The site is impacted in even minor storm/flood events by an overland flow path and low points/ponding across the north-eastern 75% of the site (i.e., across 1-3 Crossingham Street and 1 Kantara Road and the front of 3-7 Kantara Road).

The Flood Impact Assessment (FIA) and Drainage and Civil Works Plans include modelling and ground-truthing (i.e., road/drainage invert survey levels, checks on approved nearby developments, adjustments where drainage infrastructure changes). The recommended Flood Planning Level (FPL) of RL 4.42m AHD, is based on the existing max. 1% AEP level of RL 3.92m

AHD plus 0.5m freeboard, noting the proposal has been set above this at RL 4.5m AHD (for basement entry and minimum habitable floor levels).

A Shelter in Place strategy has been proposed for all events, due to the flash-flooding nature of the floodwaters in these events (i.e., no warning, quick to occur, but short-lived (~30min – 1hr)) making this the safest option and resulting in a minimal isolation period.

The TUFLOW models demonstrate the proposed flood mitigation measures result in a generally negligible impact of the proposal including a minor increase (less than 0.01 metres) across the adjacent 5-8 Beach Parade site (DA/2017/A). It is noted that the modelling does not appear to accurately reflect the approved 5-8 Beach Parade development, which has built-up paths and retaining walls along the eastern side of the new proposed structure; the flood increase on this site will be trapped/bounded by these walls and should easily infiltrate into the deep soil zone across this trapped/bounded area of that site.

Floodplain Management

There are minor increases in flood level on the road reserve on Beach Parade, Crossingham Street and Kantara Road during the 1% and 5% AEP events. As these increases will not affect vehicle access or change the Flood Hazard Categorisation of the area they are deemed acceptable. Further, it is considered that there could be a negligible difference between existing conditions and post development conditions including climate change.

The proposed flood mitigation measures are:

- Duplication of the 750 mm diameter trunk drainage line under Crossingham Street between 3 Crossingham Street and Beach Parade.
- New drainage within the site along Crossingham Street and Kantara Road.
- An overland flow path diverting flows from Kantara Road, through the southern boundary of the site, to Beach Parade.

Any buildings proposed on the land would be required to be constructed of flood compatible materials capable of withstanding the hydrostatic forces of floodwater and immersion up to the flood planning level (FPL) level. The overland flowpath at the southern boundary of the property would also be required to have a positive covenant which prohibits any buildings, recreation or storage within this area.

The Flood Emergency Response plan for the site states that the development is appropriate due to the short duration flood event and the basement carpark crest level meets the requirement.

The proposed RL 4.5m AHD basement entry and minimum habitable floor levels provide 550mm freeboard above the 1% AEP flood event and 200mm freeboard above the PMF event impacting the site, hence satisfy the CCLEP and CCDCP requirements to minimise risk

to life and property. The Panel can be satisfied the provisions of clause 5.21 would be satisfied.

Clause 7.1 Acid Sulfate Soils

The site is mapped as Class 3 (south-west half) and Class 4 (north-east half) acid sulfate soils on Council's Acid Works Sulphate Soils Planning Map and is within 37 metres and 110 metres of Class 2 (Tuggerah Lake Foreshore) and Class 1 (Tuggerah Lake) mapped lands, respectively.

The sampling design does not represent the current conditions of the site and is unable to make an accurate determination without sampling to the proposed maximum depth of 9 metres. Any future development application must provide sampling data, methodology and findings to prove that the sampling design does not represent the current conditions of the site and is unable to make an accurate determination without sampling to the proposed maximum depth of 9 metres.

Due to the extent of cut proposed across the development site, any future development application is to be accompanied by a detailed civil Bulk Earthworks / Cut and Fill Plan with detailed estimated Cut, Fill, and Balance volumes shown.

A Demolition and Construction Waste Management Plan would also be required which matches the volume estimates shown in the Cut and Fill Plan: detailing the total estimated spoil during construction, total volume proposed to be re-used onsite as fill, and total balance expected to be exported off-site and the proposed disposal location of this spoil balance.

Accordingly, the Panel, as the consent authority, cannot be satisfied that the proposed development is consistent with the requirements of clause 7.1 as an acid sulfate soils management plan is required in this instance.

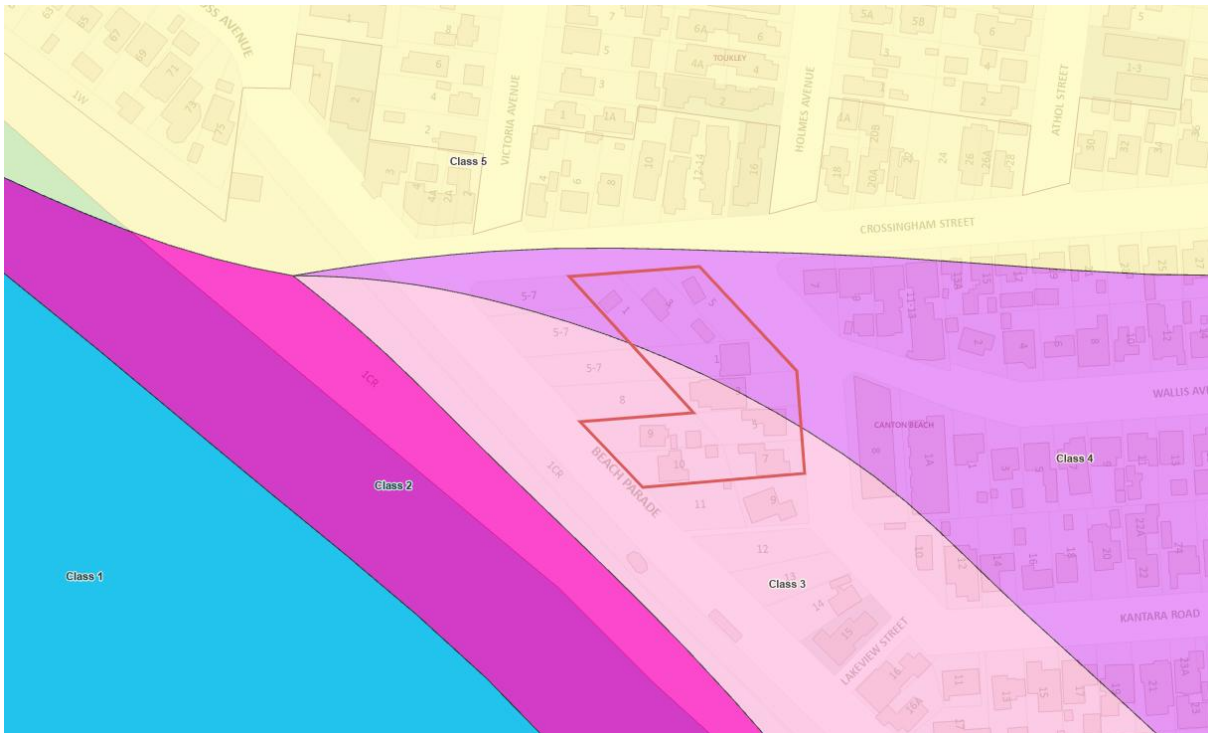


Figure 49: Map of Acid Sulfate Soil at the site and surrounds

Clause 7.6 Essential Services

In accordance with clause 7.6, development consent must not be granted to development unless the consent authority is satisfied that all of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (g) *the supply of water,*
- (h) *the supply of electricity,*
- (i) *the disposal and management of sewage,*
- (j) *stormwater drainage or on-site conservation,*
- (k) *suitable vehicular access,*
- (l) *the collection and management of waste.*

The BASIX Certificate details no rainwater re-use / rainwater tanks which is required. A detailed roof stormwater design has not yet been developed, however roof run-off calculations were undertaken and accounted for in the scheduled internal pit and pipe network design. It is assumed run-off collected via the RWOs through the exposed impervious Atrium areas, and Basement Pump-Out Rising Main discharge, have been accounted for in a similar manner. The development will directly connect into Council's underground pipe system to prevent the requirement for OSD for the proposal.

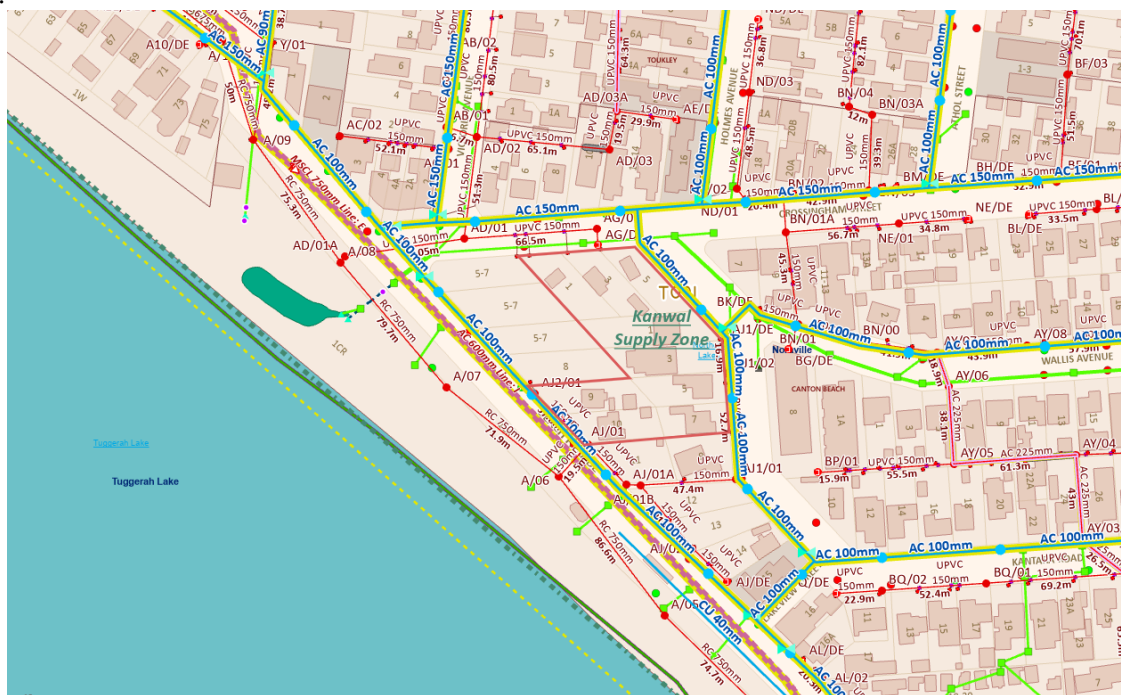
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The existing lots are connected to Council's reticulated water supply and sewerage drainage infrastructure. All redundant water connections/metres and sewer junctions would be required to be removed during the development works.

The existing 150mm UPVC sewer main and associated manhole along the Beach Parade frontage/setback of the site is not accurately identified on the plans. The footprint should have regard for Council's Building in Proximity to Water and Sewer Pipelines Procedure which outlines minimum clearances from the outside face of the basement wall to the existing sewer infrastructure which is 1.5 metres from the outside edge of the manhole and 900mm from the outside face of the sewer main.

Regardless of the existing flow and pressure in the area, upgrade of the 100mm water main along Beach Parade (and across the intersection with Crossingham Street) to a 150mm main is required. The location of the proposed electrical substation in the north-west corner of 1 Crossingham Street is considered reasonable.

Having regard for the above, insufficient information has been provided in relation to stormwater and on-site conservation, or suitable vehicular access, in accordance with clause 7.6.



The following application is considered under the remit of the Central Coast Development Control Plan 2022 (CCDCP) with an assessment provided below.

Central Coast Development Control Plan

The following Chapters of CCDCP 2022 are relevant to this application:

Chapter 1.2: Notification of Development Proposals

The application was exhibited between 10 November 2023 and 1 December 2023. The Panel is advised that two submissions were received which raised concern in relation to:

- increased traffic, impacting emergency services accessing the site;
- inappropriate height and overdevelopment of the site which is situated within a predominantly single and two storey environment;
- impact upon solar access to neighbours; and
- Beach Parade is an inappropriate point of access to a high rise development; and
- Increased road congestion on Kantara Road from recent new development.

The above issues have been considered in the assessment. Although, a development greater than two storey is permissible in the zone; the proposal does not comply with the planning controls to mitigate impact to neighbouring development and is not supported in its current form, as discussed within in this report.

Chapter 2.3 Residential Flat Buildings and Shop Top Housing

Chapter 2.3 of CCDCP 2022 applies to the proposed residential apartments component of the development. However, there are several requirements under CCDCP 2022 that are relevant to the proposal but superseded by similar controls within the ADG. The following CCDCP 2022 requirements are relevant to the proposal and are not provided within the ADG:

Part 2.3.3.1 - Building Height

The site is subject to the Height of Building Map under CCLEP 2022, permitting an overall building height of 16m. The objectives are as follows:

- *To ensure that buildings are compatible with the existing and desired future character of the locality*
- *To ensure that the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy, and views*
- *To ensure that building height is not visually obtrusive, is compatible with the scenic qualities of hillside and ridgetop locations and respects the sites natural topography.*

As discussed above, the proposed development seeks consent for a variation to the development standard for height which is not supported.

The proposed built form results in impacts to adjoining properties in terms of visual bulk, access to sunlight, privacy, and views and is not considered compatible with the existing and desired future character of the locality.

Part 2.3.3.3 Natural Landscape Area

Part 2.3.3.3 requires that a minimum 25% of site area at ground level shall be 'soft' landscaping, excluding all hardstand areas. Open space and setback areas may be included in this calculation only where these do not include hardstand surfaces. The objectives are as follows:

- *To provide an area on site that enables soft landscaping and deep soil planting considered appropriate for the Central Coast*
- *To provide a pleasant outlook*
- *To provide areas on site that permit stormwater infiltration*

Communal open space (1668.1m²) at ground and rooftop area is comprised of barbeque with seating, open lawns, children's play areas, roof top gardens. Deep soil zones (815m²) proposed includes roof top level which should be discounted.

A minimum 50% of the required soft landscaped area of the site at ground level shall be a deep soil zone. This may be achieved by optimising the retention provision of consolidated deep soil zones within a site by the design of basement and sub-basement car parking, so as not to fully cover the site; ii the use of front and side setbacks for deep soil planting. It is recommended that the extent of deep soil zones is beyond the site boundaries by locating them contiguous with the deep soil zones of adjoining properties.

Deep soil zones are areas of soil not covered by buildings or structures within a development. They exclude basement car parks, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways, and roof areas.

Part 2.3.4 1 Setbacks for Residential Flat Buildings – 3 Storeys or more

Part 2.4.3.1 requires a 6m front setback for residential flat buildings 3 storeys or above. The objectives of this Part are as follows:

- *To maintain and enhance existing streetscapes*
- *To provide adequate privacy and solar access of adjacent properties*

- *Provide visual and acoustic privacy*

A 4.9 metre street setback to Beach Parade and a 5.7 metre setback is proposed on Kantara Road. These setback non-conformances (together with other issues) add to the unacceptable bulk and density of the form at street level. All street setbacks should be compliant to protect streetscape character and mitigate environmental impacts.

The applicant has not provided suitable justification for the proposed variations to Council's DCP required 6 metre setback. The setbacks should comply with the prescribed distances. The design has excessive built form (height, bulk, and scale), building depth and inadequate building separation and setbacks which are required to maintain privacy, amenity, reduce overlooking and overshadowing.

Part 2.3.5.1 Facades and Articulation

Part 2.3.5.1 requires that:

- *Facades are to be articulated in length and height. Monotonous and unbroken lengths of wall exceeding 10 metres in length and 3 metres in height shall not be permitted. In development of two or more storeys, physical design elements shall be used to provide visual interest to the building.*
- *For mixed use development, residential apartments are to be separated and distinguished from commercial entries to provide security and an identifiable street address for each of the different users.*
- *Shop-top housing development should be setback from the front street boundary and buffered from the street by providing a balcony or similar.*

The proposed development does not provide for articulated and modulated facades using balconies, glazing and a mix of materials and finishes. This is discussed above in the ADG table.

Part 2.3.6.1 Views

Part 2.3.6.1 requires that new development is designed to minimise view loss. In this circumstance, views are from adjoining properties of the public foreshore and Tuggerah Lake. The proposed development may hinder the level of view enjoyed by properties to the east and north. Having regard to the NSW Land and Environment Court's view sharing principle of the *Tenacity v Warringah Council [2004] NSWLEC 140* (Tenacity) which adopts the proposition that sitting views are more difficult to protect than standing views, the impact on appreciation of a public domain view should not be subject to any eye height constraint. A public domain view is one that is for the enjoyment of the whole population, old or young and whether able-bodied or less mobile.

Matters taken into consideration in relation to the maintenance, protection and enhancement of views are that development should maintain, protect, and enhance views (including night views), furthermore development should minimise any adverse impacts on views and vistas to and from public places and landmarks. In principle, the cumulative impact of development on views should be minimised.

It is accepted that the SP3 Tourist zone permissible height and FSR for a future development could be supportable with a compliant built form, and, that there would likely be some level view enjoyment impacted. However, a development which complies with planning controls such as building separation and setbacks from boundaries would better maintain view line corridors through the site to mitigate the % of view loss.

Part 2.3.8 Earthworks

The Architectural Plan Sections detail significant cut: 6.3 metres to 8 metres below natural ground level (NGL) and further minor retained cut and fill across the site to support pathways, driveways, and overland flows paths. The proposal estimates an excavated material generation of 70m³, to be re-used on site with nil disposal.

Given the proposed basement excavation is within close proximity to Kantara Road, Crossingham Street, and Beach Parade, ground anchors are proposed, and should not protrude into any adjacent road reserves. There are no details to satisfy the consent authority that all works will be within the property boundaries of the subject properties.

A civil Bulk Earthworks / Cut and Fill Plan with detailed estimated Cut, Fill, and Balance volumes has not been provided.

Furthermore, a Spoil Disposal Demolition and Construction Waste Management Plan has not been provided to accurately match the volume estimates shown in the Cut and Fill Plan, and, detailing the total estimated spoil during construction, total volume proposed to be re-used onsite as fill, total balance expected to be exported off-site and the proposed disposal location of this spoil balance.

Part 2.3.10.2 Stormwater Management

Inadequate details have been provided to address drainage and stormwater management. The BASIX Certificate details no rainwater re-use / RWT which is required. A detailed roof stormwater design has not yet been developed.

Any alteration and/or addition to Council's trunk and/or longitudinal street drainage systems will only be supported by Council where an adequate Hydraulic Analysis has been conducted on the system and provided to Council, to demonstrate:

- The existing system(s) has sufficient capacity to convey the additional stormwater flows.

- The Pre-vs-Post-Development impact on the existing systems, both upstream and downstream; Hydraulic Grade Lines (HGLs) are to be provided for both the pre-developed and post-developed scenarios to demonstrate these impacts.
- The proposed works will not have any adverse impacts on the performance of the Council drainage system(s) as a whole (including surcharging or backlogging).

The applicant has previously been advised that Council's asset system does not detail the discharge connection for the Beach Parade pipe culvert to the south of the site to which the proposal is seeking to connect; further investigation of this line is required to be undertaken to determine where this pipe connects/discharges to, to enable proper consideration of the capacity of the existing system.

Without further detail provided the Panel cannot be satisfied that the proposed development can provide adequate stormwater arrangements and on-site conservation.

Chapter 2.13 Transport and Parking

The retail and commercial parking provision falls short of the total requirement. Section 2.13.3.11 allows for large-scale multi-use developments; dual and complementary uses of parking areas warranting a reduction in the cumulative parking allowance for the proposal, where this is identified within the Traffic Impact Assessment (TIA) and specific details for justification for the discount are provided.

Two (2) levels of basement parking comprising 195 spaces (19 accessible spaces) comprised of 112 residential parking spaces (including 6 for serviced apartments and 1 for staff), 20 visitor parking spaces, 63 commercial parking spaces (10 for staff), 6 lifts and 6 stairwells per basement level, one shared Car Wash Bay, 53 bicycle spaces and 4 motorbike spaces. All basement level 2 residential and/or residential visitor parking are separated from the retail parking areas by boom gates and ramps.

The proposed development does not provide enough retail/commercial parking spaces and falls short of the parking requirement by two spaces. The TIA states that the provision is deemed acceptable because the proposed development is a mixed-use development comprising a mix of residents and tourists.

The TIA argues that patronage of the 'on-site' retail activities will be predominantly from residents who would not be reliant upon vehicles therefore the number of commercial spaces required has not been provided. Council does not support the reliance of the on street parking to cater to any overflow.

In this instance, adequate information has not been provided to assess the engineering components of the design including however not limited to:

- AS2890.1 Access Facility Compliance, Ramp and Gradient Compliance, Swept Path Manoeuvrability.
- AS2890.6 Cl. 2.7 Accessible Parking Headroom Compliance – confirmation is required that the “stepped-down” ceiling areas along the outside edges of Basement Level 1 (as detailed within Architectural Section B-B as having a headroom of 2.2 metres through these areas) are not above any accessible parking spaces, where a minimum headroom required is 2.5 metres.
- AS2890.3 Cl. 2.6.4 Bicycle Parking.
- It is noted that the Access Sight Distance Assessment of TIA Attachment 2 is incorrect. The assessment should demonstrate adequate sight distance along the frontage road from the proposed property access and in accordance with AS2890.1 Table 3.1, the driveway comprises a Class 3 Access Facility, which requires a minimum 6 metre entry width and a 4 metre to 6 metre exit width, and a 1metre to 3 metre separation between the driveways.

Regarding the traffic network and expected trip generation, the residential component of the development has been calculated at resulting in 18 vtpd during morning peak (7am -9am) and 14 vtpd during evening peak (4pm -6pm).

For the 6 serviced apartments, the RMS Guide to Traffic Generating Developments provides an indicative peak traffic generation rate of 0.4 vtpd per unit of motel. On this basis, the expected trip rate is 3 vtpd in both the morning and evening peak period.

The specialty retail traffic generation is estimated as 5 vtpd whilst the proposed 446.1m² restaurant generates 22 vtpd and gymnasium would contribute to 53 vtpd in morning peak and 49 vtpd in the evening. It is considered that the anticipated level of traffic generation will not have a significant impact on the surrounding road network.

The development has not considered the provision of Electric Vehicle (EV) charging bays. Charging bays should be provided in accordance with Austroads Guidelines for Low and Zero Emission Vehicle Charging Infrastructure Installation.

Part 2.13.3.8.1 Bicycle Parking Rates

53 bicycle parking spaces (28 resident/staff bike racks, 25 visitor bike racks), 4 motorcycle parking spaces are proposed.

The bicycle parking areas, on the lower basement level, do not comply with the AS2890.3, clause 2.6.4 requirement for any bicycle parking facilities within basement structures to be within one level of the street access points into the development. This is required to enhance cyclist safety and minimise the potential for vehicular / cyclist conflicts on ramps. It must be demonstrated that any cyclists required to stop at boom gates etc., to either enter and/or exit the basement areas with bicycle parking available, will not be required to stop on an incline exceeding 5% and must be on a non-skid surface treatment.

It is noted CCDCP parking "Requirements" detailed in the TIA (Tables 4-1 and 4-2) do not align with the CCDCP Chapter 2.13, Section 2.13.3.2 rates, for Shop-Top Housing. The TIA provides a calculation which is combination of the CCDCP and RMSGTGD rates.

Chapter 2.14 – Site Waste Management

Clause 2.14.2.1 requires a waste management plan (WMP) to be submitted with all development applications requiring consent, including residential development. A suitable waste management plan should be submitted which includes details in relation to demolition/site preparation, construction and the ongoing waste management of the development.

The proposed development fails to comply with the performance requirements of Part 2.14.2 and is recommended for refusal on this basis as no Waste Management Plan has been submitted for the construction stage of this development.

It is noted that the Operational Management Plan states all deliveries are to occur via the Loading Dock/Bay and managed by the appointed Property Management Company. The Dock Management Plan and the Operational Waste Management Plan (OWMP) notes all waste is to be moved by Building Management, from the waste storage rooms through the site to the Commercial and Residential Waste Collection Holding Area (along the side of the HRV Parking / Loading Bay) for collection.

Chapter 2.7 - Tourism Development

The purpose of this chapter is to provide appropriate and relevant requirements for the orderly development of various defined and generally small-scale tourist accommodation forms and specifies Council's requirements relating to individual sites. It aims to provide assistance to people interested in establishing small-scale tourist accommodation premises, to ensure that the standard of accommodation is attractive to visitors and enhances the reputation of the Central Coast as a tourist destination, while also protecting the amenity of adjacent residents.

2.7.7 Serviced Apartments

A serviced apartment is defined in Central Coast LEP 2022 as follows:

serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

Note—

*Serviced apartments are a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.*

Requirements

- a Clause 1.9 (2A) of Central Coast LEP 2022 states that "State Environmental Planning Policy (SEPP) No. 65 – Design Quality for Residential Apartment Development applies in the same way that it applies to residential flat buildings to the following land uses - Boarding houses; Serviced apartments". Information submitted with any development application must consider the SEPP and associated Apartment Design Guide.*
- b In addition to the consideration of SEPP No.65, proposals for serviced apartments are to consider the relevant provisions of this DCP including but not limited to Transport and Parking, Floodplain and Coastal Management.*
- c Car parking will be required on-site for guests and permanent residents at the rate as specified in Chapter 2.13 Transport and Parking.*

The car parking shall be designed and constructed in accordance with Council's construction and development standards.

Of the 112 residential spaces, the proposal includes 6 spaces for the serviced apartments.

The whole development is proposed to be serviced by providing 10 staff spaces which is not considered reasonable.

There is also a shortfall of the parking required for retail/ commercial and furthermore, it is reasonable to expect that for the serviced apartments that the staff parking space allocation would exceed one space for cleaners and ancillary staff to service the units through the vacation season.

Chapter 3.1 Floodplain Management and Water Cycle Management

Any future building is required to be constructed of flood compatible materials capable of withstanding the hydrostatic forces of floodwater and immersion up to the flood planning level (FPL).

There are minor increases in flood level on the road reserve on Beach Parade, Crossingham Street and Kantara Road during the 1% and 5% AEP events. As these increases will not affect vehicle access or change the Flood Hazard Categorisation of the area, the proposal is considered acceptable with regard to flooding. There is also a negligible difference between existing conditions and post development conditions including climate change.

The proposed flood mitigation measures include:

- Duplication of the 750 mm diameter trunk drainage line under Crossingham Street between 3 Crossingham Street and Beach Parade.
- New drainage within the site along Crossingham Street and Kantara Road.

- An overland flow path diverting flows from Kantara Road, through the southern boundary of the site, to Beach Parade.

The overland flowpath at the southern boundary of the property would also be required to have a positive covenant which prohibits any buildings, recreation, or storage within this area.

The Flood Emergency Response plan for the site states that the development is appropriate due to the short duration flood event and the basement carpark crest level meets the relevant requirements.

Chapter 3.5: Tree and Vegetation Management

63 trees were assessment on the site, 62 trees are proposed to be cleared. Insufficient information has been provided in relation to the removal and replacement of trees on the site. Further, street tree removal of Trees T43 and T44 (proposed in the Preliminary Tree Impact Assessment for retention) are within close proximity to a proposed drainage line immediately inside the property boundary. The Monaco Designs assessment did not adequately assess whether the eight identified "very high retention value" trees should be retained.

Section 4.15(1)(a)(iiia) – Planning Agreements under Section 4.7 of the EP&A ACT

There are no planning agreements or draft planning agreements entered or proposed for the site.

Section 4.15(1)(a)(iv) – Provisions of Regulation

Environmental Planning and Assessment Regulations 2021

The *Environmental Planning and Assessment Regulation 2021* applies to all development applications regarding such items as compulsory contributions, notification of development applications and a range of many other details regarding development application requirements.

A development application is required to be accompanied by the written consent of the owner of the land to which a development application relates in accordance with Section 23(1) of the EP&A Regulation. Whilst owner's consent was obtained from the land owners of the subject properties, owners consent for ground anchor impacts was not provided.

The Geotechnical Site Investigation Report details the possible use of temporary and/or permanent ground anchors to support the basement walls during construction and/or ongoing. Owner's Consent(s) for all properties impacted by proposed development works are

required to be provided to the Consent Authority prior to the issue of any consent for those works. Consequently, detailed Basement Structural Engineering Plans would need to be provided to detail the actual required temporary and/or permanent anchors needed and clearly demonstrate which neighbouring properties will be impacted, so that all appropriate Owner's Consent(s) may be obtained to enable the issue of any consent for the proposal.

In accordance with Section 27 of the Regulation, the application was accompanied by a BASIX certificate. The BASIX Certificate does not adequately satisfy the requirements of SEPP BASIX.

The application is accompanied by a revised Design Verification Statement prepared by Team 2 Architects, dated 29 September 2023, as required by Section 29 of the EP&A Regulation 2021, however, the statement provided by Team 2 Architects does not provide a detailed response to the design principles nor address Parts 3 and 4 of the ADG. The submitted statement fails to comply with the provisions of Section 29 of the EP&A Regulation 2021.

Under section 35B(2), the development application is accompanied by a written document that sets out the grounds on which the applicant seeks to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify the contravention of the development standard. Whilst a written document has been provided, it is considered the Panel cannot reach a state of satisfaction in relation to the proposed contravention.

Furthermore, as previously discussed in the report, the applicant submitted amended plans after a recommendation for withdrawal. In accordance with Section 38 of the EP&A Regulations 2021, Council did not accept the amended plans. Council requested the application be withdrawn due to the number of non-compliances and inaccurate and insufficient information which prevents Council from accurately assessing the impacts of the proposed development and compliance with the relevant planning controls.

There are no other specific sections that warrant further discussion.

Section 4.15(1)(b) – Likely Impacts of the development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to the SEPPs, ADG, CCLEP and CCDCP 2022 controls outlined above and below.

Built Environment, Context and Setting

An assessment of the impacts of the proposed development on the built environment has been undertaken in terms of ADG, Housing SEPP, CCLEP 2022 and CCDCP 2022. The proposal fails to comply with a number of planning controls and objectives outlined within the relevant plans and policies.

Natural Environment

The subject site does not contain any threatened species or habitat although does contain 63 trees. 62 trees are proposed for removal. Eight trees of high to very high value are proposed for removal. These trees are in very close proximity to the development footprint and essential services. The arboricultural assessment was inadequate and did not ensure protection of these trees.

Insufficient information has been provided to demonstrate there will be no impact to the environment via disturbance to Acid Sulfate Soils, potential land contamination, or stormwater discharge. The proposal is not satisfactory in relation to impacts on the natural environment.

Social and Economic Impacts – Cumulative Impact

The site is zoned SP3 Tourist Zone. Shop top housing and food and drink premises are permissible with consent. The site and adjoining area is expected to undergo transitional change.

Managing cumulative impacts is a shared responsibility. In undertaking the cumulative impact assessment, the proponent should undertake engagement which may involve: identifying the key matters requiring cumulative impact assessment, collecting and sharing data; undertaking investigations and research; using common methods to predict impacts; agreeing on the assumptions to use in any assessment; collaborating on the analysis of results; identifying what actions can be taken to minimise cumulative impacts

Insufficient information has been provided to Council to demonstrate that suitable consideration has been given to the changing context of Canton Beach and the cumulative impacts of recent approvals with regards to traffic, transport, and parking on the local street network.

It is recommended a Social Impact Assessment (SIA) and an Economic Impact Assessment (EIA) would be required for any future development application of this scale. The incremental assessment approach involves adding the incremental impacts of the proposed project to the existing baseline condition of each relevant assessment matter (e.g. air quality, noise, water, biodiversity, heritage, traffic, employment). This allows the existing impacts of other projects to be considered in the assessment of the project and highlights the likely change to the baseline condition of each matter as a result of the project.

Where possible, the proponent should apply quantitative methods to assessing the relevant cumulative impacts. However, when this is not possible qualitative assessment methods may be applied or suitable sensitivity testing may be carried out for the potential cumulative impacts.

The proposed development is argued to contribute to the supply of housing in the locality and act as a catalyst to help stimulate redevelopment of the area which could on principle be considered appropriate from an economic perspective (if, and importantly if the development adheres to the basic state guided design criteria).

Traffic and Parking

The application has not provided sufficient information to demonstrate that the development has appropriately responded to the site constraints with regards to parking falling short of the numerical requirement of the CCDCP 2022.

Ecologically Sustainable Principles

The proposal has been assessed having regard to ecologically sustainable development principles and is inconsistent with the principles and will result in a decrease on the environmental quality for future generations. The proposed development is considered to not incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is likely to have adverse impacts on the environment.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the development application. The site is located within an area subject to flooding from overland flow rather than flooding from the lake.

This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood, and coastal erosion; as well as how the proposed development may cope, combat, withstand these potential impacts.

Sustainable building design: The residential part of the proposal could include better initiatives for energy and water efficiency under the submitted BASIX Certificate. Sustainability measures for the design of the ground floor tenancies could use better initiatives for lighting, glazing, insulation and construction materials which will also address acoustic impacts.

Reduced Car Dependence: Bicycle and motorcycle parking is provided. However, the development does not provide the bicycle parking in appropriate locations.

Section 4.15(1)(c) – Suitability of the Site

For the reasons identified in the above assessment and contained within Council's reasons for refusal, it is considered that the proposed development results in an overdevelopment of the site and that the site is not suitable for the scale of the mixed-use development proposed by this development application.

The site is ideally situated opposite the beach front, providing future residents with high quality amenity. More broadly, however, the site and its immediate surrounds is undergoing transition and includes other shop top housing developments that have been approved along Beach Parade. Despite this, it is not demonstrated that the generation of the additional parking for the commercial component of the proposed development will not result in unreasonable traffic and parking impacts and congestion to Beach Parade and the surrounding street network.

A compliant development could seize the opportunity to provide social and tourist benefits to the area consistent with the objectives of the SP3 Zone.

The mixed-use development fails to satisfy:

- Part 2B Building Envelopes;
- Part 2C Building Height Central Coast LEP 2022 Clause 4.3 Maximum Building Height of 16 metres;
- Part 2E Building Depth required 12 metres to 18 metres;
- Part 2F Building Separation required 12 metres to 25 metres;
- Part 2G Street Setbacks required 6 metres;
- Part 2H Side and Rear Setbacks required 6 metres to 9 metres;
- Part 3F Visual Privacy Objective 3F1 and Objective 3F2;
- Part 4A Solar and Daylight Access Objective 4A1, Objective 4A2 and Objective 4A3;
- Part 4G Storage Objective 4G1; and
- Part 4M Facades Objective 4M2.

resulting in a design which is not an appropriate form and scale. The Panel cannot be satisfied that the development will not adversely impact on the amenity of the users and residents of Beach Parade, both existing and future intended. The site is therefore not suitable for the proposed development.

Section 4.15(1)(d) – Public Submissions

The application was notified in accordance with CCDCP 2022 – Chapter 1.2 Notification of Development Proposals between 10 November 2023 and 1 December 2023. Two submissions were received inclusive of a letter from David Harris MP, Member for Wyong. The issues raised in the submissions are discussed in the table below.

Summary of submissions	Response
<p>Traffic - increased traffic impacting emergency services accessing the site and increased road congestion on Kantara Road from recent new development.</p>	<p>Traffic impact has been considered in the assessment.</p> <p>The road network is comprised of:</p> <ul style="list-style-type: none"> • Central Coast Highway – a State Road and arterial route which runs through Noraville to the east connecting Gosford and Doyalson. • Main Road – a State Road and part of a sub-arterial route connecting between the Noraville and Warnervale. • Crossingham Street / Moss Avenue – a local road. • Evans Road/Wallis Avenue/Kantara Road – a local road.

Crossingham Street has one traffic lane in each direction and comprises kerbside parking lanes. Beach Parade has a single lane roadway with 45-degree angle parking on the western side.

Council Traffic Engineer reviewed the estimated trip volume for the whole development. The total traffic generation estimated is 53vtph in the AM peak and 49vtph in the PM. This level of traffic generation would not have a significant impact on the surrounding road network.

The development did not require concurrence from Transport for NSW as not identified as 'traffic generating development'. Notwithstanding this, the proposal does not comply with the planning controls to mitigate impact to neighbouring development and is not supported in its current form. Furthermore, numerical non-compliance with the required commercial and retail parking is proposed without adequate justification.

Council does not encourage reliance upon on-street carparking. Any development this scale and type is expected to be fully comply with required road access and parking provisions.

The recent development within the area was assessed and parking and traffic volumes considered reasonable.	
Overdevelopment -inappropriate height at a site which is situated within a predominantly single and two storey environment. The development will impact upon solar access to neighbours.	Agreed. The proposal does not comply with the maximum building height permitted which is part of a suite of planning controls to mitigate environmental impact. The proposal is not supported in its current form, and considered an overdevelopment, as discussed within in this report.
Street Access - Beach Parade is an inappropriate point of access to a high rise development.	Beach Parade is proposed as one of the points of entry. Council traffic engineer reviewed the site design for points of entry and egress. In principle, Council is not averse to access from this location.

Submissions from Public Authorities

Ausgrid

The application was referred to Ausgrid who have no objection to the proposal subject to consideration of the comments contained in their correspondence.

Internal Consultation

The following internal consultations were undertaken:

Development Engineer	Not supported
Tree Assessment Officer	Not Supported
Water and Sewer	Not Supported
Urban Design	Not Supported
Flood Engineer	Supported, subject to conditions
Waste	Not supported
Environmental Health	Not supported

Other Matters for Consideration:

Development Contribution Plan

Section 7.11 contributions for residential developments in the Toukley District are based on occupancy rates, not Estimated Development Cost. There are no contributions applicable under the Toukley and Shire Wide Section 7.11 Plans for the proposed short term tourist accommodation, nor the retail/commercial component of the proposal, however, they do

apply to the residential component of the development. Contributions would be applicable if the application was supported.

Water and Sewer Contributions

Water and sewer contributions would be applicable to the development and Section 306 requirements under the *Water Management Act 2000* if the application was supported.

Section 4.15(1)(e) – Public Interest

The proposed development has failed to meet the minimum requirements of SEPP Resilience and Hazards in relation to consideration of land contamination and Council's LEP with regards to essential services and acid sulfate soils.

The proposal has not provided the minimum necessary requirements under the ADG pertaining to key design criteria including building separation, solar access, setbacks, façade treatment, building depths. Resulting envelopes will result in a mixed-use development with poor internal amenity, compromised privacy and solar access and impacts to neighbouring properties.

A development of this scale and typology should adhere to the planning controls and provide the stipulated parking required rather than rely on the street network to adopt the overflow which in this circumstance would relate to the commercial and retail part of the development.

Council considers that the public interest is maintained by upholding the integrity of the statutory provisions contained within the CCLEP 2022, Housing SEPP, Chapter 4 Design of Residential Apartment Development and on this basis, is recommended for refusal.

Conclusion

The proposed development has been assessed using the heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The application seeks approval for the construction of a mixed-use development and basement parking on the site. The contravention to the building height development standard as the applicant has not demonstrated the standard is unreasonable or unnecessary in the circumstances, nor have they provided sufficient environmental planning grounds to justify a contravention to the development standard. The other variations to planning controls are considered unreasonable and unacceptable in the circumstances.

The proposal does not demonstrate an appropriate scale in terms of bulk, height and building separation which if it did it would contribute positively to the desired future character of the area. Aside from the proposed variations, the development is inconsistent

with the objectives of the controls for the site under the relevant SEPPS, CCLEP and CCDCP requirements.

It is generally considered the proposed development is not suitable for the site and will not represent a positive opportunity to provide additional tourist related retail and accommodation in the vicinity of the foreshore.













As set out in this report, the proposed development:

- Does not satisfactorily meet the requirements or objectives of *State Environmental Planning Policy (Housing) 2021* nor the associated *Apartment Design Guidelines*.
- Does not satisfy the requirements of *State Environmental Planning Policy (BASIX) or SEPP (Resilience and Hazards) 2021*.
- Fails to meet the objectives nor provisions of the Central Coast Local Environmental Plan 2022 and Central Coast Development Control Plan 2022.
- Breaches the maximum height control without justifiable planning grounds.
- Does not satisfactorily demonstrate the contravention to the development standard is unreasonable or unnecessary in this circumstance or that there are sufficient environmental grounds to justify a contravention to the development standard.
- has unsatisfactory and unreasonable impacts on adjoining properties.
- has inaccuracies and inadequate information within the development application suite of documentation.
- is deemed unsuitable for the site.
- is not in the public interest.

For these reasons it is recommended that development application DA/1904/2023, for construction of a 5-storey mixed use development and basement level parking at the subject site, Canton Beach be **refused** for the reasons detailed in Attachment 1 to this report.

4.1 DA/1904/2023 - 9, 10 Beach Parade, 1, 3, 5 Crossingham Street, 1, 3, 5, 7 Kantara Road, Canton Beach - 5 Storey Mixed Use Development (cont'd)

Attachments

1	Architectural Plans - FULL SET - PAN-369384 - 9, 10 Beach Pde, 1, 3, 5	D15875803
	Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023	
2	Independent Design Review (Ken Dyer) - PAN-369384 - 9, 10 Beach	D16043710
	Pde, 1, 3, 5 Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023	
3	Construction Statement Environmental Effects - PAN-369384 - 9, 10	D15876068
	Beach Pde, 1, 3, 5 Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023 SUPERCEDED -	
4	Clause 4.6 Variation Request - PAN-369384 - 9, 10 Beach Pde, 1, 3, 5	D15876056
	Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023	
5	REVISED Design Verification Statement_9&10 Beach Parade, 1,3,5&7	D15884144
	Kantara Rd., 1,3,5 Crossingham St.,Canton Beach - DA/1904/2023 - PAN-369384	
6	PUBLIC - BASIX Assessment Report - PAN-369384 - 9, 10 Beach Pde, 1,	D15875805
	3, 5 Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023	
7	PUBLIC - Geotechnical Site Investigation Report - PAN-369384 - 9, 10	D15876029
	Beach Pde, 1, 3, 5 Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023	
8	Preliminary Site Investigation Report - PAN-369384 - 9, 10 Beach Pde,	D15876063
	1, 3, 5 Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023 SUPERCEDED -	
9	Preliminary Tree Assessment Report - PAN-369384 - 9, 10 Beach Pde,	D15876025
	1, 3, 5 Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023	
10	PUBLIC - Acoustic Report - PAN-369384 - 9, 10 Beach Pde, 1, 3, 5	D15876036
	Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023	
11	PUBLIC - Traffic Report - PAN-369384 - 9, 10 Beach Pde, 1, 3, 5	D15876022
	Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023	
12	PUBLIC - REVISED - Flood Impact Assessment Report - PAN-369384 -	D16223715
	9, 10 Beach Pde, 1, 3, 5 Crossingham St, 1, 3, 5, 7 Kantara Rd, CANTON BEACH - DA/1904/2023	