



***DEVELOPMENT APPLICATION ASSESSMENT:
State Environmental Planning Policy (State
Significant Development) 2005:
DA 150-6-2005 – Tourist/Residential/Retail
Development
133-137 Princes Highway, 41 Deering Street and
116-118 St Vincent Street, Ulladulla***

Planning Assessment Report
Under Part 4 of the *Environmental Planning and
Assessment Act 1979*
April 2007

1. EXECUTIVE SUMMARY

This report is an assessment of Development Application DA 150-6-2005 under *State Environmental Planning Policy (State Significant Development) 2005* ("SSD SEPP"), submitted by Elderslie Property Investments Pty Ltd ("the applicant") for Lot 21 in DP 738247, Lots 8 and 9 in DP37939, Lot 4 in DP 542007, Lot 9 in DP 21597 and Lots 1 and 2 in DP 21957 located at Nos. 133-137 Princes Highway, No. 41 Deering Street and No. 116-118 St Vincent Street, Ulladulla.

The amended application seeks consent for demolition of the existing structures and the erection of five buildings to contain 25 residential apartments, 74 tourist apartments and 8 commercial/retail suites over basement parking for 146 vehicles with a development cost of approximately \$24,620,000. Pursuant to the provisions of *Shoalhaven Local Environmental Plan 1985* ("the LEP"), the site is located partially within the 3(g) Business G (Development Area) zone and partially within the 3(b) Business B (Transitional) zone.

The application was lodged with the Department on 29 June 2005 in accordance with the *Environmental Planning and Assessment Act, 1979* ("the Act"). At the time of lodgement of the DA, the Minister for Planning was the consent authority pursuant to Clause 6 of the SSD SEPP.

Following exhibition, a number of issues were identified by agencies and the community. All of these issues are discussed in Section 6.2 of this report.

The applicant lodged a deemed refusal appeal with the Land and Environment Court of NSW since the Minister had not made a determination in the specified period. The appeal was stood over to allow discussions between the parties.

As a result of the comments made by the Court Appointed Urban Design Expert, the Court Appointed Traffic Expert and as a result of the joint conferencing of the Town Planning Experts, the applicant has prepared a series of amended plans, culminating in the set of plans being considered in this report.

The amended plans were renotified as they involved significant changes, including a change in vehicular access from Deering Street and the Princes Highway to St Vincent Street and the Princes Highway.

The opinion of the Minister for Planning must be formed pursuant to Clause 6 of the SSD SEPP that the development is of a kind described in Schedule 2 of the SSD SEPP. The Minister for Planning is the consent authority for State Significant Development under Section 76A(9) of the Act. The Minister's opinion, that this proposal is development of a kind described in Schedule 2 of the SSD SEPP, forms part of the recommendation in Section 8 of this report.

It is recommended that the development application be granted a **deferred commencement approval** subject to the recommended conditions of development consent being imposed as outlined at **Appendix A**.

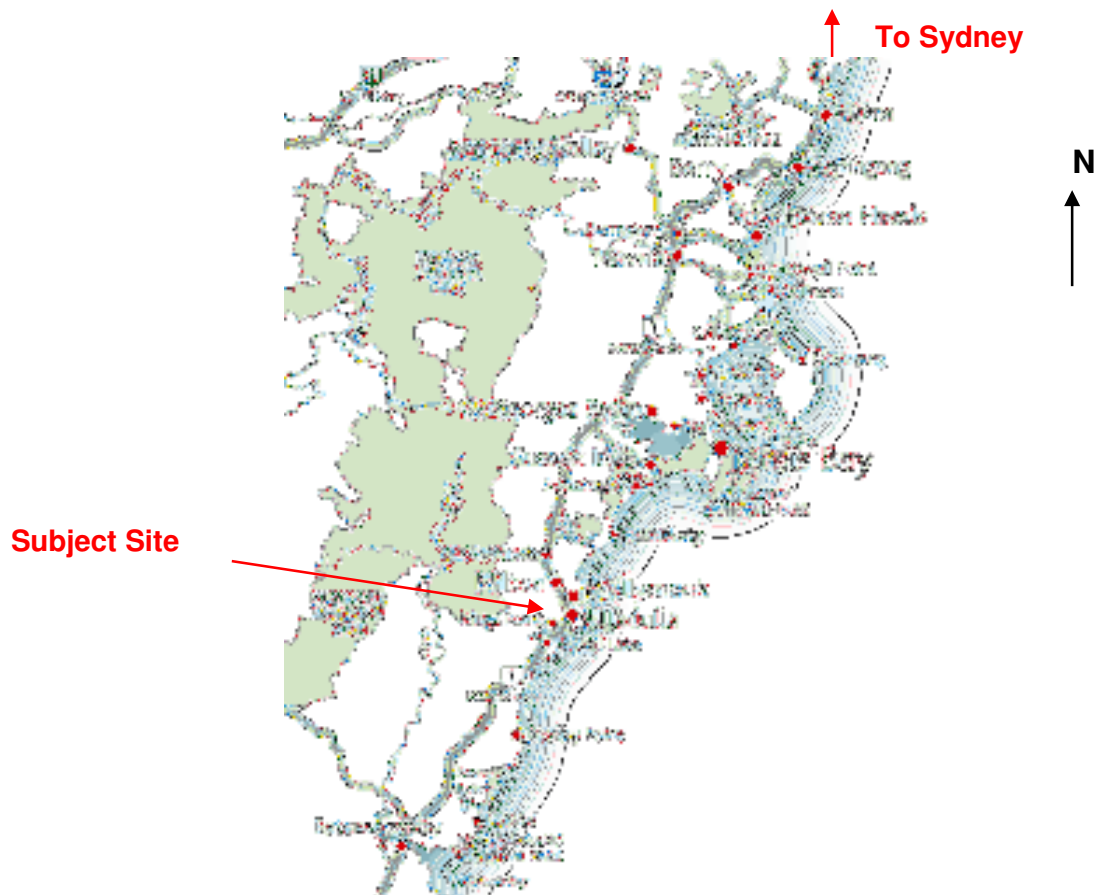
2. BACKGROUND

2.1 Site Context and location

The subject site is identified as Lot 21 in DP 738247, Lots 8 and 9 in DP37939, Lot 4 in DP 542007, Lot 9 in DP 21597 and Lots 1 and 2 in DP 21957, and is known as Nos. 133-137 Princes Highway, No. 41 Deering Street and No. 116-118 St Vincent Street, Ulladulla ("the site"). Figures 1 and 2 outline the regional context for the site and the site location. The main body of the site has frontage to the Princes Highway 57.915m, a rear boundary dimension of 79.44m and side boundaries of 100.59m (northern) and 100.6m (stepped southern), with a total area of 6,959m². The component of the site contained within 41 Deering Street has dimensions of approximately 16.7m x 10m, comprising of the rear 10m of the site, which is to provide vehicular access to St Vincent Street (together with the portion of the site fronting St Vincent Street). The component of the site to be utilised within Nos. 116-118 St Vincent Street is an irregular shape and comprises an approximately 8m wide strip along the northern boundary together with a turning area running perpendicular to the strip along the boundary. Refer to the site boundary marked on Figure 2.

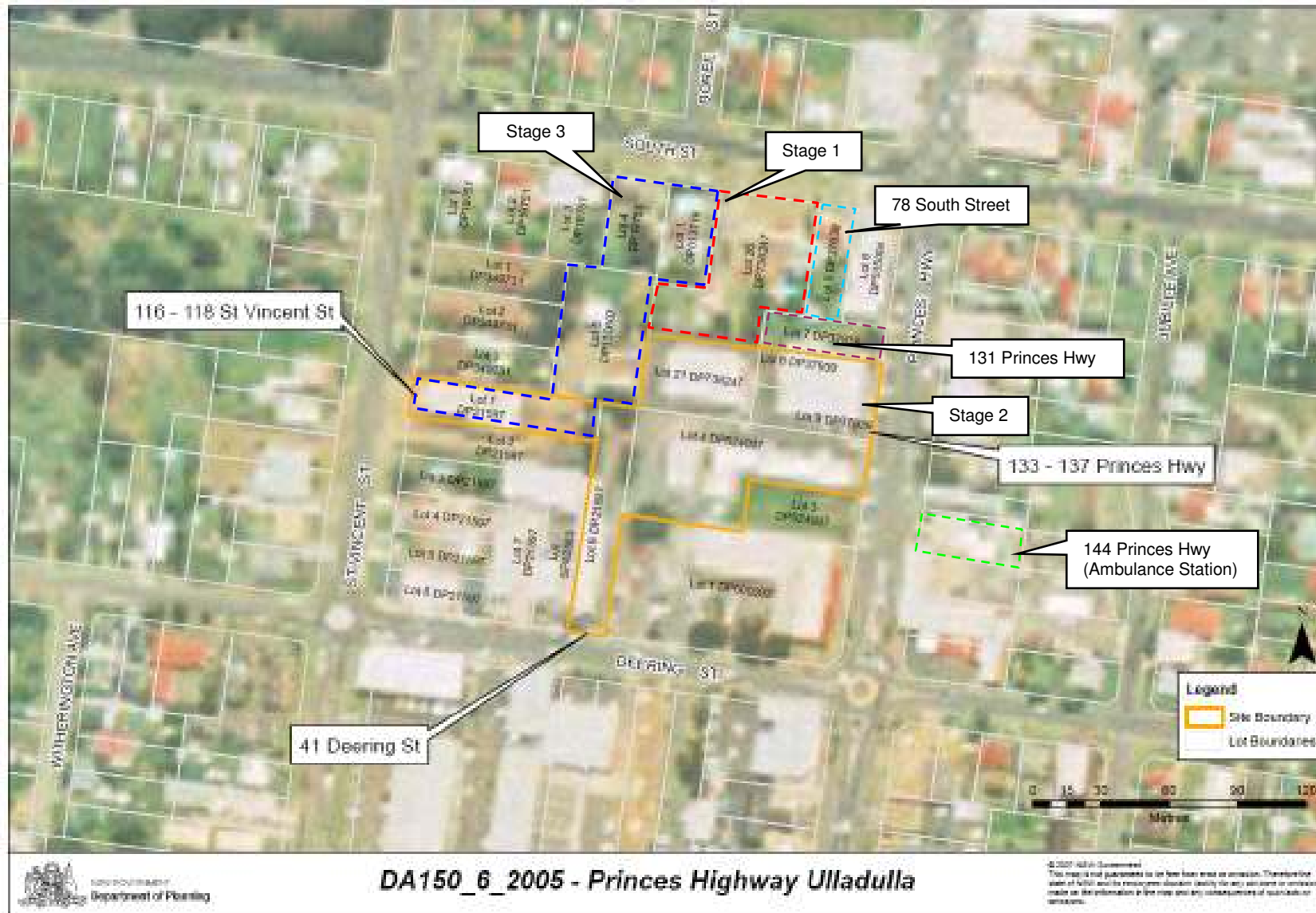
The proposal is known as Stage 2 in a 3 stage project. Refer to Figure 2 for an indication of the staging. Stage 1, comprising 45 units was granted consent in 2004. Stage 3, a proposal under part 3A has been withdrawn pending the resolution of this application. The site is within the Shoalhaven Council Local Government Area. Ulladulla is a coastal town on the NSW south coast, located approximately 220 km south of Sydney.

Figure 1: Regional Context



Source: Tourism NSW 2006

Figure 2: Site Location



The site is located near the top of the southern of the two ridgelines on the Princes Highway within the town of Ulladulla, within the commercial area of the town. Due to its location on a ridgeline the site is very visually prominent as you enter and exit Ulladulla and from within the town centre and the parkland near the foreshore. The site is elevated above the level of the Princes Highway and is located on the western side of the Highway (refer to Figure 3).

To the immediate south of the site fronting the Princes Highway is a vacant block of land and then on the corner of the Princes Highway and Deering Street (and adjoining the site towards the rear of the southern boundary) is a large warehouse style of building (occupied by Allens and selling clothing, Manchester and electrical equipment), with car parking to the rear accessed off Deering Street.

To the rear of the southern portion of the site (west) is the remainder of the No. 41 Deering Street portion of the site, which is developed with single storey offices, with a garage and parking area at the rear and a driveway (which is also a right-of-way) running along the eastern boundary of the property. To the rear northern portion of the site (and forming part of the site used for access to St Vincent Street) are blocks of land containing residential buildings, which form part of the parcel of land fronting St Vincent Street that comprises Stage 3 of the project. The Environmental Assessment for Part 3A application for a mixed residential and tourist accommodation development on the Stage 3 site was lodged with the Department on 24 February 2006. The Environmental Assessment was withdrawn on 26 October 2006 at the request of the applicant pending the outcome of this application.

To the north of the site fronting the Pacific Highway is a vacant block of land. On the corner of the Princes Highway and South Street is a single storey building containing shops and behind that a block of land fronting South Street (No. 75 South Street) containing a dwelling. Further westward on South Street and adjoining the site is a parcel of land with an approved mixed use development containing both residential and tourist accommodation units, known as Stage 1. No works have commenced for this stage of the development.

The Princes Highway is the main arterial road into Ulladulla and connects it to Sydney to the north and to the south coast of New South Wales and Victoria to the south. The Princes Highway in front of the site contains two lanes (one in each direction) and angled parking on each side of the street.

Development within the town centre generally consists of one and two storey buildings containing retail and commercial premises along the Princes Highway, with residential dwellings of generally one storey construction located up the side streets off the Princes Highway. A small scattering of buildings within the town centre are three storey.

The southern portion of the town centre, as viewed from the northern ridgeline, presents as a series of generally low scale buildings interspersed with canopy trees, which break up the skyline of building roofs (as can be seen in Figure 4).

2.2 Site Features

The main body of the site slopes upward from its frontage on Princes Highway to the rear of the site by approximately 7m. The site also has a secondary slope, rising approximately 4m from the northern boundary of the site to the southern boundary. The main body of the site is currently developed with a series of one storey buildings containing shops and offices of brick construction with metal roofs. The layout of the buildings is such that vehicular access runs centrally from the Princes Highway to the rear of the site, with parking and shops and offices either side of the vehicular access. A public toilet block is located near the rear boundary towards the southern part of the site. The main body of the site contains little vegetation, with only a couple of scattered trees, which assist in providing a canopy of trees to break the built

skyline when viewing from the northern ridgeline. The main body of the site is otherwise either occupied by buildings or is covered with hard surfaces.



Figure 3: The Site looking from Princes Highway southward



Figure 4: The northern ridgeline looking towards the Site from the Princes Highway on the southern ridgeline

The remainder of the site comprises the rear portion of 41 Deering Street, which is currently not occupied by any buildings and Nos. 116-118 St Vincent Street which is currently occupied by a

building that would need to be demolished for the proposed driveway access to proceed.

3. THE PROPOSED DEVELOPMENT

The proposal as originally lodged consisted of:

- a) Demolition of all structures on the site;
- b) Erection of five buildings to contain 8 retail shops, 6 serviced apartments for tourist accommodation and 113 residential apartments (12 x studio, 49 x 1 bedroom and 52 x 2 bedroom) over basement parking for 159 vehicles;
- c) The buildings proposed are two storey at the Princes Highway frontage and four storey elsewhere on the site;
- d) Vehicular access was proposed from the Princes Highway and via the right-of-way across No. 41 Deering Street from Deering Street

Since the lodgement of the application concern has been raised with the applicant in relation to a number of matters and an appeal (No. 11541 of 2005) has been lodged with the Land and Environment Court. The following concerns have been discussed with the applicant in a series of meetings and a series of amended plans considered.

- The mix of tourist and residential accommodation on the site;
- The height and scale of the buildings;
- The lack of deep soil landscape area to provide canopy trees between the buildings to break the visual bulk as viewed from the northern ridgeline and parkland near the harbour;
- The vehicular access off the Princes Highway;
- Shadow impacts on the vacant lot to the south of the site;
- The cumulative visual impact of Stages 1-3 as viewed from the northern ridgeline and parkland near the harbour.

A final set of amended plans were lodged with the Department on 30 March 2007. This final set of amended plans is the subject of this report and proposes the following development:

- a) Demolition of all structures on the main body of the site;
- b) Erection of five buildings to contain 8 retail shops, 74 serviced apartments for tourist accommodation and 25 residential apartments (3 x studio, 12 x 1 bedroom and 10 x 2 bedroom) over basement parking for 145 vehicles;
- c) The buildings proposed are two storey at the Princes Highway frontage, increasing in height in a westward direction to three storey and then four storey;
- d) Vehicular access is proposed from the Princes Highway (left-in only) and via a proposed tunnel across the rear portion of No. 41 Deering Street and then generally along the northern boundary of the Stage 3 site from St Vincent Street, across Nos. 116-118 St Vincent Street, including a turning area.

The development proposed has a site coverage of 2,829m² on a site area of 6,964m² (40.6%), a gross floor area of 7,976m² and a FSR of 1.15:1.

Figure 5 depicts the ground floor arrangement of the proposed development, with an indication the locations of Buildings A to E within the subject site. Figure 6 provides key elevations throughout the site.

Building A and AA (attached to Building B) front the Princes Highway and are two storey in height. These buildings contain 8 commercial/retail suites at ground level with setbacks between 1m and 2m from the front boundary.

The buildings are separated by a one way driveway from the Princes Highway and seating areas for the two suites adjacent to the driveway, which are provided to cater for potential cafés. At the first floor level are tourist apartments (Building A 2 x 1 bedroom and 3 x studio and Building AA 1 x 1 bedroom and 2 x studio).

Building B is part three (2/3) and part four storey (1/3) and contains tourist apartments at all levels (10 x 1 bedroom). This building is located immediately behind and attached to Building AA and has a variable setback from the southern boundary of 0.91m to 3.62m.

Building C is a four storey building and contains tourist apartments (1 x studio, 6 x 1 bedroom and 10 x 2 bedroom) at the ground and part of the first floor and residential apartments (3 x studio, 12 x 1 bedroom and 10 x 2 bedroom) in the remainder of the building. It is noted that the tourist units on the first floor are accessed from the ground floor and are two storey units and as such only the permanent residents would access the lift above the ground floor. Building C is located at the south-western corner of the site and has a setback from the southern boundary of 6m and a variable setback from the western boundary of 6m – 7m. Building C is an irregular “U” shaped building.

Building D is a four storey building and contains tourist apartments (4 x studio, 4 x 1 bedroom and 12 x 2 bedroom). Building D is located at the north-western corner of the site and has a variable setback of 6m (to the staircase) – 8.3m from the western boundary and a variable setback of 8.5m – 10.8m from the northern boundary.

Building E is located behind Building A, is half three storey and half four storey and contains tourist apartments (5 x studio, 5 x 1 bedroom and 9 x 2 bedroom). Building E is setback between 9.7m and 11.3m from the northern boundary and 8.3m from the rear of Building A.

The areas between the buildings (other than between Buildings A and AA, which contains the ramp down to the basement car park) are to be landscaped. The landscape plan show three main elements, being paths in a landscaped setting, boundary tree and shrub planting (lower scale trees) and areas of deep soil capable of supporting canopy trees to 15m height, located centrally on the site, between Buildings D and E, between Buildings A and E and to the north of Building D.

Figure 7 shows the proposed basement plan and depicts the proposed access points to and from the site.

An accessible ramp system is provided from the Princes Highway throughout the site to each of the residential and tourist accommodation buildings, each of which contains a lift. The commercial/retail suites step down the slope of the Pacific Highway, allowing appropriate accessibility to each suite.

Vehicular access to the site is via a one way left turn in ramp from the Pacific Highway or via a two way ramp and driveway from St Vincent Street, which is a ramp up from the basement along the rear of No. 41 Deering Street and a driveway running along the northern boundary, with a perpendicular turning area on the Stage 3 site at No. 116-118 St Vincent Street. Security is provided to the parking area under the buildings with the basement car park being divided into different sections under each building by a series of roller shutters. The basement parking area also contains storage areas adjacent to most parking spaces. Six accessible parking spaces are proposed. The proposal is illustrated in selected plans in **Appendix F**.

Figure 5: Ground Floor Plan Showing Buildings A–E

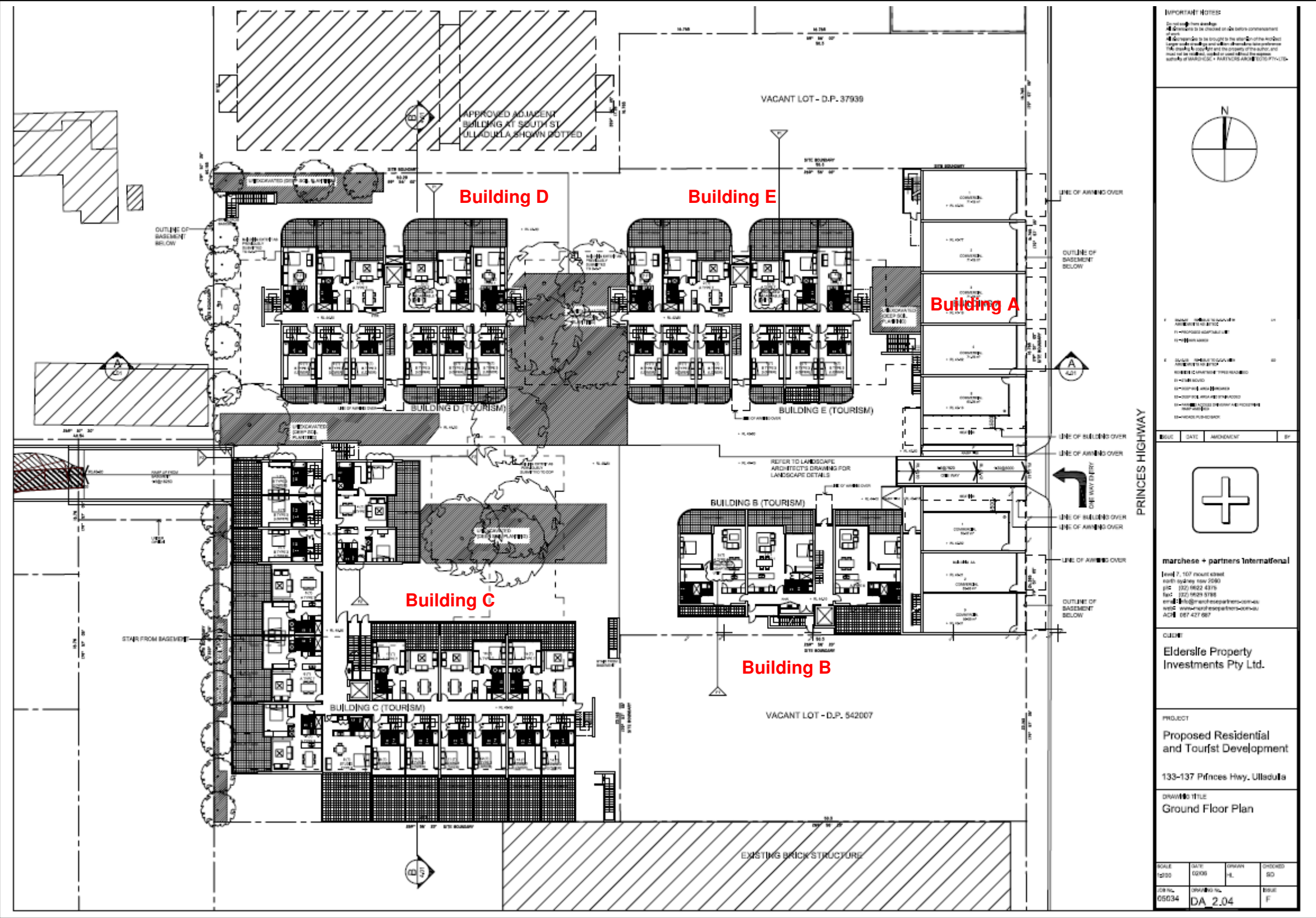
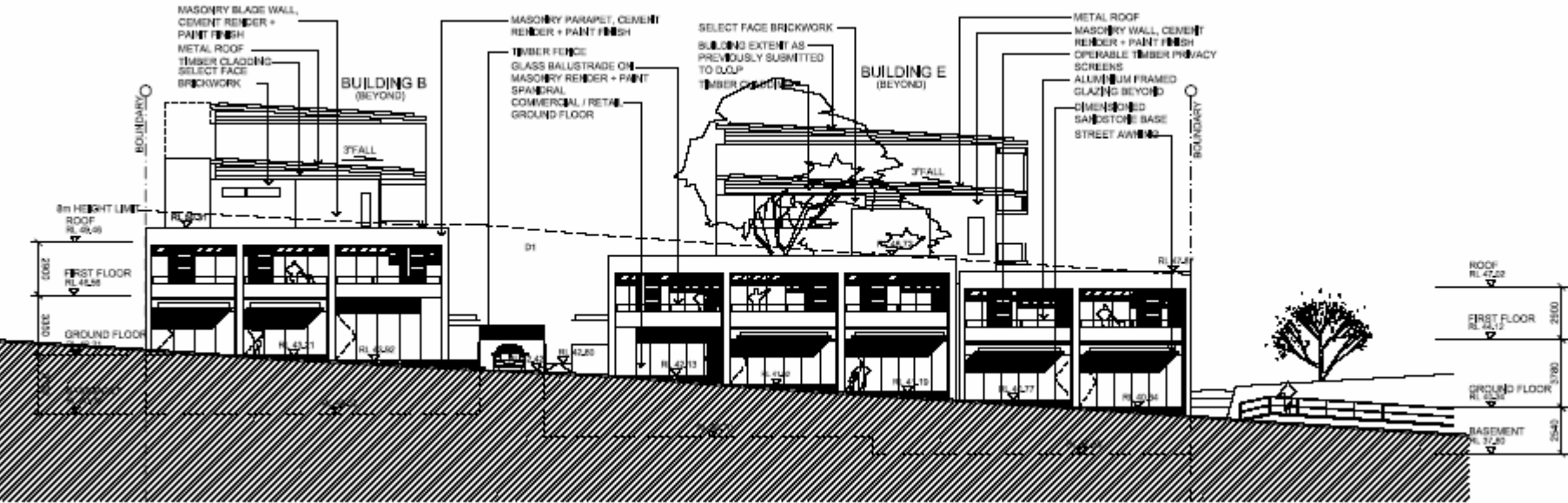
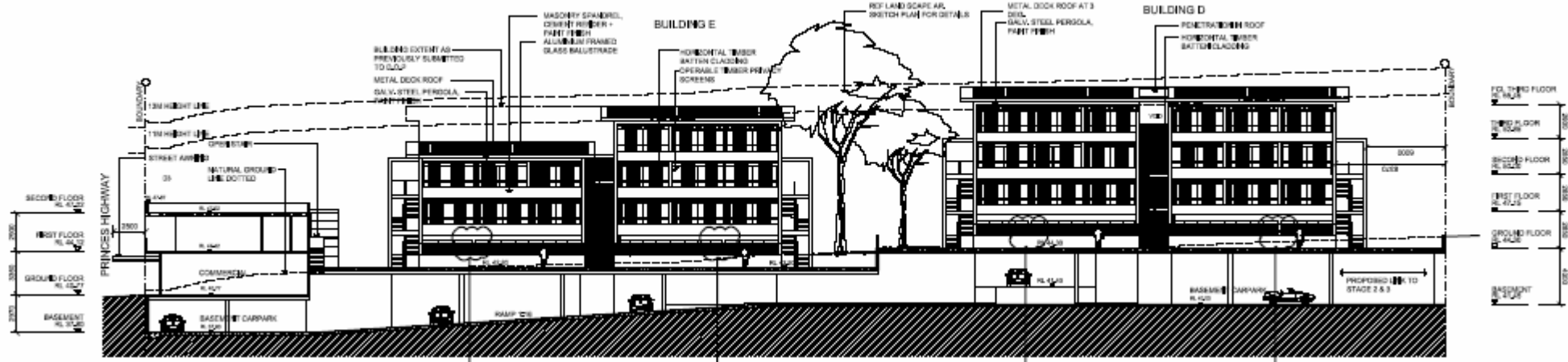


Figure 6: Indicative Elevations through the Site

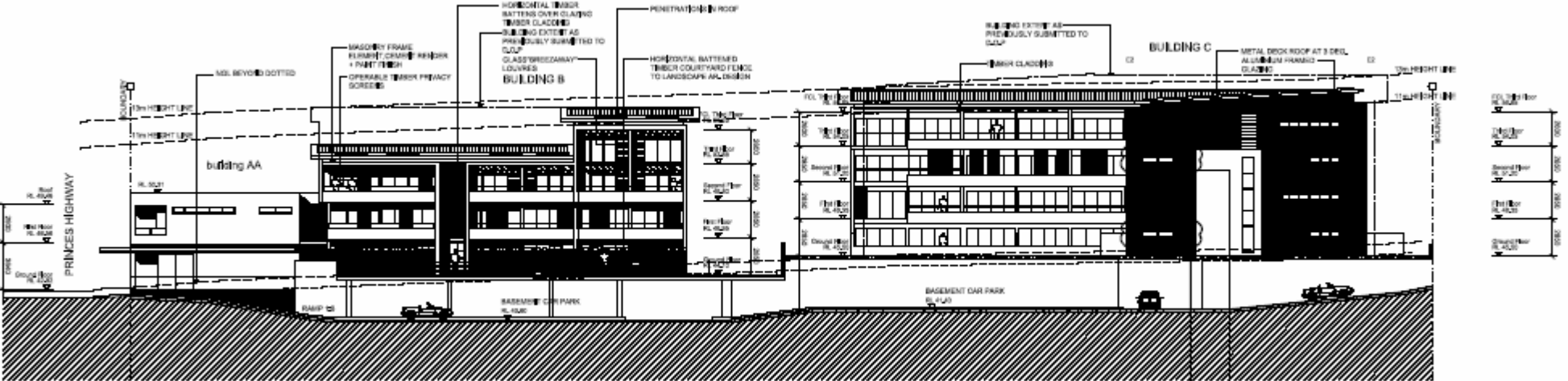
A) PRINCES HIGHWAY ELEVATION



B) NORTH ELEVATION



C) INTERNAL ELEVATION - SOUTH



**ENTRY
ONLY**
(Left in
only)



4. THE STATUTORY FRAMEWORK

4.1 Statement of Permissibility

The main body of the subject land is zoned 3(g) Business G (Development Area) under the *Shoalhaven Local Environmental Plan 1985* ("the LEP"). Clause 9 of the LEP contains the Zone objectives and development control table, which lists uses which are permissible with consent, without consent or which are prohibited. The proposal is defined as residential flat building, tourist accommodation units, shops and commercial premises and as none of the uses are prohibited or permissible without consent, they are therefore permissible with development consent. The proposed development is therefore permissible in the zone. The access driveway to St Vincent Street is proposed over land zoned 3(b) Business B (Transitional) and the provision of the access driveway is permissible with development consent.

The DA was lodged on 29 June 2005 and is therefore subject to Clause 8J(7) of the Environmental Planning and Assessment Regulations ("the Regulations"). The Regulations state that if the development application was made before the commencement of Part 3A of the Act (1 August 2005) on the basis that the development was State Significant Development, and the Minister is required to form an opinion that the development is State Significant Development in order to determine the application on that basis (but the Minister had not, before that commencement, formed an opinion on the matter), the Minister may, after that commencement, form an opinion that the development was, at the time the application was made, State Significant Development.

In that case, which is evident in this instance, the application is to be determined (unless withdrawn by the applicant) as if the amendments made to the Act by Schedule 1 to the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005* had not been made.

4.2 Instrument of consent and other relevant planning instruments

The proposed development is located within the coastal zone, as defined in Clause 1 of Schedule 2 of *State Environmental Planning Policy (State Significant Development) 2005* ("the SSD SEPP").

The proposal as lodged involved development, parts of which are over 13m in height and as such the proposal was identified in Clause 1(g)(ii) of Schedule 2 of the SSD SEPP. Accordingly, the application was 'State Significant Development' pursuant to Cl 6(a) of SSD SEPP and the Minister was determined to be the consent authority for the development application pursuant to Section 76A(9) of the Act. The amended plans have reduced the height of the development, with only Building C now having components in excess of 13m, however the provisions apply to the whole development.

The Minister, pursuant to Clause 6 of the SSD SEPP, must form the opinion that the proposal is

Development that is development of a kind described in Schedule 1 or 2, or described in Schedule 3 as State significant development of the SSD SEPP, is State Significant Development. The opinion of the Minister will be provided upon determination of the application.

The following Environmental Planning Instruments and other Plans and Policies apply:

- *State Environmental Planning Policy – State Significant Development 2005*;
- *State Environmental Planning Policy No. 71 – Coastal Protection*;

- *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;*
- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *State Environmental Planning Policy No. 11 – Traffic Generating Developments;*
- *Illawarra Regional Environmental Plan No 1;*
- *Shoalhaven Local Environmental Plan 1985;*
- *Shoalhaven Development Control Plan No. 56 – Ulladulla Town Centre Strategy;*
- *Shoalhaven Development Control Plan No. 18 – Car Parking Guidelines;*
- *Shoalhaven Development Control Plan No. 71 – Medium Density Housing;*
- *NSW Coastal Policy 1997;*
- *NSW Coast Design Guidelines;*
- *Residential Flat Design Code; and*
- *Disability Discrimination Act.*

An assessment of the proposal against the provisions of these Environmental Planning Instruments is outlined in **Appendix B**.

4.3 Legislative context

The proposed development is 'Integrated Development' for the purposes of Section 91 of the Act and requires consent under s138 of the *Roads Act 1993* from the Roads and Traffic Authority (RTA). This issue is discussed in Section 6.2 of this report. Conditions requested to be imposed by the RTA have been included in the recommended conditions (**Appendix A**).

5. CONSULTATION

5.1 Public Consultation

The application was notified, in accordance with the Regulations for a period of 30 days. A summary of the notification procedure is outlined below.

Notifications – landowners/occupiers	Notification letters dated 8 July 2005 were sent to adjoining and nearby landowners.
Newspaper advertisements	Advertised in the <i>Nowra Shoalhaven News</i> on 14 July 2005
Site notice	Requested to be erected by applicant
Exhibition dates	Start: 15 July 2005 End: 15 August 2005
Exhibition venues	▪ Department of Planning Information Centre (then DIPNR) - 23-33 Bridge Street Sydney; ▪ Department of Planning South Coast Regional Office (then DIPNR) – 84 Crown Street Wollongong; ▪ Shoalhaven City Council – Deering Street, Ulladulla.

Two (2) public submissions were received raising objection to the proposal, during the period of public exhibition for the proposal. Five (5) agency/Council submissions were also received. Five (5) public representations and a petition (579 signatures) were made about the proposal in April and May 2006 following community discussion on Development Control Plan changes for Ulladulla proposed by the Council. The amended application the subject of this report was renotified by way of letters in February and March 2007 to adjoining and nearby property owners, previous submitters and those who had made representations with submissions closing on 16 March 2007. The plans were available for inspection at Shoalhaven City Council (Ulladulla office). Five submissions were received in relation to the notification of the amended application.

A summary of all of the submissions and representations is at **Appendix C**. The concerns raised in these submissions and representations included issues relating to:

- Privacy
- Impact of traffic generation
- Noise
- Inadequate parking
- Shadow impact
- Bulk, scale and visual impact of proposal
- Height of building
- Consistency with development controls
- Infrastructure provision
- Suitability of residential use in tourist area
- Community consultation and public exhibition
- Overdevelopment of site
- No demand for additional tourist accommodation
- Need to assess all stages and cumulative impacts
- View loss
- Groundwater impacts from basement car park

5.2 External Referrals

5.2.1 Shoalhaven City Council

The application was referred to the Shoalhaven City Council ("the Council") in correspondence dated 8 July 2005. The Council responded in correspondence dated 11 August 2005 and 24 October 2005 stating there were several concerns with the proposal relating to: cumulative impacts of the 3 stages of the proposal; access to the site; parking; and waste management.

The application was again referred to the Council, by letter dated 13 February 2006, after receipt of amended plans and additional information from the applicant. The Council responded in correspondence dated 28 March 2006 stating there were several concerns with the proposal including: cumulative impact of the 3 stages of the proposal, access to the site and intersection analysis.

The application was again referred to the Council, by letter dated 6 February 2007, after receipt of amended plans and additional information from the applicant (which are the subject of this report). The Council and Shoalhaven Water responded in correspondence dated 13 March 2007 and 15 March 2007, respectively, raising a number of concerns and comments in relation to the amended proposal including:

- Cumulative traffic impacts of the 3 stages of development;
- Upgrades to intersections at South Street/Princes Highway and St Vincent Street/South Street;
- Egress between stages;
- Loss of car parking;
- Increased pedestrian movements as a result of the development;
- Waste collection and loading;
- Access to and from the site and traffic analysis;
- Landuse objectives of the zone;
- Owners consent for proposed access;
- Operation of tourist facility; and
- Infrastructure issues relating to water supply and sewerage.

A chronological summary of Council's issues to the proposal (in its various iterations) is provided in **Appendix D**. A consideration and discussion of the issues raised by Council (including Shoalhaven Water) is provided in Section 6.2 of this report.

5.2.1 NSW Roads and Traffic Authority (RTA)

The application was referred to the New South Wales Roads and Traffic Authority ("RTA") on 8 July 2005 as the proposal is considered to be development under Schedule 2 of *State Environmental Planning Policy No 11 – Traffic Generating Developments* ("SEPP 11"), consisting of development on or of land that has direct vehicular access to an arterial road pursuant to Clause 7(4) of SEPP 11 and is Integrated Development, requiring a s138 approval under the Roads Act 1993.

The RTA provided advice dated 27 September 2005 with the following concerns:

- Objection to direct access onto the Princes Highway when there is an alternate local access road available;
- Need for a Traffic impact study to consider the cumulative impacts of the 3 stages of development;
- Pedestrian access and mobility plan was requested to clarify pedestrian movements within the development.
- Servicing of shops was to be provided for internally and should cater for the turning movements of a 12.5m single unit vehicle as a minimum.

The application was again referred to the RTA, by letter dated 13 February 2006, after receipt of amended plans and additional information from the applicant. The RTA responded on 7 April 2006 with the following concerns:

- Requested alternative access requirements not addressed;
- Reasons should be provided as to why an alternative access is not suitable if access of the Princes Highway to be maintained.
- Traffic report did not adequately address the cumulative impact of the proposed stages of development,
- Pedestrian Access and Mobility Plan not provided.
- No provision for servicing of the shops.
- SIDRA intersection analysis not undertaken.

Following the lodgement of amended plans to the Department by the applicant on 22 December 2006, the application was referred again to the RTA by memo dated 15 February 2007. The RTA responded in email correspondence dated 2 March 2007 raising two main concerns with the amended proposal:

- Security and safety concerns of basement parking accessed via Princes Highway
- Loading and servicing issues

Further correspondence was provided by the RTA (dated 12 April 2007) confirming to date that the safety and queuing implications associated with the Princess Highway access have not been satisfactorily addressed. As such, the RTA was unable to issue a Section 138 concurrence for access to the site from the Princes Highway.

As a result of a dispute between the traffic experts (RTA, Court appointed traffic expert and applicant's traffic consultant) as to the location and use of access from the Princes Highway and the location of loading facilities for the site, the Court directed the traffic experts to have a conference with the purpose of finding a solution. A joint traffic expert conference was held on 11 May 2007. At the finalisation of the joint traffic expert conferencing a letter was received on 1 June 2007 from the RTA providing General Terms of Approval for the application, which are included as conditions in the recommended consent.

A detailed chronological summary of RTA issues to the proposal is provided in **Appendix D**. A consideration and discussion of the issues raised by the RTA is provided in Section 6.2 of this report.

5.3 Internal Referrals

5.3.1 Department of Planning – South Coast Regional Office

The proposal was referred to the South Coast Regional Office of the Department of Planning and a response was submitted via email on 22 August 2005. The following issues were raised:

- The proposal contains an inappropriate percentage of residential units compared to tourist accommodation units, which is contrary to the zone objectives seeking a mix of uses and is contrary to the requirements of DCP No. 56 which seek this area to be developed with tourist related uses.
- The provision of higher density residential units is supported as such housing is limited in Ulladulla and the dwelling mix is appropriate to cater for the increase in number of single persons and two person households in the Shoalhaven.
- Greater setbacks and design changes are recommended to allow for greater community use of the streetscape.

- Advice should be sought from Council and the RTA as to the appropriateness of access off the Princes Highway and of the internal circulation design.
- The landscape treatment should consider urban water sensitive design principles for courtyards and footpaths.

These issues are further discussed in Section 6.2 of this Report.

5.4 Court Appointed Experts

The applicant lodged an appeal against the deemed refusal of the application with the Land and Environment Court (LEC Proceedings Matter No. 11541 of 2005). The Court appointed Court Appointed Experts (CAE) in relation to Urban Design (Brett Newbold of Brett Newbold Urban Planning) and Traffic (Craig McLaren).

Amendments to the original proposal were undertaken by the applicant as a result of comments and recommendations made by the CAE's, resulting in the final plans for the development (dated 29 March 2007) the subject of this assessment.

The CAE's advised a number of recommendations in relation to traffic and urban design issues. A detailed summary of the CAE comments and recommendations is provided in **Appendix E**.

5.4.1 Court Appointed Urban Design Expert Recommendations

The final set of amended plans (the subject of this report) were provided to Brett Newbold of Brett Newbold Urban Planning. Following a review of the plans, it was considered that, subject to minor additional amendments, the proposed amended development would not be excessive and that a satisfactory standard of urban design quality would be achieved. Subsequently, Mr Newbold recommended a number of conditions relating to:

- Amendments to basement to provide additional deep soil to ensure further canopy trees are added to strategically important locations (such as near north-western corner of building B, near north-western corner of Building E, near south-western corner of the site)
- Provision of street elevation showing Buildings B and C together.
- Amendments to landscape plan to realign the pedestrian link into Stage 3 as a direct-line-of sight pathway from the Princes Highway entrance to Stage 2.

A detailed summary of recommended conditions are provided in **Appendix E**. The recommendations of the CAE for urban design for the LEC matter have been noted in the current assessment as outlined in Section 6.2. The potential conditions raised by the CAE have also been noted, assessed and have been appropriately incorporated into conditions (**Appendix A**).

5.4.2 Court Appointed Traffic Expert Comments

The final set of amended plans (the subject of this report) were provided to Craig McLaren, with the following summarised comments being provided:

- The proposal as modified is supportable subject to conditions as outlined below:
 - Provision of a central median island on the Pacific Highway to prevent vehicles turning right into the site;
 - Vehicles entering the site from the Pacific Highway (tourism and commercial only) shall be controlled via a security system and no pedestrian entry to the basement shall be allowed (to be sign posted);
 - The base of the one way entry ramp from the Pacific Highway shall be controlled by a stop sign;

- A management plan is to be provided on how commercial and visitor spaces are to be available in an unrestricted manner whilst protecting tourist and resident spaces;
- Until traffic lights are provided at the intersection of the Princes Highway and South Street, a right turn out of South Street into the Princes Highway is to be prohibited between 6am and 9am and between 3pm and 6pm Mondays to Fridays (to be signposted);
- The interface of the driveway with South and St Vincent Street needs to be constructed in accordance with AS2890.1-2004;
- The parking layout is to be amended in accordance with the suggestions in the Varga report to turn Space Nos. 12C and 13C through a 90° angle and relocate them to the end of the 6.1m wide aisle;
- The proposed commercial/retail tenancies are not to be approved as a supermarket or restaurant;
- The proposal to provide an on-street loading zone in accordance with Attachment D of the Varga report is to be subject to compensation to Council for lost on-street parking;
- A waste management plan is to be provided; and
- Onsite parking layout is to comply with AS2890.1-2004, particularly in regard to headroom clearances above allocated parking spaces for disabled persons.

The recommendations of the CAE for traffic for the LEC matter have been noted in the current assessment. The potential conditions raised by the CAE have also been noted, assessed and where appropriate have been incorporated into conditions (**Appendix A**).

5.5 Conferencing of Traffic Experts

As discussed in section 5.2.1, as a result of a dispute between the traffic experts (RTA, Court appointed traffic expert and applicant's traffic consultant) as to the location and use of access from the Princes Highway and the location of loading facilities for the site, the Court directed the traffic experts to have a conference with the purpose of finding a solution. A joint traffic expert conference was held on 11 May 2007. Issues raised and outcomes achieved from the Joint conference are outlined in Section 6.2 of the report. A detailed summary of the joint traffic expert conference and the resolutions is outlined in **Appendix E**.

In summary, the traffic experts' joint conference report indicated the following agreements had been reached by the experts:

1. Access from the main road (i.e the Princes Highway) provided the following safety measures are undertaken:
 - Short deceleration lane should be provided serving proposed Princes Highway entry only driveway;
 - A 2m wide central median should be provided opposite the proposed Princes Highway driveway in accordance with Council's DCP 56.
 - Architectural and landscape plans need to be amended to include 2m x 2.5m sight triangle splays at the property boundary of the Princes Highway driveway to assist with pedestrian sight lines;
 - Princes Highway driveway to be controlled by a boom gate and roller shutter; and
 - Appropriate signage displayed at Princes Highway driveway entry prohibiting access along the vehicular driveway and ramp and another sign required to advise of restricted entry to authorised vehicles only from the Princes Highway.
2. All servicing to occur on-site, unless the Council introduces kerbside loading zones along the highway through the commercial area of Ulladulla, within the immediate vicinity of the site.

As the number of on-street parking spaces that will be lost as a result of the development is unknown at this stage, a deferred commencement consent condition is recommended requiring the median strip, deceleration lane and altered parking layout to be designed and

approved by the local traffic committee and the RTA and for a contribution to be paid to Council for the loss any parking spaces, if any, as a result. Refer to deferred commencement conditions (**Appendix A**).

The design of the driveway within Stage 1 of the development (i.e. to South Street) and of the interface of the driveways with South Street and St Vincent Street (other than the one shown on the plans for Stage 2) are not relevant to this application and cannot be addressed by conditions as they relate to other properties. As the works are not subject to this application, reference to them on the plans is to be deleted by a recommended condition of consent as outlined in conditions (**Appendix A**).

6. ASSESSMENT

6.1 *Section 79C of the Environmental Planning & Assessment Act*

Section 79C(1) of the Act requires a consent authority to consider prescribed matters as are of relevance to the development the subject of the development application. These matters are outlined below.

6.1.1 *Section 79C – Matters for consideration*

In determining a development application, a consent authority is to take into consideration the following matters as they are relevant to the development the subject of the development application.

(a) ***Section 79C (1) (a) – Environmental Planning Instruments, Development Control Plans etc***

The environmental planning instruments, draft environmental planning instruments, and development control plans applicable to the land to which the development application relates, as outlined in Section 4.2 of this report, are assessed in relation to this proposal in **Appendix B**. It is considered that the proposal is generally consistent with the provisions of these instruments.

(b) ***Section 79C (1) (b) – the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality***

The development application considers the potential impacts of the development proposed on the site including impacts on the natural and built environments. These impacts are considered in detail in Section 6.2 of this report. It is considered that the proposed development will not adversely affect the natural or built environments subject to the conditions recommended in this report, outlined in **Appendix A**. The proposed development is unlikely to have an adverse impact on the economic or social environments. There is no adverse social impacts.

(c) ***Section 79C (1) (c) – Suitability of the Site***

The issues relating to the site's suitability for the development proposed in the development application are considered in Section 6.2 of this Report. In general, the site is considered to be suitable for the development proposed given its urban location, its zoning and its identification, in part, within DCP 56 as a site suitable for tourist related uses.

(d) ***Section 79C (1) (d) – Submissions***

The submissions received in response to the development application are outlined in **Appendix C** of this Report. The submissions are considered in detail in Section 6.2 of the Report. The issues raised in these submissions have been considered in this assessment.

(e) Section 79C (1) (e) – Public Interest

The public interest has been considered in the assessment of this development application by considering the relevant environmental planning instruments and the submissions in Section 6.2 of this Report. The proposal is not considered to have any significant detrimental impact upon the public interest.

6.2. Issues

The main issues with respect to the proposal are discussed below.

6.2.1 Height

Raised By Community submissions, Department of Planning

Consideration The original proposal (lodged June 2005) significantly breached the height controls of Development Control Plan No. 56 – Ulladulla Town Centre Strategy (DCP 56) across the whole site (Buildings B, C, D & E), with the exception of the building fronting the Princes Highway (Buildings A and AA). The visual impact of the height was unacceptable, with no break in either the height of the structures or provision of appropriate separation or landscaping to attempt to ameliorate the height concerns.

The height limits, as set by DCP 56, which are applicable to the subject site are unclear and provides potentially conflicting directions.

DCP 56, in its Height Restrictions section (p.5) provides the following controls:

- Maximum overall height 8m (2 storey) in zoned commercial areas which is measured from the natural surface level. Non-habitable architectural elements (e.g clock towers) are permitted to extend above the height; and
- One such exception identified is that buildings will be permitted to be 11m within the rear section of the tourist orientated zone south of South Street (identified as being over lots not having frontage to South Street)

The control of 11m is reinforced in the tourist uses section (p.15) where the 11m height limit is repeated, indicating that the controls provides for 3 storeys. Also, it is stated that the purpose for the greater height limit is to enable tourist facilities in the tourist orientated zones to take advantage of both the northerly aspect and views to Ulladulla Harbour and adjoining hinterland.

As the subject site is zoned 3(g), the 8m height control applies to the site except for designated areas located southwards of South Street, but have no direct frontage to that street, where building heights of 11m would apply. The plan accompanying DCP 56 also identifies an area suitable for buildings of 11m height, which appear to apply partially to the subject site. This area correlates with a portion of the subject site (only Lot 21 in DP 738247)(Refer to Figure 2), running from approximately the middle of the street block (running east west) to St Vincent Street in a westerly direction, being setback from the Princes Highway in an easterly direction (which is identified for tourist orientated retail) and being setback from South Street in a northern direction (which is identified for tourist accommodation/commercial uses).

Subsequently, the site is divided into two height areas (refer to Figure 8):

1. the whole of Building D, the western parts of Buildings B and E and the northern part of Building C area located in the 11m area and
2. the remainder of the site (Building A, southern parts of building C and eastern parts of Buildings B and E located in the 8m area)

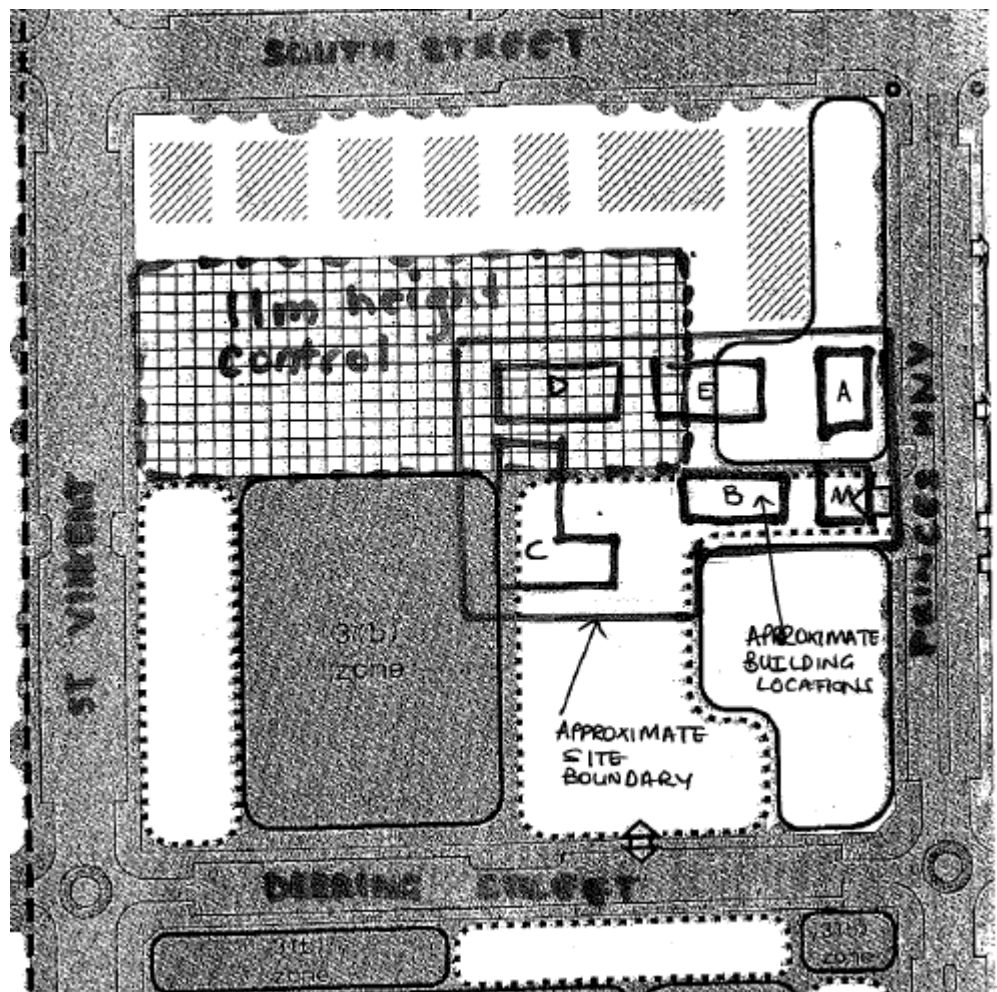


Figure 8 Extract from supporting plan to DCP 56 outlining height controls

Table 1 outlines key height statistics and the level of non-compliance with the height controls in DCP 56.

Table 1 Height statistics for original proposal (lodged June 2005)

Building	Maximum building height (m)	Proposed No. of Storeys	Height Control (based on DCP 56) (m)	No. of storeys allowed in DCP 56	Compliance (Y/N)	Level of Non-Compliance (m)
A	7.85	2	8	2	Y	-
B	13.95	4	8	2	N	5.95
C	13.95	4	8	3	N	5.95
D	13.35	4	11	3	N	2.35
E	14.2	4	8 and 11	2 and 3	N	1.1 (for 11m control), 6.2 (for 8m control)

Note: Maximum building height has been calculated from the natural surface level to the highest point on the roof.

As Table 1 outlines, the original proposal had significant height non-compliances with DCP 56, ranging from 1.1m to 6.2m over the site.

Resolution

Following lodgement of the original application and the subsequent appeal with the Land and Environment Court, a number of concerns were raised with the applicant in relation to proposed building heights (particularly Buildings B and E) by the Department of Planning and by the Court Appointed Expert on Urban Design. Subsequently, a number of meetings were held with the applicant resulting in a series of amended plans culminating in the final version of amended plans (the subject of this assessment, lodged March 2007).

Main amendments and subsequent outcomes achieved through alterations to development plans included:

- The introduction of stepping in the height of the structures, reducing the height of significant portions of Buildings B and E from four storeys to three storeys. This had the effect of reducing their scale in relation to the central walkway within the site and also providing a more-varied skyline. It also provides a gentler transition towards the Highway frontage.
- Overall reduction in height of all buildings by changing the roof form. Roofs have been lowered by approximately 1m (by re-pitching and lowering skillion roof forms), which substantially reduces the scale of buildings in relation to streetscape when viewed from close quarter vantage points within the proposed development.

As Table 2 shows, the amended proposal still maintains non-compliances with the height controls and number of storeys as outlined in DCP 56.

Table 2 Height Statistics for Final Amended Proposal (lodged March 2007)

Building	Range of building heights	Max. building height (m)	Proposed No. of Storeys	Height Control (based on DCP 56) (m)	No. of Storeys allowed in DCP 56	Compliance	Level of Non-Compliance (m)
A	5.7m-8.0m	8.0m	2	8	2	Yes	-
B	10m-11.8m	11.8m	part 3/part 4	8	2	No – height and no. of storeys	0.8 (11m control)
C	11.5m-12.5m	12.5m	4	8 and 11	2 and 3	No – height and no. of storeys	1.5 (11m control) 4 (8m control)
D	10.9m-11.9m	11.9m	4	11	3	No – height and no. of storeys	0.9
E	8.2-7m (3 storey); 9.8m-12m (4 storey)	12m	part 3/part 4	8 and 11	2 and 3	Yes/No – height and no. of storeys	1 (11m control)

Note: Maximum building height has been calculated from the natural surface level to the highest point on the roof.

Non-compliances are summarised below:

- Building A and Building E (for the 3 storey component) are fully compliant with the height control in metres, but are non-compliant in number of storeys (i.e. 2 storey requirement). The breach of the storey control is not considered to be consequential given the compliance with the height in metres control.
- Building B is wholly non-compliant, with up to a 2 m breach of height in the 8m area and a 0.8m breach in the 11m area. The breach in the 11m area is minor and is due to the topography of the site and the breach will not be discernible. The breach in the 8m area will be discernible, but still provides for an appropriate degree of stepping down the slope of the ridge and provides for an appropriate streetscape presentation. The

difference visually is that the three storey component visible from the Princes Highway would be closer to the road than a fully compliant building. Given the screening effect of Building A, and the narrowness of Building B, the visual impact is acceptable. Given the above assessment the non-compliance with the storey component of the control is also acceptable.

- Building C is wholly non-compliant, with a breach of up to 1.5m in the 11m area and up to 4m in the 8m area. Whilst the breach is large numerically, the plan in DCP 56 (refer to Figure 8) showing the delineation of the area 11m and 8m height boundaries in the vicinity of Building C does not appear to follow the boundaries of zones or properties. As such, to change the height of the building at the approximate boundary of the height areas would not be good planning as such a design would simply be contrived to comply with a numerical control. Such a contrived design would not improve the design of the proposal and would result in little discernible difference to the visual bulk of the proposal as viewed from the ridgeline (to the north of the site) or the parkland in front of Ulladulla harbour. For these reasons the breach of the height control in relations to both metres and storeys is supported for this building.
- Building E has a breach of up to 0.2m within the 8m area and up to 1m in the 11m area. The breaches relate to falls in the topography of the site and are not significant in relation to bulk and scale. For this reasons these breaches in relation to the height control in metres and storeys is supported

The objectives of the height controls in DCP 56 are to maintain:

- an appropriate scale of urban development which is in keeping with the surrounding natural features; and
- protect views of such assets from the nominated tourist accommodation areas;
- an overall height restriction in the zoned commercial areas, as measured from the natural surface level, of 8 metres (two storey). Non habitable architectural elements may be permitted to extend above that height eg clock towers.

The design of the proposal ensures maximisation of views from the tourist units and is of an appropriate scale in the setting, with the 2-4 storey development proposed. Despite breaching controls in the number of storeys, the design is such that the 4 storey development has a largely 3 storey scale given the level of the ground floor and the low roof form.

On balance, it is considered that the overall reduction in height and the introduction of stepping, together with introduction of further separation between the buildings and canopy tree planting results in an appropriate balance between buildings and landscaping on this visually prominent site. The height of the buildings towards the rear of the site (Buildings C and D) is not visually dominant, being screened effectively by the lower development towards the street frontage (Buildings A, B and E) and softened by the proposed landscaping.

6.2.2 Cumulative Visual Impact

Raised By City of Shoalhaven Council, Court Appointed Urban Design Expert, Department of Planning, Community submissions.

Consideration In response to concerns about the cumulative visual impact of the 3 stages the applicant produced a photomontage taken from the northern ridge of Ulladulla looking back towards the subject site. The photomontage confirmed concerns that the cumulative visual impact of the proposal was one of an almost continuous bulky wall of development approximately 80m long (refer to Figures 9 and 10). Such an approach is inconsistent with the character of the coastal town and was inappropriate in the existing visual context, which is one of smaller built elements separated by emergent tree canopy.

Figure 9– Photomontage – view of Stage 2 from Princes Highway



Source: Marchese + Partners Architects November 2006

Figure 10– Photomontage – view of Stage 2 from Princes Highway



Source: Marchese + Partners Architects February 2006

Resolution The final version of the amended plans introduced stepping in the height of the structures, reducing the height of significant portions of Buildings B and E to three storey and reduced the height of all of the structures by altering their roof form. The overall reduction in height and the introduction of stepping, together with introduction of further separation

between the buildings and canopy tree planting results in an appropriate balance between buildings and landscaping on this visually prominent site. The landscape plans were amended, together with the design of the basement to introduce larger areas of deep soil planting to support the growth of 15m high canopy planting, allowing a mature canopy to project 3m above the roofs of the buildings. The group planting of the canopy trees will provide a visual link to the hinterland and will visually separate the buildings, significantly reducing their bulk to an appropriate level.

As discussed in Section 5.4.1 above, following the review of the final set of amended plans (the subject of this report) the Court Appointed Expert for Urban Design (Brett Newbold) advised that subject to some minor amendments, the proposed amended development (Stage 2) would not be excessive and a satisfactory standard of urban design quality would be achieved. Subsequently, a number of conditions were recommended and are considered appropriate for inclusion as deferred commencement conditions:

- A condition is recommended that amends the basement to provide additional deep soil in the following locations to ensure that further canopy trees are added to strategically important locations:
 - i. Next to the western site boundary near the north-western corner of Building D in order to accommodate at least one additional eucalypt that would achieve a mature height of approximately 15m;
 - ii. Next to the northern site boundary near the north-western corner of Building E in order to accommodate at least one Eucalyptus botryoides that would achieve a mature height of approximately 15m;
 - iii. Near the south-western corner of the site, in order to accommodate at least two Eucalyptus haemastoma that would achieve mature heights of approximately 8m.
- A condition is recommended requiring the provision of a street elevation showing Buildings B and C together. The elevation is to describe a degree of articulation and level of urban design quality not less than that demonstrated in the southern elevations of Buildings D and E. In this regard a varied pattern of windows and structural elements should be provided to animate the facades, to interrupt the appearance of continuous planar facades and to disguise the scale of four storey building elements.
- A condition of consent is recommended requiring the landscape plan to be amended to realign the pedestrian link into Stage Three as a direct line-of-sight pathway from the Princes Highway entrance towards the courtyard space that separates Buildings C and D, with a direct entrance from that courtyard into Stage 3. A major pedestrian link should be provided in a northerly direction by extending the proposed walkway between Buildings D and E to provide a direct link with the pathway located at the eastern edge of the approved Stage One development.

Refer to conditions in **Appendix A**.

6.2.3 Traffic Impact

Raised By Shoalhaven City Council, Community submissions, Roads and Traffic Authority, Court Appointed Traffic Expert, Local Traffic Committee

Consideration The original proposal provided access off both the Princes Highway and via a right of way over 41 Deering Street to Deering Street. Concern was raised by the owner of that property that the additional traffic would result in unacceptable noise impact and damage to the surface of the right-of-way. Concerns were raised that the traffic assessment did not take into consideration the cumulative traffic impacts of this proposal and the other 2 stages. Concern was raised that the level of service of the intersections of the Princes Highway with South Street and of South Street and St Vincent Street may be compromised by the 3 stages. Concern was raised that the ordering of the staging was inappropriate and that the location of the approved access point to Stage 1 was inappropriate for the traffic generated by Stage 2 as well (should be moved to opposite Boree Street and a roundabout provided). Concern was raised that there was no egress from Stage 2 as it appeared to require movement through Stage 3, that the connection between Stages 1 and 2 did not align and that there was an access into the Stage 3 site near the north-western corner of the site. Concern was raised in relation to the safety of the ingress point from the Princes Highway in relation to pedestrian safety and traffic queuing given the use of roller shutters.

Resolution

There is limited opportunity to consider cumulative impacts and relationships with the other stages as Stage 1 has been approved and Stage 3 withdrawn.

The amended proposal introduced additional parcels of land, Nos. 41 Deering Street and Nos. 116-118 St Vincent Street, to provide a two way access from St Vincent Street, removing the access from Deering Street and making the access from the Princes Highway one way, left-in only. This approach is supported by the Court Appointed Traffic Expert and the Roads and Traffic Authority (RTA), both of which also suggest the installation of lights at the South Street/Princes Highway intersection, with a recommendation for an interim no right turn sign. Given the significant amount of additional traffic resultant from the proposal it is appropriate that a proportion of the cost be borne by the developer. A deferred commencement condition of consent (Part AA (v) of Conditions) is recommended in this regard. The condition would require the applicant to prepare a report costing the installation of the lights and determining an appropriate apportionment of the costing to the current development (Stage 2) to be agreed to by the Council and the RTA. The suggestion by the Court Appointed Traffic Expert to provide a "no right turn" sign in the interim (as outlined in Section 5.4.2) is not supported by the RTA or Council and will therefore not form a condition of consent.

In order to address the additional impact of the proposal it is considered that the intersection of St Vincent Street with South Street may be required to be upgraded. A deferred commencement condition of consent (Part AA(vi) of Conditions) is recommended and will require the applicant to determine a suitable apportionment of the total intersection upgrade costs to be agreed by the Council.

The confusion in relation to the connection between the sites is a direct result of the failure of the applicant to take a master plan approach to the development of and access to and from the sites. As the access to Stage 1 fails to line up with the proposed access point from Stage 2 and as there is no approval for any works for Stage 3, the connections between Stage 2 and the other stages (other than the main vehicular entry that is to traverse the rear of No. 41 Deering Street as well as Stage 3) cannot be provided in the proposal. It would be inappropriate to consent to these components of the basement plan at this time. A condition of consent requires the removal of these connections.

Should the access points with the other stages be amended in the future, with a more appropriate entry point to the Stage 1 development and more information provided in relation to the cumulative traffic impacts, the Stage 2 approval could be amended. Subject to this condition and the additional information in relation to the design of the access to St Vincent Street, there is no need to amend the staging of the project. It is considered that the connection of all the basements of the three stages may be inappropriate, with the potential to result in additional and unnecessary access off the Princes Highway and resulting in a confusing and less secure basement parking area, where drivers not familiar with the basement may become lost and requiring people not related to a particular stage having to travel through its basement.

Concerns raised in relation to the conflict between pedestrians and traffic entering the parking area from the Princes Highway have been addressed by a deferred commencement condition of consent (Part AA (iv) of Conditions) which was agreed upon in a Joint Conference of Traffic Experts (as discussed in section 5.5), requiring a short deceleration lane be provided within the existing road carriageway serving the proposed Princes Highway entry only driveway.

Further conditions of consent are also recommended to require the inclusion of 2m x 2.5m sight triangle splays at the property boundary of the Princes Highway driveway to assist with pedestrian sight lines associated with any vehicle that may need to reverse onto the highway.

Concerns in relation to queuing are addressed by the provision of the roller shutters and a boom gate well into the site off the main east west driveway, rather than at the street entrance. This has been incorporated into deferred commencement condition of consent (Part AA(iv) of Conditions), as outlined below:

1. The Princes Highway driveway is to be controlled by a boom gate, offset by at least 6m from the property boundary. A roller shutter is desirable and should be offset further from the highway frontage and should be open during daylight hours, with automatic opening activated by an appropriate electronic device after entering vehicles pass through the boom gate at night

In relation to the Court Appointed Expert's recommendation that the right turn from South Street into the Princes Highway be prohibited at certain times until traffic lights are provided at this intersection (Section 5.4.2), Council did not concur with this requirement at this time. Council has advised that they will make this decision in conjunction with the RTA if and when required.

6.2.4 Infrastructure

Raised By Community submissions, Shoalhaven Water

Consideration Concern was raised that there was inadequate infrastructure to support the development, in particular concern was raised about the ability of the existing schools, hospital services and the like to cope with the additional population. Concern was raised by Shoalhaven Water in relation to how sewerage services will be maintained to upstream customers, that the proposal would comply with the requirements of the *Provision of Water and Sewerage Infrastructure – Rezoning, Major Developments and SEPP 5 Developments*.

Resolution This concern related to the original proposal which was mainly residential in nature rather than largely for tourist accommodation. It is not considered that the largely tourist development will result in unacceptable additional strain on existing services and infrastructure. Shoalhaven City Council has raised no concern about infrastructure provision.

A condition of consent is recommended requiring the sewerage services to upstream customers to be maintained during and after the completion of the construction works and for the proposal to comply with the relevant requirements of the *Provision of Water and Sewerage Infrastructure – Rezoning, Major Developments and SEPP 5 Developments*.

6.2.5 Parking

Raised By Shoalhaven City Council, Community submissions

Consideration Concern was raised as to the adequacy of the parking provision onsite, with Council indicating that it would not support payment of a contribution for parking deficiencies, requiring parking to be provided onsite. Council raised concerns that of the 23 parking spaces for the commercial use, only 2 would be available for customers. Council sought traffic calming devices to be installed in the basement parking area and main access driveway through the site from the Princes Highway to St Vincent Street. Council raised concern in relation to whether the accessible spaces and commercial spaces were designed to satisfy the relevant Australian Standards. Concerns were raised as to the location of OSD tanks and their impact on clearance levels for traffic in the basement. Council raised concern that the provision of visitor parking for the residential component was inappropriately located unless it could be demonstrated that an intercom system could be implemented that would not result in impacts on traffic flow.

Resolution The compliance of the proposal with the car parking requirements of DCP 18 is addressed at Appendix B of this report and the proposal complies with the requirements of DCP 18. It is not clear from the proposal whether parking for the commercial component will be allocated to staff or otherwise. It is therefore recommended that a condition be placed on any consent requiring that one space be allocated for staff for each commercial suite (total of 8), with the remainder being unallocated and available for use by staff or customers.

A condition of consent is recommended requiring the provision of traffic calming devices along the length of the driveway from the Princes Highway to St Vincent Street to control speed to an appropriate level for a car park and throughout the car park where necessary for traffic management, particularly at blind intersections and at all ingress/egress points.

A condition is recommended requiring clarification of the location of the OSD tanks and if they are to be located other than underground, detailing that their location does not affect compliance with all relevant Australian Standards in relation to the design and layout of the basement car park.

A condition of consent will require that the intercom to allow visitors to access the residential building car park be provided in a location so that through traffic along the driveway from the Princes Highway to St Vincent Street is not blocked.

6.2.6 Privacy

Raised By Community submissions

Consideration Concerns were raised by residents that the proposal would result in a loss of privacy to Nos 131 Princes Highway and No. 78 South Street (Refer to Figure 2 for site locations). These properties are located to the north-east of the subject site. The proposed buildings that adjoin these properties are Buildings A and E.

Resolution Building A has a blank wall to the boundary with No. 131 Princes Highway and access to the tourist unit adjoining at the first floor level is enclosed such that no overlooking of the property can occur from any position closer than 12m from the property boundary. Such a level of privacy protection is acceptable.

Building E is setback 9m from the boundary with No. 131 Princes Highway to the balconies on the northern façade of the building. The property is vacant and any residential development that provides a 3m setback on that property would ensure an appropriate 12m separation.

The southern boundary of No. 78 South Street is located 17.6m from the northern boundary of the subject site, ensuring an appropriate level of separation to ameliorate privacy impacts from Building E, with a total separation of 26.6m.

In addition, landscaping, including canopy trees is proposed along the northern boundary of the site, which will assist in softening the visual impact and privacy impacts of Buildings A and E as viewed from No. 131 Princes Highway and No. 78 South Street.

6.2.7 View impact

Raised By Community submission

Consideration Concern was raised that the development of stage 3 would result in the loss of views to properties to the west, however no specific properties were identified and the concern was a general concern.

Resolution There is currently no Stage 3 proposal. It is appropriate that these impacts are considered when an application is made for Stage 3

6.2.8 Need for development

Raised By Community submissions

Consideration Concern was raised that high rise development was inappropriate for families and older people and that there was no need for it or additional tourist accommodation.

Resolution The proposal is supported by the Department of Planning Regional Branch as providing an increase in dwelling choices and by Council for its strengthening of the local economy by provision for growth in the tourism industry.

6.2.9 Public toilets

Raised By Shoalhaven City Council

Consideration Council raised a concern that they have a lease over the site covering the area occupied by public toilets and that they would be prepared to release the owners of the site from the lease if it was compensated for the reconstruction of the toilets elsewhere.

Resolution The issue of the lease is a private commercial matter and not a matter for consideration in the assessment of the application.

6.2.10 Adequacy of public consultation

Raised By Community submissions

Consideration Concern was raised that whilst the application may have been advertised in accordance with the requirements, the community were not aware of the proposal.

Resolution Additional submissions were accepted from the public and the amended plans were renotified to a wider area of residents and landowners.

6.2.11 Non-compliance with DCP 56 and SEPP 71

Raised By Community submissions

Consideration Concern was raised that the proposal was inconsistent with the requirements of DCP 56 and SEPP 71.

Resolution An assessment against the requirements of DCP 56 and SEPP 71 is contained in **Appendix B**. The amended proposal generally complies with these provisions. However, non-compliances with height (as discussed in section 6.2.1) are considered to be acceptable.

6.2.12 Change in land use

Raised By Shoalhaven City Council

Consideration Council raised concern that the change of use to tourist accommodation was not appropriate given there was no strict land use objective or control requiring it and that only land fronting South Street and the Princes Highway was identified under DCP 56 as being for tourism related uses.

Resolution The objectives of the zone of the main body of the site include providing for a mix of residential, commercial and tourist uses, which the proposal satisfies. Approximately 23.4% of the building space will be allocated to residential use, 69.2% to tourist use and 7.5% to commercial use. The controls contained within DCP 56 identify areas specifically for tourist related uses and do not identify appropriate uses for other areas. The specified tourist related use areas are to be used by such uses under the proposal. Other areas, where uses are not specified, or where inappropriate uses such as parking are identified, are to be used for either residential or tourist accommodation. The approach taken is supported by the Department of Planning South Coast Region and is consistent with regional approaches to the provision of tourist accommodation.

6.2.13 Loading and servicing requirements

Raised By Shoalhaven City Council, RTA and Department of Planning

Consideration The proposal seeks to provide for on-street servicing for the site on the Princes Highway in a dedicated loading zone. Council is concerned that such a proposal would result in the loss of existing public on-street parking and whilst it may be acceptable in principal according to the Local Traffic Committee, is inappropriate in the opinion of Council given the intensity of uses on the site (including the tourist accommodation) and the size of the site which clearly allows for such provision onsite. The Court Appointed Traffic Expert is of the opinion that on-street loading is acceptable subject to limitations on the use of the commercial/retail suites. The RTA does not support the provision of a loading zone on the Princes Highway.

Resolution There are no site constraints that would prohibit the provision of an appropriate loading facility onsite and the site is of such a size and the use such an intensity that it would be inappropriate to allow loading off the Princes Highway where an alternative onsite location is possible. Accordingly, a deferred commencement condition of consent (Part AA(viii) of conditions) is recommended requiring the provision of an onsite loading facility capable of servicing the commercial/retail uses, the tourist accommodation uses and the residential uses (to park removal vans when residents are moving into or out of their apartments). Such loading facility would need to be designed to cater for a 8.8m medium rigid vehicle and allow the vehicle to enter and exit the site in a forward direction to and from the St

Vincent Street access only (i.e. not from the Princes Highway).

6.2.14 Prevention of right turn off the Princes Highway

Raised By RTA, Court Appointed Traffic Expert

Consideration Concern was raised that cars would attempt to enter the site from the Princes Highway by way of a right turn and that this would be inappropriate given traffic impacts. Therefore the Court Appointed Traffic Expert suggested a condition requiring a median to be constructed along the centreline of the Princes Highway opposite the entrance to the site. Council has raised concerns that the width of the Highway is inadequate to make provision for a median without rearrangement of and loss of a number of on-street angled parking spaces. Council seeks monetary compensation for each parking space lost as a result of the median and the on-street loading area. Concern was also raised that if the median ran the length of the block from Deering Street to South Street that the median would affect access to other properties, including an ambulance station and that consultation should occur with affected properties.

Resolution A deferred condition of consent (Part AA(iv) of the Conditions) is recommended requiring a 2m wide central median be provided opposite the proposed Princes Highway driveway in accordance with Council's DCP 56 and along the full frontage of the site. It is acknowledged that the median will require the replacement of the angled on-street parking with parallel parking for the length of the median which will require the payment of a contribution towards any loss of on-street parking (Condition B35).

Due to the existence of an ambulance station at no.144 Princes Highway (refer to Figure 2), deferred condition of consent will require the median/barrier to be designed to be mountable where it is located opposite the entrance to any emergency vehicle station.

6.2.15 Owner's consent

Raised By Shoalhaven City Council

Consideration Concern was raised that an owners consent for the lodgement of the application had not been provided from the owners of No. 41 Deering Street and Nos. 116-118 St Vincent Street.

Resolution The relevant owners consents for the above properties have been provided by the applicant.

6.2.16 Waste management

Raised By Shoalhaven City Council

Consideration Council is concerned that inadequate information has been provided to enable an assessment of whether waste can be adequately removed from the site by vehicles entering and exiting the site in a forward direction from St Vincent Street.

Resolution The proposal is considered to be acceptable subject to the imposition of recommended conditions of development consent (see Appendix A) in particular a condition requiring the lodgement of a waste management plan.

6.2.17 Tourist facility operations

Raised By Shoalhaven City Council

Consideration Council has raised concerns with the lack of information provided in relation to the method of operation of the tourist accommodation, with no check-in facilities provided (including reception parking) and no information in relation to the management of the site.

Resolution A condition of consent has been recommended requiring the provision of a business operation plan, to be approved prior to the occupation of the site.

6.2.18 Security of basement/queuing impact on the Princes Highway

Raised By RTA

Consideration Concern was raised that there was no security to the main east west driveway through the basement (ie from the Princes Highway to St Vincent Street) and that this may lead to anti-social behaviour and a risk to pedestrians. Further concern was raised that if security roller doors were provided that it may lead to queuing of traffic into the Princes Highway or cars trying to reverse back onto the Highway if they could not enter the car park.

Resolution Security is to be provided at the entrance to the car park (from the Princes Highway) by way of a boom gate and roller door (to be closed at night and automatically operated by the use of the boom gate) as required by a deferred commencement condition of consent (Part AA (iv) of conditions), as discussed in section 6.2.3 above. A condition of consent has also been included to provide access to the lift within Building E for accessible access to the commercial/retail suites. Signage to be displayed at the Princes Highway driveway entry prohibiting access to areas other than Buildings A and AA along the vehicular driveway and ramp off the Princes Highway driveway, and to advise of restricted entry to authorised vehicles only from the Princes Highway, is required as a condition of consent.

6.2.18 Proposed building colours

Raised By Department of Planning

Consideration Given the visually prominent location of the proposal and its size, concern is raised as to the proposed colours to be used for the development. The applicant has advised that the proposed colours are to be Dulux "Mud Pack" to the light weight cladding, Dulux "Antique White" to the spandrels and Upstand Interpon "Ultra Silver Gloss (light grey) to windows and sliding louvres, roof is to be colorbond "Windpray" and brickwork "Pearl Grey".

Resolution Whilst colours have been nominated it is unclear what the colours are without a colour board being provided and it is not considered appropriate that all the buildings be treated in the same manner given the size of the development and it being only 1 of 3 stages. Therefore a deferred commencement condition of consent (Part AA(ix) of conditions) is recommended requiring the provision of a colour board identifying the colour scheme for each building and identifying how that colour scheme relates to that proposed for the approved Stage 1 for approval by the Department.

6.2.19 Section 94 contributions

Raised By Council

Consideration The proposed development will generate the need for additional services in the area, which are provided by Council and accordingly it is necessary to levy contributions under Section 94 of the Act.

Resolution The proposal is considered to be acceptable subject to the imposition of the recommended conditions of development consent (refer to Appendix A), in particular the following conditions:

- Condition B 35 - Monetary contributions and contributions-in-lieu

Council have advised the following Section 94 contributions are required for the proposal, as outlined in table below:

Project	Contribution Category	Rate of Contribution	Amount
01FIRE 0009	City Wide – fire control/state emergency services	\$29.77 per 56.8	\$1,690.94
05AREC 0001	Tennis, Football, Cricket & Netball (Area 5)	\$1432.51 per 12.4	\$17,763.12
05AREC 0002	Leisure Centre Heated Indoor Swimming Pool	\$164.37 per 12.4	\$2,083.19
05CFAC 0007	Southern Shoalhaven District Children's Services Centre	\$11.62 per 12.4	\$144.09
05CFAC 0010	S94 CP Amendment No.67 Southern Shoalhaven Branch Library	\$217.83 per 12.4	\$2,701.09
05DRAI 0013	South St/Burrill St/Jubilee Av Drainage	\$2.83 per 334	\$945.22
CWARE C 0003	Hockey Facilities	\$229.54 per 12.4	\$2,846.30
CW CFAC 0001	S94 CP Amendment No.67: Stage 1: Shoalhaven City Library Extensions	\$243.11 per 12.4	\$3,014.56
CW CFAC 0001	S94 CP Amendment No.67: Stage 2: Shoalhaven City Arts Centre	\$21.99 per 12.4	\$272.68
CW CFAC 0001	S94 CP Amendment No.67: Stage 3: Shoalhaven Mobile Children's Services	\$7.21 per 12.4	\$89.40
CW CFAC 0002	Shoalhaven Multi Purpose Cultural & Convention Centre	\$217.35 per 12.4	\$2,695.14
CW MGMT 0001	Section 94 Administration	\$366.00 per 56.8	\$20,788.80 10% cap applied on total of other contributions \$3594.86
CW OREC 0001	Embellishment of Icon and District Parks and Walking Tracks	\$140.96 per 12.4	\$1,747.90
TOTAL			\$35,543.49
\$13,408.89 per on-street parking space lost as a result of the road works to the Princes Highway required by deferred commencement condition Part AA (iv).			To be determined

6.2.19 Shadow impact

Raised By Community submission, Department of Planning

Consideration Concern was raised that unacceptable shadow impacts would occur upon No. 41 Deering Street and the adjoining site on Princes Highway to the south of the site.

Resolution The concern in relation to No. 41 Deering Street is not supported as the site is developed for offices and any additional shadow impact is not unreasonable. With regard to the site on the Princes Highway (currently vacant), amended plans have reduced the height of the building adjoining this property and increased its setback, resulting in a reasonable shadow impact and not unacceptably affecting the development potential of that property.

6.2.19 Contamination

Raised By Department of Planning

Consideration The proposal does not provide information on the likelihood of contamination on the site. The Statement of Environmental Effects simply indicates a history of commercial/retail uses, however buildings on the site are relatively recent (i.e. not more than 40-50 years old) and no information is provided of uses prior to this.

Resolution The applicant has advised that the site has been used for retail and commercial uses and prior to that for residential uses. As such, the potential for contamination is limited. However, given the lack of clear information to the previous uses, a desktop study of uses may be appropriate to ensure *Statement of Environmental Planning Policy No.55 – Remediation of Land* (SEPP 55) is complied with. A deferred condition of consent (Part AA (vii) of conditions) is recommended requiring that a Phase 1 study of uses of the site be prepared with a Phase II report and remediation works to occur prior to commencement of any construction works on the site if recommended by the Phase 1 report.

7. CONCLUSION

The Minister for Planning is the consent authority, pursuant to the provisions of Clause 6 of the SSD SEPP 2005. The application has been notified in accordance with the Regulations and all submissions received in the period prescribed by the Regulations have been considered.

The application has been considered with regard to the matters raised in section 79C of the Act. Furthermore the application was referred to a number of agencies, including the Shoalhaven City Council, NSW Roads and Traffic Authority and the Department's South Coast Regional Office and their comments were considered in this assessment. Given the application is subject to an appeal to the Land and Environment Court the comments of the Court Appointed Experts in traffic and urban design have also been taken into consideration in the assessment of the application.

In relation to the original proposal, there were concerns in relation to visual impact of the proposal, particularly when the cumulative visual impact of Stages 1-3 were considered, the traffic impact (including cumulative impact) and amenity issues including shadowing and privacy. Concern was also raised at the lack of landscaping provided, particularly in relation to the provision of canopy tree planting. Finally, concerns were raised in relation to the proposed height of the proposed buildings, particularly Buildings B and E.

Following a series of amended plans, a final design was submitted, which is the subject of this report. The amended plans:

- reduced the height of all buildings by changing the roof form,
- reduced the height of the majority of Buildings B and E by the removal of a storey,
- increased the separation between Buildings A and E and Buildings E and D,
- altered the basement parking to provide for significantly more deep soil planting to support the proposed canopy tree planting,
- relocated and amended the design of Building C to provide an improved relationship with other buildings and an improved landscaped courtyard,
- amended the vehicular access to the site to being left-in only from the Princes Highway and two way to St Vincent Street, and
- significantly increased the percentage of tourist accommodation units on the site.

On balance, it is considered that the proposed development is acceptable and therefore should be granted a deferred commencement consent subject to the conditions outlined in **Appendix A**.

8. DELEGATION

Under the instrument of delegation, dated 5 April 2006, the Minister has delegated to the Director-General of the Department of Planning and the Executive Director, Major Projects Assessments, his functions under the Act for granting development consents except where they relate to designated development or development that is declared to be State Significant development (other than under SEPP 56). It is considered appropriate that the application should be determined by the Executive Director, Major Projects Assessments for determination under delegation due to the number of submissions being made during the assessment (being 7 in total) and the capital investment value being less than thirty millions dollars (being \$24.6 million).

9. RECOMMENDATION

It is recommended that the Executive Director as delegate of the Minister for Planning (by instrument of delegation dated 5 April 2006):

- (A) Form the opinion, under Clause 6 of *State Environmental Planning Policy (State Significant Development) 2005* and Clause 8J(7) of the *Environmental Planning and Assessment Regulation 2000*, that the application as lodged is for development of a kind described in Schedule 2 Clause 1(g)(ii) of that SEPP (being development over 13m high in the coastal zone);
- (B) Under section 80(1)(a) of the *Environmental Planning and Assessment Act 1979*, grant deferred commencement consent to the development application for the reasons and subject to the conditions listed in **Appendix A**; and
- (C) Authorise the Department to carry out post-determination notification.

Prepared by:	Endorsed by
 Kerry Gordon Consultant Town Planner Kerry Gordon Planning Services	 Heather Warton Director Coastal Assessments

Determined

Chris Wilson
Executive Director
Major Projects Assessments
(as delegate of the Minister for Planning)

APPENDIX A. CONDITIONS OF APPROVAL

APPENDIX B. ENVIRONMENTAL PLANNING INSTRUMENTS CONSIDERATION

The aims and objectives of the relevant environmental planning instruments and development control plans are assessed below in relation to this development application. It is generally considered that the application proposes development which is capable of satisfying the objectives of the environmental planning instruments and development control plans applicable to the site as outlined below.

1. State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71)

MATTERS	COMPLY	COMMENT
CLAUSE 2: AIMS OF POLICY		
(a) To protect and manage the natural, cultural, recreational and economic attributes of New South Wales coast, and	YES	The proposal will not adversely affect the natural, cultural, recreational and economic attributes of the NSW coast, given that the proposed deep soil planting of trees will appropriately soften the visual bulk of the development as viewed from strategic positions and that the proposed tourist accommodation will enhance the economy of Ulladulla.
(b) To protect and improve existing public access to and along coastal foreshores to the extent that it is compatible with the natural attributes of the coastal foreshore, and	N/A	The site does not have frontage to a foreshore.
(c) To ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and	N/A	As above.
(d) To protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and	N/A	The site is fully developed currently and little likelihood exists that any remnants remain on the site.
(e) To ensure that the visual amenity of the coast is protected, and	YES	The site is very prominently located, being a large site near the top of the southern ridgeline and is visible from the northern ridgeline when entering Ulladulla and from the parkland near the harbour. The proposed deep soil planting of trees will appropriately soften the visual bulk of the development as viewed from strategic positions and will reinstate a visual connection with the hinterland by provision of clumps of native trees.

(f) To protect and preserve beach environments and beach amenity, and	N/A	The proposed development is not located within the vicinity of the beach environment.
(g) To protect and preserve native coastal vegetation, and	N/A	The site does not contain and is not within the vicinity of any native coastal vegetation.
(h) To protect and preserve the marine environment of New South Wales, and	YES	The site is distant from any marine environment and will not detrimentally impact any such environment.
(i) To protect and preserve rock platforms, and	N/A	There are no rock platforms on or in the vicinity of the site which would be affected by the proposed development.
(j) To manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the <i>Protection of the Environment Administration Act 1991</i>), and	YES	The proposal will be consistent with the relevant principles of ESD.
(k) To ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and	YES	The scale and size of the proposed development is appropriate for the location, given the lowering of the heights towards the Princes Highway frontage and the proposed clumps of native trees to be planted between the buildings. The combination of the variations in heights, the separation and the vegetation will ensure an appropriate visual bulk as viewed from strategic locations and will allow for a reconnection with the natural scenic quality of the surrounding area.
(l) To encourage a strategic approach to coastal management.	YES	The proposal is consistent with the relevant aims of SEPP 71 (see above) and therefore it is considered that the development represents a strategic approach to coastal management.
CLAUSE 8: MATTERS FOR CONSIDERATION		
(a) The aims of this Policy set out in clause 2	YES	See above
(b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	N/A	The site does not have frontage to a foreshore.

(c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	YES	See above.
(d) The suitability of development given its type, location and design and its relationship with the surrounding area	YES	The proposed development is considered suitable for its location given the scale of the proposal is visually broken into smaller elements by the changes in building height, the separation of the buildings and the provision of significant deep soil area for planting of canopy trees between the buildings. The use for predominantly tourism related purposes is consistent with DCP No. 56.
(e) Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	YES	The proposed development will not adversely affect the coastal foreshore due to the location of the site away from the foreshore.
(f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities	YES	As is discussed above, the proposal is of appropriate design and has an appropriate landscape treatment such that it will protect the scenic qualities of the coast.
(g) Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act) and their habitats	N/A	The site is currently fully developed and is unlikely to support any threatened species or communities.
(h) Measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act</i> 1994) and plants (within the meaning of that Act), and their habitats	N/A	The proposed development will not adversely affect fish in the vicinity of the site.
(i) Existing wildlife corridors and the impact of development on these corridors	N/A	The site is not located within an existing wildlife corridor
(j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	N/A	The site is not affected by coastal processes.
(k) Measures to reduce the potential for conflict between land based and water based coastal activities.	N/A	The site is distant from the waterway and as such no use of the site will result in a conflict with water based activities.
(l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	N/A	The site is fully developed currently and little likelihood exists that any remnants remain on the site.

(m) Likely impacts of development on the water quality of coastal water bodies	YES	There is unlikely to be any unacceptable impacts on the water quality of coastal water bodies given the distance of the site from such waterbodies.
(n) The conservation and preservation of items of heritage, archaeological or historic significance	N/A	The site is fully developed currently and little likelihood exists that any Aboriginal archaeological remnants remain on the site. The site does not contain any items of heritage, nor is it in the vicinity of any such items
(o) Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	N/A	The proposed development does not involve the preparation of an LEP.
(p) Only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient.	YES	The proposal, together with the approved Stage 1 and proposed Stage 3 have the potential to result in cumulative impacts. These impacts have been considered in the assessment of traffic and visual bulk impacts and are addressed in section 6.2. The design of the development is appropriate with regard to water and energy usage efficiency subject to recommended conditions.
CLAUSE 14: PUBLIC ACCESS		
A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impending or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.	YES	The proposed development does not change existing public access to the foreshore.
CLAUSE 15: EFFLUENT DISPOSAL		
The consent authority must not consent to a DA to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, coastal creek or other similar body of water, rock platform.	YES	The proposed development will be connected to the existing reticulated system. A grey water reuse system is to be installed to enable the use of recycled water for irrigation on site.

CLAUSE 16: STORMWATER		
The consent authority must not consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.	YES	The proposed development will connect to the existing stormwater system and a rainwater tank is provided, together with an OSD tank, to minimise and control the rate of run-off.

2. State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (SEPP 65)

It is noted that SEPP 65 applies only to the residential component of Building C, being the 2nd and 3rd floors and part of the 1st floor.

MATTERS	COMPLY	COMMENT
CLAUSE 9: PRINCIPLE 1 : CONTEXT		
Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.	YES	This area of Ulladulla is a precinct undergoing change, with the change dictated by the controls of DCP No. 56. The existing character that is appropriate to retain is the provision of a scattering of canopy trees along the ridgelines, which can be appreciated above the roofs of the buildings from prominent locations such as the ridgelines and the parkland near the harbour. The proposal is generally consistent with the intentions of DCP No. 56 and provides good areas of deep soil to allow the planting of clumps of native trees that will provide canopy protrusions between and above the roofs of the development. The proposal also appropriately is lower at the Princes Highway frontage, consistent with the two storey character, stepping up in height towards the centre of the site, where it will be less visible as viewed from the Highway and surrounding streets, consistent with the intent of DCP No.56.

CLAUSE 10: PRINCIPLE 2 : SCALE		
Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.	YES	This is addressed in relation to context above, having regard to the requirements of DCP No.56.
CLAUSE 11: PRINCIPLE 3 : BUILT FORM		
Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	YES (subject to appropriate conditions)	The proposed built form is appropriate, providing a range of building heights and shapes and placing buildings at different alignments to break the visual impact of a solid line of development. The layout of the buildings provides a reasonably legible path of travel for pedestrians and creates a green space in the central portion of the site, providing a visual link to the native vegetation of the countryside and a communal meeting area for the occupants of the site. The path of travel for pedestrians can be improved and a condition of consent to this effect is recommended. The landscaping provides an improved level of amenity to the occupants on the site by way of outlook. Appropriate activation of the public domain is provided at the entrance of the site with areas for external seating related to the adjoining retail/commercial suites.

CLAUSE 12: PRINCIPLE 4 : DENSITY		
Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.	YES	The proposal has a density of 1.15:1, which is considered to be an appropriate density for a site of this size, with height limits of between 8m and 11m, ensuring an appropriate level of separation between buildings and allowing for deep soil planting. A higher density in this location is supported by the controls of DCP No. 56, with the higher density used for residential and tourist related uses. The location of the tourism accommodation is appropriate, being within the town centre of Ulladulla and within walking distance of the shops, services and attractions, reducing the reliance of tourists upon their cars.
CLAUSE 13: PRINCIPLE 5 : RESOURCE, ENERGY AND WATER EFFICIENCY		
Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.	YES	The buildings have been appropriately orientated with most living areas facing north and with most units having cross ventilation. Thermal massing principles are incorporated into the buildings due to their footprints and appropriate separations are provided to allow for best utilisation of breezes and to ensure solar access. A greywater system is proposed which will allow water to be recycled for irrigation and rainwater tanks are proposed to capture roof runoff. Conditions of consent will ensure these proposal proceed and will require the installation of energy and water efficient devices and appliances are used.

CLAUSE 14: PRINCIPLE 6 : LANDSCAPE		
Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.	YES	The landscape plan and building design have been revised together to achieve an appropriate level of deep soil to sustain native canopy trees between the buildings to ensure an appropriate visual impact when the site is viewed from the ridgeline to the north or the parkland near the harbour. The species to be used are endemic and are those identified as being suitable in DCP No. 56. The site is fully covered by buildings or paving and as such has no natural features to retain or enhance. The landscape plan incorporates appropriate pathways through landscaped settings to provide a sense of entry to each building and the pathways are accessible. The pathways also allow for future connections to Stages 1 and 3. Appropriate landscape planting is provided to the north of Buildings D and E to soften its appearance and assist in the provision of privacy to the residential properties to the north. Similar tree planting is proposed to the western boundary.
CLAUSE 15: PRINCIPLE 7 : AMENITY		
Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.	YES (subject to appropriate conditions)	Building C is separated from Building B by a minimum of 14m, from the southern boundary by 6m, from the western boundary by 6m and from Building D by 9m, though it is noted that the portion of Building C that is 9m from Building D has a blank wall. The separations distances are appropriate to ensure a sense of spatial separation and the separations, together with the irregular "U" shaped design allow the units to overlook the central landscaped courtyard, providing an enhanced amenity. The unit mix of 3 x studio, 12 x 1 bedroom and 10 x 2 bedroom caters for a range of age groups and provide 2 adaptable units, with all other units being accessible, satisfactorily catering for all degrees of mobility.

		Of the 25 units, 9 have north facing balconies and living areas and the remaining units have either east or west facing balconies and living areas, providing for a good level of access to sunlight. Of the 25 units, 13 are designed to allow cross ventilation, which is a lower percentage than is reasonable. The percentage of cross ventilation can be improved with changes to the design as follows: Units 20 (R), 28(R) and 41(R) are to have a window provided in the southern façade of the living area; This will increase the provision of cross ventilation to 16 units. Further, Units 42(R) and 40(R) are to be provided with operable skylights over either the kitchen to provide a better level of cross ventilation, increasing the number of units to 18 and the percentage to 72%. Such a level of cross ventilation is reasonable. The adequacy of storage, indoor and outdoor space is address in the assessment against the Residential Flat Design Code.
CLAUSE 16: PRINCIPLE 8 : SAFETY AND SECURITY		
Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.	YES (subject to appropriate conditions)	The units are designed to overlook the communal spaces, ensuring an appropriate level of casual surveillance. A clear delineation of private and public space is provided with courtyard fencing at ground level separating the spaces. The residential building contains access to tourist units at ground level and security systems will need to be put in place to ensure tourists and their visitors cannot access the lift to levels other than the ground level and the basement level. Roller shutters separate the residential parking spaces from the tourist spaces, providing improved security. It is also recommended that a condition require that each building within the complex and each parking area to each building can only be accessed by the occupants and visitors to that building. This can be achieved by a combination of swipe cards (for residents and tourists) and an intercom system for visitors to the residential building.

CLAUSE 17: PRINCIPLE 9 : SOCIAL DIMENSIONS		
Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.	YES	There is a shortage of supply of housing for smaller households, including singles and couples and as such a higher density style of development with smaller units such as is proposed is appropriate to the neighbourhood. The location proximate to the shopping centre of Ulladulla and the accessibility of the units also makes them appropriate for a variety of ages.
CLAUSE 18: PRINCIPLE 10 : AESTHETICS		
Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.	YES	The elevations show that the design is modern and provides for horizontal elements (roofs and balconies) as well as strong vertical elements breaking the buildings down into smaller rectangular elements framed in concrete. The variations in window and balcony locations and use of materials provide interest to the facades and ensure that when the site is viewed either internally or externally that the buildings are not monotonous. The appropriateness of the proposed colours is addressed in section 6.2.18 of the report, with additional information required by a condition of consent given the visual prominence of the site.
CLAUSE 29: DEVELOPMENT APPLICATIONS		
A development application for a residential flat building must be accompanied by a design verification from a qualified designer which identifies that he or she designed it and that the design quality principles are achieved by the proposal.	YES	A design verification statement has been prepared by Ralph Steller of Marchese and Partners Architect and satisfies the requirements of clause 29.
CLAUSE 30: DETERMINATION OF DEVELOPMENT APPLICATIONS		
Prior to determination of a development application consideration must be had of any comments by a design review panel, the design quality principles and the Residential Flat Design Code.	YES	Building C is addressed against the requirements of the Residential Flat Design Code later in this Appendix. Ulladulla Council does not have a design review panel and as such no comments exist to be considered.

3. State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The applicant has advised that the site has been used for retail and commercial uses and prior to that for residential uses. As such the potential for contamination is limited, however given the lack of clear information in relation to the previous uses, it is recommended that a Phase I study of uses of the site be prepared, with a Phase II report and remediation works to occur prior to commencement of any construction works (other than demolition) on the site if recommended by the Phase I report.

4. State Environmental Planning Policy No 11 – Traffic Generating Developments (SEPP 11)

The proposal was referred to the Roads and Traffic Authority as the proposal involved development listed under Schedule 2 of this Policy. The RTA’s comments are outlined in Section 5.2.2 of this report.

5. Illawarra Regional Environmental Plan No 1 (SREP 1)

The relevant provisions of SREP are contained in Part 14 and Part 17 and relate to the tourism component of the application and the height of buildings.

MATTERS	COMPLY	COMMENTS
PART 14 PROVISIONS RELATING TO RECREATION AND TOURISM		
CLAUSE 118 AIMS: OBJECTIVES		
The objectives relating to recreation and tourism are:		
(a) to promote a wide range of leisure opportunities,	N/A	The proposal is not for a recreational proposal.
(b) to conserve and promote the region’s natural, historical and cultural features which are the bases of the tourist industry,	YES	The proposed development has no detrimental impact on the natural, historic or cultural features of the area. The provision of clumps of native vegetation between the buildings will reintroduce a visual connection with the surrounding countryside, which is beneficial to the scenic quality and tourism industry of the area.
(c) to preserve access to natural resources and public lands which have recreational values	N/A	The site does not contain public land nor provide access thereto.

CLAUSE 122 AIMS: RECREATION AND TOURISM		
Development of recreation and tourism facilities which can be demonstrated will result in a net inflow of money to the region and which will be environmentally acceptable should be encouraged.	YES	The increase in tourist accommodation will result in an increase in tourist visitation to Ulladulla which will result in a net inflow of money. The proposal is environmentally acceptable subject to a series of conditions.
PART 17 PROVISIONS RELATING TO HIGH RISE BUILDINGS		
CLAUSE 138 AIMS: OBJECTIVES RELATING TO HIGH RISE BUILDINGS		
The objectives relating to high rise buildings are:		
(a) to enhance the amenity and design quality of the Wollongong urban centre and of buildings within that centre, and	N/A	The proposal is not located in the Wollongong urban centre.
(b) to preserve the landscape quality of coastal and foreshore land by encouraging the erection of buildings which are designed in harmony with that landscape,	YES	The amended plans are now designed to be in harmony with the landscape, with the heights of the buildings varying and the provision of canopy trees between the buildings ensuring a visual connection of the development with the surrounding countryside.
CLAUSE 139 DEVELOPMENT APPLICATIONS – CONCURRENCE OF THE DIRECTOR		
The consent authority must gain the concurrence of the Director for the erection of buildings of more than 11m (measured from the existing ground level to the ceiling of the top floor). In deciding whether to grant concurrence the Director must consider the following:	YES	The proposal has a maximum height under this definition of 11.15m for Building D, as such the clause applies to the application. Concurrence is given at the time of determination in the case of a consent.
(a) the height, scale, bulk and density of the proposed building,	YES	The building has an appropriate height, scale, bulk and density given the appropriate separation from other buildings, the graduation in building height from the Princes Highway to the rear of the site and the provision of deep soil areas to allow for the planting of canopy trees.
(b) the external appearance and materials used on the exterior of the proposed building,	YES	The appearance of the buildings is modern and utilises appropriate materials to ensure an interesting façade and ensure that the architecture within the site is not monotonous.

(c) the relationship of the proposed building to the streetscape or landscape,	YES	Building D is located at the rear of the site and will not be visible from the streetscapes of any of the surrounding streets.
(d) the effect of the proposed building on the public amenity, including pedestrian amenity,	YES	Building D is located at the rear of the site and as such cannot affect public amenity or pedestrian amenity.
(e) the effect of the proposed building on wind patterns and wind velocity in public places,	YES	Building D is located at the rear of the site and as such cannot affect wind velocity in public places.
(f) the effect of the proposed building on overshadowing of public places,	YES	Building D is located at the rear of the site and as such does not shadow any public places.
(g) the effect of the proposed building on views from public places,	YES	Previous concerns with the visual impact of the proposal on views from the northern ridgeline and from the parkland near the harbour have been addressed by a lowering of the height of the building and of Building E, an increased area of deep soil between the building and Building E and the proposed planting of canopy trees in that area to provide a visual separation between the buildings.
(h) the effect of the proposed building on any item of the environmental heritage in the vicinity, and	YES	The site is not located within the vicinity of any items of heritage.
(i) the effect of reflections from the exterior of the proposed building on roads, public places and buildings in the vicinity.	YES	Building D is located at the rear of the site and as such no reflections from this building will affect roads or public places. Having regard to buildings in the vicinity it is noted that the building does not contain an excessive amount of glazing, with the façade containing the most glazing being the northern façade and on this façade the glazing is recessed behind balconies ensuring no inappropriate reflection impacts will occur.

6. Shoalhaven Local Environmental Plan 1985 (LEP 1985)

MATTERS	COMPLY	COMMENTS
PART I PRELIMINARY		
Clause 2 – Aims, objectives etc.		
(2) The objectives of this plan are: (a) to provide for a variety of residential life styles,	YES	The proposal provides for some higher density residential accommodation which is scarce in Ulladulla, improving the choice for residents of the area.

(b) to ensure space is provided for community services and facilities as well as recreational activities;	N/A	The site is not appropriately located for such services and facilities and is being developed in accordance with the objectives of the zone and the controls of DCP No. 56.
(c) to enable a variety of commercial uses while consolidating commercial centres;	YES	The proposal provides for additional commercial uses within the existing commercial centre.
(d) to enable accommodation of industrial uses;	N/A	The site is not appropriately located for industrial uses.
(e) to ensure that the council gives due regard to the effects of natural hazards upon development;	N/A	The site is not affected by any natural hazards.
(f) to ensure that development and expansion of coastal villages are sympathetic to the coastal environment;	N/A	The site is in a coastal town, not a coastal village.
(g) to maintain the agricultural use of prime crop and pasture land by minimising development which has an adverse and irreversible impact on the land's agricultural potential;	N/A	The site is within the town of Ulladulla.
(h) to protect items of the environmental heritage;	N/A	The site does not contain and is not within the vicinity of any items of heritage.
(i) to provide a safe and efficient transport network connecting land use activities inside and outside the City;	N/A	The proposal does not relate to the transport network.
(j) to encourage the provision of adequate community facilities and services;	N/A	The proposal does not provide for community facilities or services.
(k) to ensure the social amenity and well-being of the City;	YES	The provision of additional tourist accommodation will enhance one of the main industries within Ulladulla and the provision of a wider range of residential choices is appropriate to the social amenity of the town.
(l) to provide the most appropriate public utility services in the most effective manner;	N/A	The proposal is not for a public utility service.
(m) to encourage appropriate forms of tourism which are sensitive to and compatible with the natural and cultural environments of the City;	YES	The form of development is appropriate, providing for a higher density in an area identified for such development under DCP No.56.

(n) to maintain the rural character of non-urban areas;	N/A	The site is not in a non-urban area.
(o) to ensure that the council gives due regard to the effects of natural hazards upon development ensure the protection of important natural and cultural environments;	N/A	The site is not affected by natural hazards.
(p) to protect and enhance scenic and landscape qualities;	YES	The separation between the buildings, provision of deep soil area with canopy trees between the buildings and the variation in heights of buildings will ensure that the scenic quality of the southern ridgeline is enhanced as viewed from the northern ridgeline and parkland near the harbour.
(q) to ensure that the potential for winning extractive and mineral resources, where appropriate, is not compromised by other forms of development;	N/A	No proposal is provided for an extractive industry.
(r) to ensure that development achieves the water quality or river flow objectives of ground water, rivers, estuaries, wetlands and other water bodies;	N/A	The proposal is not proximate to a natural water body and will not have a detrimental impact on the quality of ground water.
(s) to avoid, mitigate or remedy the adverse effects of development on the environment;	YES	The proposal will not have any unacceptable impacts upon the environment.
(t) to minimise energy consumption and promote energy efficient design and appliance use;	YES	The proposal provides for rainwater tanks and a greywater reuse system and it is proposed to condition the use of energy and water efficient appliances and fixtures.
(u) to minimise potable water consumption and promote wastewater reuse as well as water saving designs and fittings;	YES	See above comment.
(v) to minimise waste generation and promote recycling and reuse of materials; and	YES	Conditions are recommended requiring the provision of areas for collection of recycled material.
(w) to minimise the clearing of native vegetation especially those local species which are poorly represented in conservation reserves.	N/A	The site does not contain areas of native vegetation.

PART II GENERAL RESTRICTIONS ON DEVELOPMENT OF LAND		
Clause 9 – Zone objectives and development control table		
Zone No. 3(g) (Business “G” (Development Area) Zone) Objectives of zone The objectives are to provide a strategic development area providing both for a variety of uses and for varying combinations of such uses including higher density residential, commercial and tourist combinations but not including ordinary retail uses that would compete with the local retail centre. The development is subject to a development control plan which will give guidelines for the type and scale of development	YES	The proposal provides for a mix of higher density residential, commercial and tourist accommodation and retails suites. Subject to the retail suites being used for tourist related uses, the proposal is consistent with the objective. DCP No. 56 applies to the site and is addressed following.
Only with Development Consent Any purpose other than a purpose for which development is prohibited. Prohibited Uses Abattoirs; bed and breakfast accommodation; bulky goods retailing, cluster housing; dual occupancy development; dwelling-houses (except in accordance with, or as ancillary to uses referred to in, the objectives of the zone); intensive animal husbandry; junk yards; liquid fuel depots; mines; sexual services premises; turf farming.	YES	The proposal is defined as a residential flat building, tourist accommodation units, shops and commercial premises and as none of the uses are prohibited or permissible without consent, they are therefore permissible with development consent. The proposed development is therefore permissible in the zone
PART III SPECIAL PROVISIONS		
Clause 20 – Tourist accommodation		
The Council may consent to development (other than subdivision) for the purpose of providing accommodation for tourists on any land used for agriculture that is greater than 10 hectares in area where such a use is prohibited by clause 9, but only in conjunction with the principal and continuing use of that land for the purpose of agriculture.	N/A	The site is not used for agriculture.

Clause 26 – Soil, water and effluent management		
A person must not carry out development that relates to the habitation of land by humans unless and until arrangements satisfactory to the Council have been made by the applicant (and if the applicant is not the owner, the owner also) for the provision of a water supply, facilities for the removal of sewage, and for the drainage of stormwater and other surface water from the land.	YES	The site is connected to water supply, sewerage and stormwater systems.
Clause 33 – Height of buildings		
A building must not be erected to a height greater than 2 storeys, including any parking space, above natural ground level, without the consent of the Council.	YES	Application has been made for the proposal.

7. Development Control Plan No 56 – Ulladulla Town Centre Strategy

Development Control Plan No. 56 – Ulladulla Town Centre Strategy (DCP 56) applies only to the town centre and was prepared to guide development in that area.

MATTERS	COMPLY	COMMENTS
Objectives		
The objectives of this Plan are:- a) A compact and accessible retail core through: (i) the provision of car parking within 150-200 metres walking distance of the retail/business area; (ii) the provision of future public transport facilities close to the retail core; (iii) ensuring a high level of pedestrian accessibility and open space within the centre; and (iv) discouraging major retail developments outside the main retail core.	YES	- Objectives (i) and (ii) are not relevant to the proposal. - Objective (iii) is satisfied to the extent possible for the proposed use, with communal open space of appropriate size and location provided on the site for the residents and tourist users. - Objective (iv) is satisfied as the limited retail suites provided along the Princes Highway will not compete with the larger scale and concentration of retail suites within the main retail core or Ulladulla.

b) To safeguard areas already identified for tourist accommodation within the business centre by maintaining, where possible, views of the harbour, ocean and distant hills, and allowing retail or commercial uses which are ancillary to such tourist uses.	YES	The proposal is located on a site identified for tourist accommodation and is appropriately used for such a use, with heights stepping up the slope to the ridge to maximise views to the tourist accommodation units.
c) Minimise pedestrian vehicular conflict by: (i) ensuring traffic volumes are limited to two through lanes of traffic on any street; (ii) identifying a route for a highway by pass away from the business centre; and (iii) maintaining and improving off-street service access to commercial and retail premises.	YES	- No change is proposed to the number of lanes in streets surrounding the development - N/A - The proposal does not provide for off-street servicing access, however the joint experts have agreed that it can be provided onsite given the type of commercial/retail tenancies proposed.
d) Maintain and promote Ulladulla's role as a second order centre in the hierarchy of business centres in Shoalhaven.	YES	The proposed development will not alter the hierarchy of business centres in the Shoalhaven.
e) Maintain a high standard of urban design through – (i) the development of linkages between the town and the harbour; (ii) establishing an appropriate scale of development which is in keeping with the surrounding natural features and preserving views of such assets from tourist orientated zones; (iii) controlling overshadowing of public spaces; and (iv) improvements to streetscapes, including future guidelines on advertising and footpath café displays etc.	YES	- The site is located too far from the harbour to provide linkages. - The scale of development is appropriate having regard to the proposed separation of buildings and the provision of canopy trees between, providing a visual separation and reduction of the bulk of the development and a visual connection to the hinterland. - The proposal does not result in any significant shadowing of public places. - The design makes provision for footpath café uses near the driveway.
Height Restrictions		
The objectives of the height controls are to maintain: an appropriate scale of urban development which is in keeping with the surrounding natural features; and	NO	The proposed development is of appropriate scale in the setting, with 2-4 storey development proposed, however the design is such that the 4 storey development has a largely 3 storey scale given the level of the ground floor and the low roof form.

• protect views of such assets from the nominated tourist accommodation areas; • an overall height restriction in the zoned commercial areas, as measured from the natural surface level, of 8 metres (two storey). Non habitable architectural elements may be permitted to extend above that height eg clock towers. The plan makes exceptions to the height rule in three areas and of relevance to this application: • building height within the rear section ie. over lots not having frontage to South Street, of the tourist orientated zone south of South Street will be permitted to be 11 metres above natural surface level. Reference is made to the supporting plan which identifies the 11m area as running from approximately the middle of the street block (running east west) to St Vincent Street in a westerly direction, being setback from the Princes Highway in an easterly direction (which is identified for tourist orientated retail) and being setback from South Street in a northern direction (which is identified for tourist accommodation/commercial uses).		• The design of the proposal ensures maximisation of views from the tourist units. • The proposal provides a range of heights as follows: Building A 5.7m – 8.0m Building B 10m – 11.8m Building C 11.5m-12.5m Building D 10.9m-11.9m Building E 8.2m-7m (3 storey component), 9.8m-12m (4 storey component) The site is divided into two height areas with the whole of Building D, the western parts of Buildings B and E and the northern part of Building C located in the 11m area and the remainder of the site located in the 8m area. As such Building A and Building E are fully compliant with the height control in metres, but not in number of storeys. The breach of the storey control is not considered to be consequential given the compliance with the height in metres control. Building B is wholly non-compliant, with up to a 2m breach of height in the 8m area and a 0.8m breach in the 11m area. The breach in the 11m area is minor and is due to the topography of the site and the breach will not be discernible. The breach in the 8m area will be discernible, but still provides for an appropriate degree of stepping down the slope of the ridge and provides for an appropriate streetscape presentation. The difference visually is that the three storey component visible from the Princes Highway would be closer to the road than a fully compliant building. Given the screening effect of Building A, and the narrowness of Building B, the visual impact is acceptable. Given the above assessment the non-compliance with the storey component of the control is also acceptable.
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		Building C is wholly non-compliant, with a breach of up to 1.5m in the 11m area and up to 4m in the 8m area. Whilst the breach is large numerically, the map showing the delineation of the area boundaries does not appear to follow the boundaries of zones or properties and to change the height of the building at the boundary of the areas would not be good planning as such a design would simply be contrived to comply with a numerical control. Such a contrived design would not improve the design of the proposal and would result in little discernible difference to the visual bulk of the proposal as viewed from the other ridge or the parkland in front of the harbour. For these reasons the breach of the height control in relations to both metres and storeys is supported for this building. Finally, Building E has a breach of up to 0.2m within the 8m area and up to 1m in the 11m area. The breaches relate to falls in the topography of the site and are not significant in relation to bulk and scale. For this reasons these breaches in relation to the height control in metres and storeys is supported.
Traffic/Pedestrian Movement		
The relevant provisions are contained at point 7 which identifies Deering Street and South Street as important access roads within the business centre and indicates that investigations are to be carried out into the need for a possible roundabout at the Deering Street/Princes Highway and at the Deering Street/St Vincent Street intersections and for possible traffic lights at the intersection of South Street and the Princes Highway.	YES (subject to appropriate conditions)	The proposal will result in impacts on the LOS of intersections of the Princes Highway and South Street and South Street and Vincent Street and this is to be addressed by a condition of consent requiring a contribution to be paid towards the upgrade works as necessary.
Service Areas		
All development outside the retail core shall provide off-street servicing within the confines of the site such that service vehicles enter and leave the site in a forward direction.	NO	The Court Appointed Expert indicated that on-street servicing could be provided and the Local Area Traffic Committee has raised no concerns with this approach to servicing in principal. However, both the Council and the RTA have indicated that servicing should be provided onsite given the intensity of use and the size of the site. A deferred commencement condition to this effect is recommended.
Utility Services		

All development with frontage to the Princes Highway between South and Deering Streets shall make provision for the underground supply of all utility services to the development.	YES (subject to appropriate conditions)	No information in this regard has been provided, however a condition of consent can address this requirement.
Open Space		
Sufficient area of open space is required not only to reinforce those natural assets which contribute to Ulladulla's character but also to ensure adequate spaces within the retail centre are available for the enjoyment of shoppers, tourists and employees to rest, talk, eat and be separated from vehicle movement and pollution.	YES	It is not clear if this control is intended to operate outside the core retail area, however, the areas of open space between the buildings in the development provide appropriate areas for the enjoyment of tourists and residents on the site.
Tourist Uses		
To reinforce the economic base of the town, a tourist orientated zone has been established in the 3(g) zoned area south of South Street to take advantage of both the northerly aspect and views to the Harbour and adjoining hinterland. Similarly it is important that all development within the zone have access to views. Therefore the buildings to the rear of the zone will be permitted to be 11 metres in height (three storey).	YES/NO	The proposal provides for predominantly tourist accommodation within the 3(g) zone, satisfying this requirement, and the height of the development steps up the slope to the ridge to ensure a maximisation of views. Compliance with the height controls is addressed previously.

8. Development Control Plan No 18 – Car Parking Guidelines

Development Control Plan No. 18 – Car Parking Guidelines (DCP 18) applies to the proposal and is addressed following.

MATTERS	COMPLY	COMMENTS
Section 1.3 Objectives		
To ensure that adequate off street car parking is provided in conjunction with development throughout the City.	YES	Compliance with the minimum parking requirements is addressed following.

• To discourage the use of streets for the parking of vehicles associated with traffic generated by new development. However, where there are site constraints which make it difficult for on-site parking, formalised parking in the road reserve may be considered. • To ensure that car parking areas are functional and operate efficiently. • To ensure that car parking areas are visually attractive. • To ensure that car parking facilities are safe and meet the needs of users. • To ensure that all vehicles enter and leave a site in a forward direction and that the manoeuvring of vehicles does not take place within the road reserve, but within the subject site. • To address the principles of ecologically sustainable development.		• The proposal makes appropriate provision for onsite parking. • The car parking areas are functional and efficient. • The car parking is underground. • The parking areas are secure and the different uses have separate parking areas. • Adequate manoeuvring areas are provided to allow cars to enter and exit in a forward direction. • The provision of underground parking allows a higher density on the site thereby ensuring a more compact town, which addresses the requirements of ecologically sustainable development.
Section 2.1 Car Parking Requirements Schedule		
To ensure adequate provision of off-street parking for new development the following parking rates apply: • 1 space per 40m² (gross floor area) for office uses, • 1 space per 24m² (gross leaseable) for retail uses, • 1 space per accommodation serviced apartment with 1 or 2 bedrooms and 1.5 spaces per 3 bedroom serviced apartment, • 1 space per small dwelling, 1.5 spaces per medium dwelling and 2 spaces per large dwelling, inclusive of visitor parking	YES	• 496.8m² of commercial/retail space requires 12-21 space • 74 1-2 bedroom tourist units requires 74 spaces • 10 large, 9 medium and 3 small residential units require 37 parking spaces Therefore a total of between 123 and 132 spaces are required and 145 spaces are provided, giving a surplus of at least 13 spaces.
Section 2.2 Parking Layout and Dimensions		
• Car parking provided on-site is to be readily accessible from the road frontage • Entrances to parking areas are not to be through buildings or carports • Dead-end aisles longer than 15m are not permitted unless for use in low turn-over parking situations and are to be signposted • Stack parking is not supported	YES/NO	• The parking is readily accessible from the road frontage. • The entrance to the parking area is between, not through buildings. • The parking area contains several aisles longer than 15m, however they are for low turnover situations for use by residents and tourists who will be allocated a space and as such this approach is acceptable. • No stacked parking is proposed.

90° angle parking is to have dimensions of 5.5m x 2.6m, with a 7m aisle and an additional 1m at the end of the aisle for manoeuvring - Accessible parking spaces are to be 5.5m x 3.2m		- The parking spaces do not satisfy the width requirement and the aisles do not satisfy the width requirement, with space widths of 2.5m and aisle widths of 6.1m, however the Court Appointed Traffic Expert is satisfied with the parking layout. The required 1m manoeuvring width at the end of the aisles is complied with. - The six accessible parking spaces have dimensions that comply with the control.
Section 2.3 Access		
- Vehicles shall enter and leave in a forward direction - Where there is more than one access point the first driveway reached is to be the entrance - Each site shall minimise the number of ingress and egress point to any frontage - Vehicular access shall not be in close proximity to traffic signals, major intersections or where sight distance is inadequate - Driveways shall be a minimum of 6m from the corner of a building on a corner lot - Buildings are to be designed to ensure adequate sight distance at intersections and driveways (may require splaying of corners of buildings) - A building splay will be required where a driveway adjoins a building - Turning paths for vehicles will be based on the largest vehicles likely to be used on the premises - Driveways shall be at least 1m from side boundaries - Where parking exceeds 50 spaces separate provision is to be made for ingress and egress - Treatments such as thresholds and speed humps should be provided where a driveway crosses a footpath to ensure safety for pedestrians - Ramps are not to extend across the footpath	YES (subject to appropriate conditions)	- Vehicles can enter and leave the site in a forward direction. - There is only one entrance off each street. - There is only one entrance off each street. - Vehicular access points are mid street block. - The site is not a corner site. - No buildings are in proximity to intersections and the setback of the commercial shopfronts allows appropriate sight distance. - N/A - The Court Appointed Expert is satisfied with the manoeuvring areas for the proposal. - N/A - A one-way entry from the Princes Highway is provided, with all egress (and a second ingress) from St Vincent Street. - This requirement can be conditioned. - The ramp does not extend across the footpath.

Section 2.7 Drivers with a Disability		
• Spaces are to be located close to the entrance of the building • Car parking is to comply with Section 2.4.5 of AS2890.1 • Undercover parking spaces are to have a minimum clearance of 2.5m (including path of travel to the space)	YES (subject to appropriate conditions)	• All accessible spaces are located close to lifts. • The parking spaces are of appropriate dimensions. • No information is available to address this issue and a condition of consent is recommended.

9. Development Control Plan No 71 – Medium Density Housing

Development Control Plan No. 71 – Medium Density Housing (DCP 71) applies to the proposal (Building C) and is addressed following.

MATTERS	COMPLY	COMMENTS
Section 3.1.2 Site Planning and Layout		
P1 The site layout integrates with the surrounding environment through – • Adequate pedestrian, cycle and vehicle links to street and open space networks; • Buildings facing streets and public open spaces; and • Buildings, streetscape and landscape design relating to the site topography and to the surrounding neighbourhood character. P2 The site layout takes into account on-site features identified by the Site Analysis. P3 The site layout takes into account existing streetscape conditions and maintains a reasonable level of amenity. P4 The site layout enhances personal safety and minimises potential for crime and vandalism. P5 Dwellings are sited and designed to maximise solar access to living areas. P6 Open space areas contribute to the character of the development, provide for a range of activities, are cost-effective to maintain, and contribute, wherever possible, to stormwater management. P7 In areas exposed to significant levels of off-site noise assist in minimising noise entry.	YES	• The site layout makes appropriate provision for pedestrian connection to the Princes Highway. The proposed buildings address the street where appropriate and the building and landscape design are appropriate to the topography and to the future character of the area. • Yes • The streetscape of predominantly two storey scaled retail buildings is retained by the proposal. • The buildings are provided with secure entries and parking areas and the design provides appropriate levels of casual surveillance. • Most residential units have either a northern, eastern or western aspect, allowing an appropriate amount of solar access. • The open space provision allows for softening of the bulk of the development as viewed from the opposite ridge and the parkland near the harbour and provides an attractive setting for the units and is of appropriate design. • Noise impacts due to the Princes Highway will be ameliorated by the distance of the residential units from the highway.

Section 3.1.3 Site Density		
P1 The scale of new development is compatible with and sympathetic to the scale and bulk of existing development in the locality, particularly on the perimeter of the development site, or where that locality or development site has some heritage significance or distinctive character. To achieve this maximum site density controls for site area and landscaped area per dwelling are set depending on the size of the dwelling. For small dwellings (under 55m²) 170m² of site and 65m² of landscaping, for medium dwellings (55-85m²) 240m² of site and 90m² of landscaping, for large dwellings (85-120m²) 330m² of site and 120m² of landscaping are required. A density bonus of up to 20% may be considered where underground parking is provided in the 3(g) zone, where the development is designed by an architect and where the landscape provision exceeds the minimum requirement. Thereby on the subject site large dwellings would need to have 262m² of site, medium dwellings 192m² of site and small dwellings 136m² of site.	NO	The scale of the development is appropriate within the context of future development in the area as a result of the controls of DCP 56. A calculation of density and landscape provision is difficult as the site is a mixed use site and is predominantly tourist accommodation. If the portion that contains the residential units is considered on its own (ie Building C and adjacent landscaping) than the calculations are as follows: Site area: 2,344m² Dwelling types: 20 x Large, 18 x Medium and 4 x Small Site area required for dwellings (inclusive of tourist units in Blg C): 9,240m² Landscape area required: 4,280m². Landscape area provided: 1,042m². Given the site has a larger high limit than other residential flat areas and contains a mix of uses on a much larger site, it is not considered that compliance with this control is required, nor is assessment against it particularly useful or relevant.
Section 3.3 Site Density		
P1 Buildings are sites and are of such length and height that there is no significant loss of amenity to surrounding dwellings. This can be achieved through – Setbacks that are progressively increased as wall heights increase to reduce bulk and overshadowing while maintaining adequate daylight and sunlight. (To achieve this buildings could be sited within a building envelope projected at 45° from a height of 4.5m at the side and rear boundaries to a height of 8.m and are to be setback from the side or rear boundaries by 1m, increasing to 1.5m where the wall contains windows to habitable rooms for a maximum of 50% of the length of the boundary, increasing to 2 or 3m respectively for the remainder of the length);	YES/NO	Again this control would apply to Building C only. - The building has a breach of the building envelope at the western boundary (1.6m to top of wall) and complies to the southern boundary. The breach to the western boundary is not considered significant and given the additional setback of the wall from that required, can be appropriately ameliorated by the proposed planting of trees along the boundary. - The building is setback a minimum of 6m from the southern boundary and 5m from the western boundary, complying with the setback requirements.

• Building siting and height that are related to land form, with minimal cut and fill; • Building forms that enable a sharing of views with neighbours (To achieve this existing views should not be substantially affected where it is possible to design for sharing of views and landmark views are more valued); • Minimising building bulk to reduce impact on neighbours an on the public street; • Building heights similar to those in the public streetscape, with higher buildings sited behind and out of direct views form the street. • Building walls, limited in length and height, to minimise the impact on neighbours; and • With integrated development buildings may be built to the internal boundaries, so as to maximise privacy for neighbouring dwellings and their private open space; • Adequate separation between facing dwellings for privacy (To achieve this a minimum 9m separation is to be provided between habitable rooms, increasing to 12m above the first floor –otherwise they should be screened).		• The proposed buildings appropriately step down the slope of the site with reasonable levels of cut and fill. • Views throughout the site are shared. Given the height controls in DCP 56, any views enjoyed by properties to the south and west would necessarily be lost as a result of the development proposed. • The use of relatively flat roofs and stepping of the height of development from north to south and from east to west ensures appropriate impacts on neighbouring properties and the streetscape in relation to bulk. • The building heights that predominate along the Princes Highway are retained at the highway frontage of the development. • Whilst the walls are relatively high and long (as was envisaged by the additional height controls in DCP 56), the design provides for appropriate articulation and modulation of the walls. • N/A • Given the proposed 5m and 6m setbacks, the buildings are appropriately located to achieve a suitable level of separation from future development on adjoining properties.
Section 3.3.3 Usable Open Space		
For residential flat buildings usable private open space is to be provided by way of a balcony or roof top area, conveniently accessible from the main living area and having a minimum area of 10m ² and dimension of 2m.	YES (subject to appropriate conditions)	All residential units have a balcony that is located directly off a living room. All balconies are a minimum of 2m wide (main portion) but do not have a minimum area of 10m ² . It is recommended that a condition of consent require the balconies to the residential apartments to be widened to provide a minimum area of 10m ² .
Section 3.3.4 Car Parking Provision and Dimensions		
The minimum provision of parking is 1 space per small dwelling, 1.5 spaces per medium dwelling and 2 spaces per large dwelling, inclusive of visitor parking, with one space provided for each dwelling.	YES (subject to appropriate conditions)	The residential units comprise 10 large, 9 medium and 3 small units and as such 37 parking spaces are required for the residential component. Thirty six spaces are identified as being for residents or visitors and there are additional spaces for tourists and spare spaces. Given the location of the spare spaces (3) they should be allocated to residents, being behind the roller shutters intended to separate the

		residential parking from the tourist parking. A condition to this effect is recommended.
Section 3.3.5 Landscape Design		
P1 Site design minimises site disturbance and preserves existing landscape elements such as rock formations, trees, significant vegetation and water courses where possible. P2 Landscape relates to the scale of other elements of the streetscape and the landscape of adjoining development. P3 Landscaping is designed to meet user requirements, taking into account maintenance, exercise opportunities, shade provision and aesthetic quality. P4 The provision of landscaping to the street frontage of new development should be substantial and should attempt to enhance the appearance of the development and assist with streetscape integration.	YES	• 100% of the site has previously been developed or paved over and as such no natural features remain to protect. • The proposed landscaping incorporates canopy trees which will at maturity exceed the height of the development and provide appropriate softening of the bulk of the development. • The proposed landscaping will provide an appropriate setting for the residents and provide an appropriate degree of shade protection of the open space areas. • No landscaping at the street frontage is appropriate given the frontage to a retail section of the Princes Highway.
Section 3.3.6 Energy Conservation		
• All dwellings are to achieve a minimum NatHERS of 3.5 stars. • North facing living areas of neighbouring dwellings are not to have their solar access reduced below 3 hours between 9am and 3pm at mid winter	YES (subject to appropriate conditions)	• Given amendments to the design of the dwellings no up to date information is available in this regard and a condition of consent is recommended to require the achievement of this standard. • No living areas of adjoining dwellings are affected by shadowing.

10. SEPP 65 – Residential Flat Design Code

The SEPP 65 – Residential Flat Design Code (RFDC) applies to the proposal (Building C) and is addressed following.

MATTERS	COMPLY	COMMENTS
Maximum building depth of 18m	YES	Maximum depth 15.5m
Single-aspect apartments should be limited in depth to 8metres from a window	YES	Maximum depth 7.4m

25% of kitchen of development should have natural ventilation	NO	No kitchens have windows, however they borrow natural ventilation from other windows which are generally not located excessive distances away.
The back of a kitchen should be no more than 8metres from a window	NO	Maximum depth 8.4m, which is acceptable.
Habitable rooms to be a minimum 2.7metres ceiling height	NO	Floor to ceiling height is 2.6m, which is acceptable
Accessible storage to apartments: Three bed = 10m ³ 50% in apartment	YES (subject to appropriate conditions)	Inadequate information is provided to assess compliance, however a condition of consent is proposed to require compliance.
Provide primary balconies to all apartments with minimum depth of 2metres	YES	Minimum depth to main area of balcony is 2m.
Building Separation: Buildings up to 4 storeys (12m) high require separation of: 12m between habitable/ balcony; 9m between habitable/ balcony and non-habitable; and 6m between non-habitable Buildings 5-8 storeys (up to 25m) high require separation of: 18m between habitable/ balcony; 13 between habitable/ balcony and non-habitable; and 9m between non-habitable Allow zero building separation in appropriate contexts, such as street wall building types (party walls)	YES/NO	Separation of Building C from Building D is 9.4m (excluding blank wall of stair) – privacy issues related to the reduced separation are addressed by the use of highlight windows in the northern façade of Building C. Separation of Building C from Building B is 14m. Separation of Building C from southern boundary is 6m, allowing 12m separation for future development of adjoining site with similar setback. Separation of Building C from western boundary is 5m, which with a setback of 6m for any future development to the west would only allow a 11m separation. Given the Business zoning of the adjoining site the separation is considered acceptable.
Width of cross-through apartments over 15metres deep should be 4metres or greater	YES	Maximum depth of cross-through apartment is 15.8m and the minimum width is 4m.
Affordable housing minimum apartment sizes (guideline): 1 bed apartment 50m ² 2 bed apartment 70m ² 3 bed apartment 95m ²	YES	All apartments comply with the minimum sizes.

60% of residential units should be naturally cross ventilated	YES (subject to appropriate conditions)	52% of apartments are cross ventilated, however 64% could be if apartments 20, 28 and 41 had windows (highlight) in the southern façade.
Minimum 20 percent of dwellings in the development have barrier free access	YES	All apartments have barrier free access.
Limit single-aspect apartments with southerly aspect to 10%	NO	3 apartments (12%) are single aspect south facing apartments, however the variation to the standard is minor and is supportable.
Living rooms and private open space for at least 70% of apartment receive a minimum of 3 hours sunlight between 9am and 3pm in mid-winter. The solar access is allowed to be reduced to 2hrs in highly urbanised areas (which applies to this site given the DCP 2002 control of requiring 2hrs solar access for mixed use zones).	NO	52% of apartments will receive 3 hours or more of solar access at mid-winter. An additional 9 apartments will receive just under 3 hours of solar access, giving a total of 84% of apartments complying or very nearly complying, which is considered acceptable.

11. Coastal Design Guidelines of NSW, 2003

MATTERS	COMPLY	COMMENTS
Part 1 Determining a hierarch of settlements		
Coastal Town - Relationship to the environment - the relationship of the town to the coast is protected and enhanced - Visual sensitivity – areas of visual sensitivity include the coast, views to and from the hinterland, the setting of the urban settlement within the landscape - Edges to the water and natural areas - Streets – key cultural and urban streets, focus on natural features, historic subdivision pattern - Buildings – predominant small apartments, mixed use, shop-top, townhouses, terraces and detached buildings in town centre, predominantly low scale	YES	Ulladulla is classified as a Coastal Town. - The relationship of the town to the coast is unaffected by the building which is located away from the water's edge. - The site is visually sensitive due to its elevation position on the ridge, the design appropriately addresses the site's sensitivity by providing canopy trees of appropriate height to visually separate and soften the buildings, providing a connection to the surrounding hinterland. - Not affected due to location of the site. - No change to street pattern or impact on natural features or subdivision pattern. - Proposal is mixed use of residential, tourist accommodation and tourist retail.

• Height – generally up to 4 storeys in town centres		• Heights vary from 2 to 4 storey.
Part 2 Design principles for coastal settlements		
Defining the footprint and boundary	YES	The proposal does not change the footprint or boundary of the town.
Connecting open spaces	YES	The proposal does not alter the provision of or the connection to existing open space and is not located in the vicinity of open space such that provision or connectivity could be improved.
Protecting then natural edges	YES	The site is not located within proximity to the natural edges of Ulladulla.
Reinforcing the street pattern	YES	The proposal will not alter the pattern of the streets within Ulladulla.
Appropriate buildings for a coastal context All Sites • Buildings that are appropriate in terms of location, uses, scale, height and site configuration • Reinforce desired future character • Appropriateness of buildings within whole streetscape • Maintain consistent street setbacks and street-edge configurations • Buildings to address the street by providing direct on-grade entries • Rationalise driveways, widths and lengths • Protect views from public places and streets by not placing buildings in view corridors	YES	• Uses are consistent with those identified in DCP 56, the buildings are appropriately located in the context of the site's shape and street frontage and are of appropriate stepping scale, increasing in height away from the street front. • The stepping in heights is generally consistent with the character sought by DCP 56. No character in terms of design is identified in DCP 56 or any other instrument. • The two storey buildings at the street frontage are consistent with the streetscape heights desired in DCP 56 and the stepping of the heights is such that the 4 storey height will not be discernible from the opposite side of the Princes Highway. • The development is proposed to a small setback, consistent with the character of the street. • The proposed shop fronts are stepped down the street to provide on-grade entries. • The proposal contains a single driveway from the Princes Highway of an appropriate width and length. • No public views will be due to the proposal.

• Protect views throughout settlement by relating building to the topography, reducing heights to maintain views of surrounding landscape and maintaining consistent height, bulk and scale • Ensure existing and proposed development has access to daylight, ventilation, privacy, private open space and a pleasant microclimate • Achieve amenity through building orientation and depth, size of lot, open space location, size and connection with building, car parking location and access, pedestrian access from the street, street edge configuration and building separation and mature trees, vegetation and soil areas. Sites Along Main Streets • Maintain visual connections to landmarks, vistas, views and publicly important places • Activate main street by providing ground floor aligned with street • Activate street with ground floor uses such as retail, cafes, professional offices and ground floor entries to residences • Minimise on-grade car related uses at street frontage, including parking and driveways • Streetscape built form to be consistent in relation to heights and setbacks • Reinforce streetscape with well articulated building elevations of consistent scale, proportion and detail • New buildings to contribute to amenity of public open spaces adjacent to main road		• Views from throughout the settlement are protected by the provision of canopy trees separating the buildings on the visually prominent ridge site, allowing a visual connection of the site with the hinterland. • The building separations proposed allow for the appropriate protection of daylight, privacy and microclimate. Designs allow for appropriate levels of private open space and cross ventilation. • An appropriate level of amenity is provided to the new development, with good pedestrian connections to the streets, appropriate canopy tree planting proposed, good building separation, appropriate provision of private open space connected to the living spaces of the buildings and with attractive communal open space. • No impact on visual connections. • Ground floor of buildings are aligned with the footpath. • Activation is provided by shop fronts and suites of appropriate sizes and design for retail, cafes, professional offices and the like. • No on-grade parking is provided and only one driveway is proposed from the Princes Highway. • The two storey height proposed at the Princes Highway with stepped buildings behind will present a consistent appearance in relation to height and setbacks. • The buildings at the frontage are well articulated by the provision of strong vertical elements in a strong horizontal frame, providing visual division into traditional shopfront size frontage elements despite the width of the frontage. • The provision of activated shopfronts at the street frontage will add to the attractiveness and amenity of the public domain.
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12. NSW Coastal Policy, 1997

MATTERS	COMPLIANCE	COMMENTS
Protecting, rehabilitating and improving the natural environment of the coastal zone.	YES	The site does not contain any existing natural environment elements and rehabilitation is not appropriate in the town centre location.
Recognising and accommodating the natural processes of the coastal zone.	YES	The site is located at sufficient distance and elevation in relation to the location of the coast as to be unlikely to be affected by natural coastal processes.
Protecting and enhancing the aesthetic qualities of the coastal zone	YES	The site is located on a visually prominent ridge location, visible from the other ridge and parkland near the harbour. The design appropriately provides for canopy trees between the buildings to provide a visual separation of the built form and a visual connection to the surrounding hinterland.
Protecting and conserving the cultural heritage of the coastal zone.	YES	The proposal will have no detrimental impact on the cultural heritage of the coastal zone.
Providing for ecologically sustainable development and use of resources.	YES	The proposal incorporates appropriate passive solar design and provides for a good level of cross ventilation, reducing energy consumption costs. Conditions of consent will require the use of energy efficient appliances and water saving fittings throughout the development.
Providing for ecologically sustainable human settlement in the coastal zone.	YES	Provision of residential and tourist accommodation at higher densities within the existing urban settlement take advantage of existing services and reduce the need for impacts on surrounding native vegetation. Further use of appropriate passive and active energy efficient design measures is consistent with the principles of ecologically sustainable development.
Providing for appropriate public access and use.	YES	The site is not located adjacent to the foreshore and as such public access improvements cannot be provided by the proposal.

Providing information to enable effective management of the coastal zone.	YES	The Policy achieves this, with this requirement being unrelated to the proposed development.
Providing for integrated planning and management of the coastal zone.	YES	The Policy achieves this, with this requirement being unrelated to the proposed development.

13. Disability Discrimination Act

The provisions of the Disability Discrimination Act require development applications to be assessed in relation to the requirement for accessibility by persons regardless of disability. The proposal contains 2 adaptable apartments within the proposed 25 residential apartments, providing an accessible parking space for each and an accessible path of travel from the street to the apartments and from the parking spaces to each apartment, with all of the residential apartments being visitable.

Within the tourist accommodation component of the development, 4 adaptable apartments are proposed. It is inappropriate that the tourist apartments be adaptable as it is unreasonable to expect a short term visitor to adapt the apartment to make it accessible. It is therefore recommended that the 4 apartments be made fully accessible in accordance with the requirements of AS1428.1. An accessible parking space is provided for each adaptable apartment and an accessible path of travel from the street to the apartments and from the parking spaces to each apartment is provided, with all of the other tourist apartments other than those in Building A being visitable.

An accessible path of travel is provided to all of the retail/commercial suites from the street and an accessible parking space is provided, with an accessible path of travel from the space through Building E. No provision is made for toilet facilities for the retail/commercial suites and as such a condition of consent is recommended requiring the provision of a shared accessible toilet to be provided for these suites.

Subject to the identified conditions, the proposal is considered to be consistent with the intent of the Disability Discrimination Act.

APPENDIX C. SUBMISSIONS SUMMARY

Following is a summary of the submissions received from the general public during the exhibition periods for the proposal and amended proposal. The issues are addressed in **Section 6.2** of the Planning Assessment Report.

No	Date	Issues Raised	Main Issues
1	5/8/05	Loss of privacy to Nos. 131 Princes Highway and 78 South Street due to development overlooking the properties.	Privacy
2	12/8/05	- Increased traffic generation will result in increased noise and pollution impacts; - Nearby offices will suffer noise impacts from tourists; - Increased traffic will lead to deterioration of bitumen surface of ROW; - Inadequate parking provided onsite for the proposed mix of uses, which will result in congestion in the Allens and Hanes Douglass car parks adjoining the site; - The height of the proposed buildings will shade the offices and have an unacceptable visual bulk	- Impacts of traffic generation - Noise - Inadequate parking provision - Shadow impact - Visual bulk
3	10/05/06	- Inconsistent with zoning of area - Breaches of SEPP 71 - Breaches of DCP No. 56 - Environmental and social impacts - Aesthetics - Economic impacts	- Consistency with controls - Impacts of development
4	25/5/06 579 signature petition	- Staging of development prevents appropriate assessment of cumulative impacts - Use of land identified for tourist uses for high-rise residential use inappropriate and depletes opportunities for one of only two primary industries of Ulladulla - Scale of development detracts from village atmosphere and will change the nature of the town centre - Monotonous architecture due to number of buildings in 3 stages - Chaotic impact on traffic in Ulladulla due to scale of development - Will result in need for traffic lights at intersection of South Street and the Princes Highway - Infrastructure cannot cope with such an influx of residents - High-rise inappropriate for family living and older persons will not want to live there	- Cumulative impact - Traffic generation - Infrastructure provision - Visual impact - Suitability of residential use in tourist area
5	23/5/06	- The magnitude of the development is inappropriate for the site and will be visually intrusive when entering Ulladulla from the north - There is no need for the project given the slow growth of the population and unemployment statistics	- Bulk and scale/visual impact - Parking - Inadequate public consultation

		- Inadequate community consultation, public meeting requested - Inadequate parking provided - Social impact of high density housing, leads to increased health costs and has a detrimental impact on occupants	
6	24/5/06	- Traffic impact, particularly in holiday period - Adequacy of infrastructure to support additional residents - Inadequate public consultation	- Traffic - Infrastructure provision - Inadequate consultation
7	18/5/06	- Parking impacts - Inadequate consultation - Proposal is too large - Inadequate infrastructure	- Parking - Infrastructure provision - Inadequate consultation - Excessive size of development
8	11/5/06	- Excessive size, density and visual impact - Traffic impact - Impact on infrastructure - No need for extra permanent or holiday accommodation	- Overdevelopment - Traffic - Infrastructure provision - No demand
9	16/2/07	No objection to the Development Application for Stage 2 reissued on 22 December 2006.	
10	19/2/07	- Bulk and scale of development out of character with height of surrounding buildings and laid-back coastal ambience. - Traffic congestion due to entry from Princes Highway. Motorists coming from the south will be forced to use roundabout, located 200m to the north of the site, in order to use 'left in only' entry to basement car park. - Extra commercial development is undesirable for site as there is insufficient parking in area.	- Height and bulk - Traffic increase - Loss of amenity - Car parking
11	19/2/07	- Support for: change in use from mainly residential to mainly tourist; reduction in number of units; general adherence to height limits of DCP 56; and landscaping and deep soil plantings. - Flaws in original notification. Few people were aware of proposal until public meeting held on 4 April 2006. - DoP shows no indication of an intention to advertise this new plan. - Cumulative impacts of all stages of the proposal need to be considered. Each stage should not be considered in isolation. - A few of the issues raised in the Court Appointed Traffic Engineers report have not been addressed.	- Community Consultation and public exhibition process - Assessment of all stages and cumulative impacts - Traffic and Parking issues raised by Court Appointed Expert
12	20/2/07	- Support for: reduction in units; more trees; lower roof lines; and more landscaping. - Amendments relate only to Stage 2. Need to consider all three stages together. - Recommendations from the Court Appointed	- Assessment of all stages and cumulative impacts - Infrastructure - Community consultation and public exhibition

		Expert's report needs to cover all stages. • Increase in population (both temporary and permanent) will impact on infrastructure. This issue has not been addressed. • Development will impact on existing traffic and parking problems associated with high school, CBD and previously approved expansion of shopping centre. • Concerned that amended plans are not being made available to the general community.	
13	20/022007	• Support for: reduction in permanent residential; increase in open space; reduction in number of apartments; lowering of building height; less car parking; and improved landscaping. • Residents living behind complex suffer from severe and unfair loss of views and aspect. • Building height of 4 storeys along St Vincent Street will impact on properties across the road and beyond. • Lack of associated infrastructure to support increase in population e.g. medical, schools, entertainment facilities, car parks, waste & sewage disposal and roads. • Extra traffic congestion problems. • Basement car parking construction may impact on groundwater table in township (Boree Street and South Street). • Amended plans have not been advertised to general public. Suggested possibility of public meeting. • Assessment should be undertaken for entire proposal and not just Stage 2. • Require reassurance that determination of Stage 3 will take issues from Stage 2 into consideration.	• View loss • Height and character of streetscape • Lack of infrastructure • Traffic congestion • Groundwater impacts from basement car park • Community Consultation and Public Exhibition • Assessment of all stages

APPENDIX D. SUMMARY OF ISSUES FROM SHOALHAVEN CITY COUNCIL AND THE RTA

The following is a summary of consultations with Shoalhaven City Council and the RTA for this application.

D.1 Shoalhaven City Council

The application was referred to the Shoalhaven City Council ("the Council") in correspondence dated 8 July 2005. The Council responded in correspondence dated 11 August 2005 and 24 October 2005 stating there were several concerns with the proposal.

The salient points of concern included:-

- That it is Shoalhaven Water's policy that sewer manholes not be located inside structures.
- Council has an interest in the site by way of a lease until 2017 for a public toilet block and the lease cannot be unilaterally terminated by the owner unless a major breach has occurred. Council would not object to the proposal proceeding and the demolition of the toilet block subject to the developer compensating Council for the cost of constructing replacement toilets elsewhere in Ulladulla.
- In principle the non-compliances with the height controls are acceptable.
- More information is required to assess the cumulative impact of the 3 stages given the heights, size of the development site and potentially monotonous architectural environment created by a development of this size.
- Council supports a left-in left-out access to the Princes Highway.
- Council seeks compliance with its parking policy, not a parking contribution.
- Parking spaces need to be allocated and designed so that visitor spaces are accessible at all times.
- Information needs to be provided on how waste is to be collected.

The application was again referred to the Council, by letter dated 13 February 2006, after receipt of amended plans and additional information from the applicant. The Council responded in correspondence dated 28 March 2006 stating there were several concerns with the proposal.

- The additional information still does not address the cumulative traffic impacts of the three stage and a revised traffic report is requested addressing this.
- Only a one way access out to Deering Street via the ROW will be supported.
- No vehicular access to South Street from Stages 2 and 3 will be supported.
- An intersection analysis by SIDRA is required.

Following the lodgement of amended plans to the Department by the applicant on 22 December 2006, the application was referred again to the Council by letter dated 6 February 2007. The Council and Shoalhaven Water responded in correspondence dated 13 March 2007 and 15 March 2007, respectively, raising a number of concerns and comments in relation to the amended proposal, which are summarised following:

Traffic

- There is still insufficient assessment on the cumulative impacts of the proposed development and the other two stages identified on the architectural plans and the assessment of minimal impact on intersections is not supported.
- In order to address the additional impact of the proposal the provision of traffic signals at the intersection of South Street with the Princes Highway and the upgrading of the

intersection of St Vincent Street with South Street is recommended. Such works should be part funded by the applicants.

- The sequencing of the stages is not appropriate and would have less impact on South Street and the Princes Highway if Stage 3 occurred first, followed by Stage 1 and Stage 2.
- Given the combined impacts of all development the access to South Street is in the wrong position and should be aligned with Boree Street, with a mountable roundabout at the intersection to provide traffic management and pedestrian benefits.
- The egress of vehicles from Stage 2 through Stage 1 will not work as the access points do not align.
- There is no egress for Stage 2 as it appears to happen through Stage 3.
- Inadequate information has been provided in relation to the access point to St Vincent Street. A condition of consent should ensure that all access is designed and constructed in accordance with Australian Standards and is appropriately signposted.

Car Parking

- The proposal appears to only provide 2 customer spaces for the retail/commercial component with all other spaces appearing to be for staff (ie 21 spaces). The reservation of the spaces should be removed, with all 23 spaces available for use by either staff or customers.
- Parking is required at the rate of 21 spaces for the commercial use, 75 spaces for the tourist component and 25 spaces for the residential component, giving a total demand of 132 spaces, with a surplus of 14 spaces provided.
- It is recommended that appropriate traffic calming devices be installed along the 120m length of the central driveway from the Princes Highway to St Vincent Street to control speeds to an appropriate level for a car park. Traffic calming devices should also be provided elsewhere throughout the car park, particularly at blind intersections and at all egress locations.
- The provision of a median along the centreline of the Princes Highway will reduce the lane widths inappropriately and may result in the need to re-line the parking to parallel parking on the western side, retaining the 45° parking on the eastern side of the Highway. Any lost public parking as a result of this or due to the provision of on-street loading should be paid for by way of a s94 contribution to Council. Given the likely impact upon other of the provision of a median along the centreline of the Pacific Highway, including an ambulance station, a consultation process should occur with affected property owners prior to the implementation of the median.
- Concerns are raised in relation to the location and width of the accessible parking spaces, however the number of spaces is appropriate.
- The commercial parking area is to be designed to satisfy the requirements for class 3A parking under AS 2890.1.
- Visitor parking for the residential component should be relocated unless it can be demonstrated that an intercom system can be implemented that will not result in impacts on traffic flow.
- The basement parking layout shows an encroachment onto Lot 5 in DP 130607.
- OSD tanks are shown as sub-floor in the drainage plans and overhead in the architectural plans and this needs clarification in terms of traffic clearances in the basement.

Pedestrian Movements

- The large pedestrian generation of the development strengthens the need for traffic signals at the intersection of the Princes Highway and South Street to ensure a safe method of crossing the Highway is available.

Waste Collection/Loading

- All waste collection is to occur onsite, with provision for waste collection vehicles to enter and exit in a forward direction, with the main servicing to occur via St Vincent Street. Limited servicing off South Street may be acceptable. Inadequate detail has been provided to show how waste can be collected onsite.
- Provision of a loading area on the Princes Highway is agreed in principle, subject to the loading area being 12m long, rather than 9m as suggested by the applicant. However, Council's position is that the site is of sufficient size to provide onsite loading facilities, particularly given the need to provide for deliveries to the tourist accommodation.
- Service access to the development would be better provided off St Vincent Street.

Land Use

- There is no strict land use objective or control to justify the switch to tourist accommodation and the application is not accompanied by provision of information related to servicing/loading and tourist facility operation.

Owners Consent/Subdivision Boundary

- Owners consent has not been provided for 41 Deering Street or 116-118 St Vincent Street.
- No subdivision or boundary adjustment has occurred that reflects the changed boundary to 41 Deering Street shown on the plans.

Operation of Tourist Facility

- No reception/check-in facilities are provided and no provision is made for parking of tourists during the check-in process.
- There is insufficient information to show how the tourist units would be managed and a business operation plan should be provided identifying the market position of the facility, general management functions, co-ordination of registering inbound and outbound patrons, staff levels and facilities, servicing and maintenance requirements and onsite recreation facilities.

Shoalhaven Water responded to the Department in correspondence dated 13 March 2007 with two concerns:

- Applicant needs to show how they will address the continuation of sewerage services to upstream Shoalhaven Water customers.
- Compliance is required with Council's policy for "Provision of Water and Sewerage Infrastructure – Rezoning, Major Developments and SEPP 5 developments" (POL04/90).
- If consent is to be provided then a condition is to be included in the body of the consent requiring that the applicant obtain a Certificate of Compliance under the Water Management Act.

Further consideration of the issues raised by Council (including Shoalhaven Water) is provided in Section 6.2 of this report.

D.2 NSW Roads and Traffic Authority (RTA)

The application was referred to the New South Wales Roads and Traffic Authority ("RTA") on 8 July 2005 as the proposal is considered to be development under Schedule 2 of *State Environmental Planning Policy No 11 – Traffic Generating Developments* ("SEPP 11"),

consisting of development on or of land that has direct vehicular access to an arterial road pursuant to Clause 7(4) of SEPP 11 and is Integrated Development, requiring a s138 approval under the Roads Act 1993.

The RTA reviewed the information provided and stated that it objects to direct access onto the Princes Highway when there is an alternate local access road available. Further, a traffic impact study was requested to consider the cumulative impacts of the 3 stages of development, including intersection modelling of the Princes Highway/Deering Street intersection and the Princes Highway/South Street intersection. A pedestrian access and mobility plan was requested to clarify pedestrian movements within the development (particularly the customer car parking area). Servicing of shops was to be provided for internally and should cater for the turning movements of a 12.5m single unit vehicle as a minimum. It was indicated that stormwater detention should be provided.

The application was again referred to the RTA, by letter dated 13 February 2006, after receipt of amended plans and additional information from the applicant. The RTA responded by indicating that the traffic assessment report does not address the requested alternative access requirements. It was indicated that if access of the Princes Highway was to be maintained that reasons should be provided as to why an alternative access is not suitable. It was further indicated that the traffic report did not adequately address the cumulative impact of the proposed stages of development, it being noted that the master plan indicates all stages being connected and hence access to the Princes Highway to and from all stages. A Pedestrian Access and Mobility Plan has not been provided. There is still no provision for servicing of the shops. A SIDRA assessment has still not been made of the intersections.

Following the lodgement of amended plans to the Department by the applicant on 22 December 2007, the application was referred again to the RTA by memo dated 15 February 2007. The RTA responded in email correspondence dated 2 March 2007 raising two main concerns with the amended proposal:

Security and Safety concerns of basement parking accessed via Princes Hwy

- Movement through the site is unrestricted via the main driveway within the basement which may pose a security risk for pedestrians and lead to antisocial behaviour within the basement area. Clarification is sought as to whether additional roller/security door controls are anticipated for the site at the junction of the access point with the Princes Highway so as to prevent uncontrolled pedestrian and vehicular access to the basement area. If a level of control is required at the Princes Highway entrance to the site, then there is potential to create queuing across the footpath and toward the Princes Highway. This is considered to be undesirable.
- Potential queuing issues may arise if security controls are placed within the vicinity of the Princes Highway entrance to the site and vehicles, unable to access the basement via the security control, are forced to reverse from the site to the Princes Highway. This would create a conflict between vehicles exiting, vehicles entering and most importantly pedestrians within the vicinity of the access. The proposed design should allow all vehicles to enter and exit the site in a forward direction at all times.
- Should queuing associated with roller door locations be identified as an issue then it may be necessary to reconsider the need for a left turn slip lane into the development from the Princes Highway.

Loading and Servicing Issues

- The RTA is concerned with the decision to endorse servicing of the site via a loading zone on the Princes Highway, which assumes on-street parking will be available for this purpose for the life of the development.

- RTA recommends that the proposal be designed to accommodate all servicing requirements within the site without intrusion onto the road network.
- The RTA considers that as a minimum the proposal should be redesigned to accommodate the use of medium rigid vehicles with a length of approximately 9.0m, which could be used to receive deliveries for the commercial tenancies.

Further correspondence was provided by the RTA (dated 12 April 2007) confirming to date that the safety and queuing implications associated with the Princess Highway access have not been satisfactorily addressed. As such, the RTA was unable to issue a Section 138 concurrence for access to the site from the Princes Highway.

At the finalisation of the joint traffic expert conferencing a letter was received on 1 June 2007 from the RTA providing General Terms of Approval for the application, which are included as conditions in the recommendation.

APPENDIX E. COURT APPOINTED EXPERT SUMMARY

E.1 Court Appointed Experts

The applicant lodged an appeal against the deemed refusal of the application with the Land and Environment Court. The Court appointed Court Appointed Experts in relation to Urban Design (Brett Newbold of Brett Newbold Urban Planning) and Traffic (Craig McLaren). Following are summaries of the comments on the proposal provided by the Court Appointed Experts.

E 1.1 Court Appointed Urban Design Expert Comments

The essential criterion to consider is the requirement of SEPP 71 to improve the natural scenic quality of the surrounding area. This can only be achieved by a balance between building forms and landscaping. Development should incorporate a variety of buildings with the separation preventing the appearance of a continuous wall when viewed from downslope. The spaces need to be of sufficient size to accommodate clusters of eucalypts that upon maturity will visually separate the buildings. The overall height of the buildings should not exceed the height of the mature canopies. Successive buildings should have clearly different shapes, alignments and silhouettes.

Other than along the Princes Highway frontage all buildings on the site breach the height controls by between one and one and a half storeys and are capped by unusually tall skillion roofs that increase the scale of northern elevations by almost a storey.

Viewed from the Harbour and town centre the proposal will present as a near-continuous wall of buildings below the scenically prominent Deering Street ridge, with Buildings D and E visually merging and appearing as a single 80m long building.

Given the lack of separation and deep soil areas for planting and the significant breaches of the height control, the proposed density is excessive.

The seemingly random network of routes and open spaces between the buildings does not provide appropriate legibility given the predominant grid street pattern.

Variations in height and roof design should be provided, together with variations in alignment, dimensions and orientation.

Given the limited dwelling mix choice and small rooms it is likely that many of the residential units would be leased out for holiday accommodation and as such it is likely that the tourist intent of DCP No. 56 would be satisfied.

Inadequate information is available to determine whether adequate solar access will be available to the dwellings and concern is raised in relation to the number of dwellings served by one lift.

The final set of amended plans (the subject of this report) were provided to Brett Newbold of Brett Newbold Urban Planning, with the following summarised comments being provided:

- Subject to minor additional amendments it is considered that the proposed amended development would not be excessive and that a satisfactory standard of urban design quality would be achieved.
- A condition is recommended that amends the basement to provide additional deep soil in the following locations to ensure that further canopy trees are added to strategically important locations:

- i. Next to the western site boundary near the north-western corner of Building D in order to accommodate at least one additional eucalypt that would achieve a mature height of approximately 15m;
 - ii. Next to the northern site boundary near the north-western corner of Building E in order to accommodate at least one Eucalyptus botryoides that would achieve a mature height of approximately 15m;
 - iii. Near the south-western corner of the site, in order to accommodate at least two Eucalyptus haemastoma that would achieve mature heights of approximately 8m.
- A condition is recommended requiring the provision of a street elevation showing Buildings B and C together. The elevation is to describe a degree of articulation and level of urban design quality not less than that demonstrated in the southern elevations of the buildings. In this regard a varied pattern of windows and structural elements should be provided to animate the facades, to interrupt the appearance of continuous planar facades and to disguise the scale of four storey building elements.
 - A condition of consent is recommended requiring the landscape plan to be amended to realign the pedestrian link into Stage Three as a direct line-of-sight pathway from the Princes Highway entrance towards the courtyard space that separates Buildings C and D, with a direct entrance from that courtyard into Stage 3. A major pedestrian link should be provided in a northerly direction by extending the proposed walkway between Buildings D and E to provide a direct link with the pathway located at the eastern edge of the approved Stage One development.

E 1.2 Court Appointed Traffic Expert Comments

The Princes Highway is a state road and carries large volumes of traffic as well as being a major pedestrian route. The entrance from the Princes Highway will serve 306 spaces (all stages) not just the proposed 133 under this stage and such an entrance should not be supported for so many vehicles under the provisions of clause 1.3.2 of the RTA's *Guide to Traffic Generating Developments*.

Therefore all traffic exiting the site should occur via the ROW to Deering Street and only the service parking for the commercial/retail and tourist accommodation uses on the site (approximately 30 vehicles) should be allowed entry from the Princes Highway.

The cumulative impact of traffic from the three stages has not been addressed in regard to traffic flow efficiency, road safety or residential amenity. It is anticipated that Deering Street can accommodate the displaced peak hour traffic load to the ROW given the commercial nature of the street, the good sight distances and the existing peak hour load. The impact upon St Vincent Street and South Street are the most sensitive to increasing traffic volumes.

There appears to be a shortfall of approximately 29 parking spaces and given the limited street frontage parking for the site such parking should be provided onsite. The commercial/retail component of the site should be precluded for use as a supermarket or restaurant to remove the need for access by a large rigid truck and that servicing by a small rigid truck should be provided for onsite. The preferred location for the loading area would be in a modified form of the entry only driveway from the Princes Highway, subject to an appropriate corridor width and headroom being provided for the truck to pass a car.

The applicant filed amended plans with the Land and Environment Court (Issue D) and the following comments were provided by report dated 4 December 2006.

The proposal needs to be modified to address the following concerns:

- All vehicles are to be physically prohibited from exiting onto the Princes Highway
- The number of vehicles entering off the Princes Highway is still large and it is unclear how the access to the other sites from the Highway will operate. A detailed plan identifying this as well as details of sight lines to passing traffic and pedestrian activity at each driveway is required.
- More information is required in relation to the cumulative impacts on residential amenity and road safety on South Street, Deering Street and St Vincent Street
- The poor performance of the Princes Highway/South Street intersection needs corrective action
- Potential use of on-street loading area is supported in principle subject to Council being compensated for lost kerbside parking and a detailed plan being prepared. Alternatively, a loading area for a small rigid truck should be provided in a modified form off the entry only driveway from the Princes Highway, subject to an appropriate corridor width and headroom being provided for the truck to pass a car
- The car park needs amendment to address issues with AS2890.1-2004
- Information is required on how the commercial/retail spaces will be publicly available without impact on the tourist/residential spaces
- Inadequate information is provided in relation to servicing for waste management.

The applicant filed amended plans with the Land and Environment Court (Issue E) dated 22 December 2006 and the following comments were provided by report dated 9 February 2007.

The proposal as modified is now supportable subject to conditions, summarised as follows:

- Provision of a central median island on the Pacific Highway to prevent vehicles turning right into the site;
- Vehicles entering the site from the Pacific Highway (tourism and commercial only) shall be controlled via a security system and no pedestrian entry to the basement shall be allowed (to be sign posted);
- The base of the one way entry ramp from the Pacific Highway shall be controlled by a stop sign;
- A management plan is to be provided on how commercial and visitor spaces are to be available in an unrestricted manner whilst protecting tourist and resident spaces;
- Until traffic lights are provided at the intersection of the Princes Highway and South Street, a right turn out of South Street into the Princes Highway is to be prohibited between 6am and 9am and between 3pm and 6pm Mondays to Fridays (to be signposted);
- The interface of the driveway with South and St Vincent Street needs to be constructed in accordance with AS2890.1-2004;
- The parking layout is to be amended in accordance with the suggestions in the Varga report to turn Space Nos. 12C and 13C through a 90° angle and relocate them to the end of the 6.1m wide aisle;
- The proposed commercial/retail tenancies are not to be approved as a supermarket or restaurant;
- The proposal to provide an on-street loading zone in accordance with Attachment D of the Varga report is to be subject to compensation to Council for lost on-street parking;
- A waste management plan is to be provided; and
- Onsite parking layout is to comply with AS2890.1-2004, particularly in regard to headroom clearances above allocated parking spaces for disabled persons.

E 1.3 Conferencing of Traffic Experts

As a result of a dispute between the traffic experts (RTA, Court appointed traffic expert and applicant's traffic consultant) as to the location and use of access from the Princes Highway

and the location of loading facilities for the site, the Court directed the traffic experts to have a conference with the purpose of finding a solution.

The traffic experts' joint conference report indicated the following agreements had been reached by the experts:

2. A short deceleration lane should be provided within the existing road carriageway serving the proposed Princes Highway entry only driveway
3. A 2m wide central median should be provided opposite the proposed Princes Highway driveway in accordance with Council's DCP 56, with the length of the median to be determined by Council and the RTA. It is acknowledged that the median will require the replacement of the angled on-street parking with parallel parking for the length of the median;
4. The architectural and landscape plans need to be amended to include 2m x 2.5m sight triangle splays at the property boundary of the Princes Highway driveway in accordance with Figure 3.3 of AS 2890.1 – 2004 to assist with pedestrian sight lines associated with any vehicle that may need to reverse onto the highway;
5. The Princes Highway driveway is to be controlled by a boom gate, offset by at least 6m from the property boundary. A roller shutter is desirable and should be offset further from the highway frontage and should be open during daylight hours, with automatic opening activated by an appropriate electronic device after entering vehicles pass through the boom gate at night; and
6. A sign should be displayed at the Princes Highway driveway entry prohibiting access along the vehicular driveway and ramp and another sign is required to advise of restricted entry to authorised vehicles only from the Princes Highway.

The Court Appointed Traffic Expert identified qualifications to the agreement, which are summarised following:

- a. No contribution towards the loss of kerbside parking associated with the deceleration lane will be needed unless Council and the Local Traffic Committee endorse either Figure 1 or 3;
- b. Only a portion of the on-site parking spaces should be accessed from the Princes Highway, being the shop owners and tenants and 25 of the tourist units;
- c. The need for a report on the provision of a roundabout (draft condition AA(iv)) at the intersection of South and St Vincent Streets is questioned given it has not been raised by the traffic experts at the conference, however a contribution towards the cost of the traffic signals at the intersection of the Princes Highway and South Street is not queried;
- d. In relation to the draft conditions addressing the installation of the central median along the Princes Highway frontage (draft condition B1) it is unreasonable that the median does not affect access to other properties. Further, if the median is to affect emergency vehicle access its design opposite the emergency vehicle station can be altered to allow it to be mountable;
- e. A condition requiring the car park, internal access roads and driveways to comply with AS2890.1 – 2004 should be included, together with a condition requiring a qualified traffic engineer to certify the plans at the construction certificate stage;
- f. A condition should be included to prohibit the use of mesh type caging or similar enclosures around parking spaces, due to the resulting insufficient parking bay widths that would occur;
- g. The design of the steep driveway to South Street will need to consider OH&S for the collection of waste if collected from South Street;
- h. The interface of the proposed driveways with the public streets of South Street and St Vincent Streets will need to be constructed in accordance with the emerging sight line requirements to pedestrians as required by AS2890.1-2004;

- i. The commercial/retail tenancies are not approved for use as a supermarket or large restaurant as inadequate servicing onsite is provided to cater for such a use;
- j. All servicing is to occur on-site unless Council introduces kerbside loading zones along the Princes Highway in the immediate vicinity of the site; and
- k. The draft conditions should be amended to address these qualifications;

APPENDIX F. PLANS OF THE SITE AND PROPOSED DEVELOPMENT