



NSW GOVERNMENT
Department of Planning

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Our ref: MP05_0009
File: 9040164-1

Mr Cameron Davis
Sundowner Developments (NSW) Pty Ltd
PO Box 3095
Robina Town Centre QLD 4230

Dear Mr Davis,

Summary of Submissions for a Proposed Mixed Use Development at River and Kerr Streets, Ballina (The Ballina Gateway Project)– MP 05_0009

I refer to your Environmental Assessment (EA) for the above proposal, lodged with the Department on 28 August 2006 and accepted on 14 September 2006. As you are aware, the Department publicly exhibited the EA for 39 days, from 22 September 2006 until 30 October 2006.

In accordance with section 75H(5) of the *Environmental Planning and Assessment Act 1979* ("the Act"), a report of the issues raised in the submissions received by the Director-General is provided at **Attachment 1**. Please also find enclosed copies of submissions received from the following agencies (refer to **Attachment 2**):

- Ballina Shire Council;
- Department of Lands;
- Department of Environment and Conservation;
- Department of Primary Industries; and,
- Roads and Traffic Authority.

The Department of Natural Resources have advised that a submission will be forwarded in the week commencing 13 November 2006.

The Director-General, pursuant to s75H(6) of the Act, now requires a response to the issues raised in all submissions to be provided. It is requested that a response to the enclosed submissions be submitted to the Department within 3 weeks from the date of this letter. In addition, a revised Statement of Commitments is to be provided incorporating any amendments with your response.

The Department is currently reviewing the EA and issues raised as a result of this review will be forwarded to you shortly. A preferred project report is to be prepared if changes are proposed to the project to minimise its environmental impact. If a preferred project report is required, please advise the Department.

Please note that the Director-General's Environmental Assessment Requirements dated 13 June 2006, state the "Deemed Refusal" period to be 60 days, which will commence once the Department is satisfied with the responses to submissions.

If you have any queries regarding this matter, please contact Sally Laing on (02) 9228 6498 or via email to sally.laing@planning.nsw.gov.au.

Yours sincerely

Heather Warton

Director

Urban and Coastal Assessments

15/11/06

cc Ballina Shire Council

Attachment 1 – Summary of Public Submissions (72 submissions received)

OBJECTIONS (70 submissions)

Details / Comment	No. of times raised
Breaching of 16m building height control	
- Objection to building heights in excess of the maximum of 16m (5 storey) Council controls. The community and the Council believe that the 16m building height is adequate. - A seven storey (22m) building will set a precedent for future developments. All other developments have been restricted in height and even so impose a huge visual and bulk impact to the riverfront. - Objection to trade-off on height for provision of foreshore access. - Development on the waterfront should be lower than everywhere else in Ballina, not higher. <i>Ballina Shire Council LES – Tall Buildings, October 1983</i>, concluded that “it is to be recommended that all land directly adjacent to the river foreshore be excluded from tall and medium rise building consideration”.	47
Impact on local character	
- Objection to Building A as it is out of character with the Ballina locality, in particular the zero setback, height, narrow footpath and bulk. - The development depicts a large development totally out of character with surrounding areas. The bulk and scale of development will change the general landscape of the area with the construction of an excessively oversized complex which is not warranted in the area. - Concerns regarding the changing characteristic and feel of Ballina as a laid back naturally beautiful and peaceful holiday destination. Concern that Ballina is becoming the new Noosa of the Northern Rivers and a “Gold Coast” style urbanised hub.	24
Traffic & Car Parking	
Traffic - A comprehensive traffic assessment has not been undertaken. There has been little or no assessment of the impact that the proposed development may have during construction. - Inadequate pedestrian access audit. The audit was based on a one hour period on Friday 4th August 2006 between 8am – 9am. This is inadequate in determining overall pedestrian access for such a busy street. - Traffic data is based on outdated information, ie: Eppel, Olsen & Partners traffic modelling was based on data contained in the PARAMICS traffic model, with the data being based on information sources collected during 2002 – 2004, two years out of date. The traffic flow data was based on the Ballina Road Network Study of 2000, six years out of date. Contests that there has been significant change over the last 6 years and these studies would not accurately reflect current traffic trends. - Objection to developer not having to upgrade roundabout and install traffic lights immediately to maintain normality to traffic flows in Kerr and River Streets. Other future developments may need to fund the upgrades. - Concerns regarding exacerbation of existing traffic, access and parking problems associated with functions at the Blue Room Hotel. The construction of the proposed development has the potential to make these problems totally chaotic. - Development should not be commenced before completion of Ballina Bypass, which would ease the congestion in River and Kerr Streets. - Camoola Ave is extremely narrow and carries an enormous amount of traffic because it is the only street on the southern side of River Street which gives access via a roundabout to both Kerr and River Streets. The proposed vehicle occupancy of the Gateway project would exacerbate enormously the already impossible car egress from the riverfront.	20
Access - Concerned regarding access to and across River Street and the Pacific Highway during construction. - Objection to entry to basement carpark from Kerr Street, opposite Camoola Avenue, resulting in an increase in traffic in Kerr St. Concerns regarding safety and the increased volume and speed of traffic that will need to use the roundabout at Kerr St / Pacific Hwy & River St.	
Parking - Insufficient car parking spaces (309 spaces) and increased number of cars parking in Camoola Avenue as a result of patrons for the new hotel and restaurant. - The application seeks parking “based upon other similar facilities”. Parking requirements are compared to existing similar developments, which may not necessarily have enough parking spaces, eg: the Ramada Hotel under construction. - In calculating car parking spaces, consideration should be given to the fact that: (i) there is no public transport in the area, (ii) the two buses/day referred to in the application will run to the shopping centres	

Details / Comment	No. of times raised
only, (iii) there are a number of tourist attractions in the area that can only be accessed by motor vehicle, (iv) majority of visitors will be using private or hire vehicles to get around, and not rely on public transport.	
Non-Compliance with Council Planning Controls	
The development does not comply with both the LEP and the Town Centre DCP, in particular setbacks, building separation and envelopes.	19
Loss of visual amenity	
- Objection to buildings extending out to the Richmond River past the existing building, thereby restricting views for local residents and River Street users and workers along the river. - One of Ballina's greatest attributes is its visual amenity, which gives the town its distinctive appearance. An increase in the present maximum building height has the potential to destroy this. - Disparity between existing low and high rise has further potential to destroy visual amenity. - The present appearance of River Street should be retained.	15
Foreshore access	
- Public access along the foreshore is a 'given' and should not be used as a trade-off for increased height of buildings. - Residents of Ballina would be intimidated and restricted to accessing / using the river by the size, height and presence of the development. - Objection to reduction in public access to the foreshore. - Objection to any portion of the river being reclaimed in order to provide riverfront access for the development instead of being allowed for on the land. - Riverfront land should be given to Council. While the land is under control of private interests there is no guarantee that it will remain accessible to the public.	14
Flora & Fauna	
- Question validity of statement that a comprehensive fauna report was unnecessary in the subject circumstances. Upon what grounds does the author of the report make the claim that a comprehensive fauna report is unnecessary? <u>Norfolk Pines</u> - Concern regarding removal of two Norfolk Pines at the rear of the Sundowner Motel. <u>Osprey Pole</u> - Concern regarding relocation of Osprey nesting pole. The relocation of the osprey pole must constitute a likely significant effect on an endangered species.	12
Overshadowing	
- Loss of morning sun for residents on Camoola Avenue. - Proposal does not comply with North Coast REP, EP&A Act and Coastal Policy overshadowing provisions. - Unacceptable building heights will result in increased overshadowing to the CBD and give a "closed in" city feeling that is not wanted on the North Coast.	9
Bulk & scale of development	
- Objection to bulk and scale of development as it will destroy the ambience and aesthetics of River Street. - The size and scale of the proposed development is inappropriate for the townships and contravenes agreed regulations.	9
Obstruction of river flows & flooding	
- The drawings suggest that the development will protrude further into the river than the existing structures and if that is the case, appropriate river studies should be conducted to ensure the development does not affect the flow of, or exacerbate flooding of, the Richmond River. - The addition of jetties on the plans encroaches still further on the main channel of the river, and this will create even more problems than exist at present in times of heavy rain and floods. The eddy current caused by allowing reclaimed land in the first place and showing as Lot 10 DP 244352 on the plans creates backwaters of dead animals and timber. Any further incursion into the main channel by jetties or wharves, which appear on the project plan, would only exacerbate this problem.	8
Building on Crown Land (Lot 10 DP244352)	
- Query regarding ownership of Lot 10 DP 244352. Is this crown land? How did this become freehold land? - Council previously agreed that Lot 10 DP 244352 would never be built upon. When initially granted, it was on the condition that it would be used as parkland. - Concern regarding stability of buildings on reclaimed land:	7

Details / Comment	No. of times raised
Need for type of development	
Why is such a development needed in the Ballina area given other current developments and shop vacancies?	6
Acoustic Amenity	
- Objection to increase in traffic noise as a result of new development. - Concern about increase in noise travelling across the water. - Concern regarding noise, vibration (stability of nearby buildings) and shock during construction.	5
Building design / layout	
- Objection to block style buildings with large footprints and narrow walkways between tall buildings. - Objection to colour scheme, design and layout.	5
Local Infrastructure	
- Concern regarding increased loading to the West Ballina STP and the fact that this STP discharges to "The Canal", which is subject to poor tidal flushing. - Objection to allow the addition of this large number of new equivalent tenancies while not knowing what effect additional effluent will have on receiving waters.	3
Wind	
- The precinct's micro-climatic character will be adversely affected through exacerbation of the present wind-tunnel effect that regularly arises on the northern bank of the estuary. Overshadowing of the adjacent section of River Street and its side roads will be substantially less tolerable for users, particularly in cold windy winter conditions. - Residents of the new apartments will not be able to open a window or door when the wind is blowing.	2
Increase in Boating Activity	
- Concern regarding increase in boating traffic as a result of the development. No current restrictions on the nature of waterway craft being used or enforced regulations on specific activities. - Developers should approach the appropriate authorities and encourage them to develop policies for speed limits for boaters, and the waters they occupy for 2km both directions.	1
Open Space Contributions	
Occupancy projections have been used to calculate the area of open space required by the project. However, contribution of land along the riverbank does not fall under, nor meet the requirements of Council's Open Space Contribution Plan, which requires contributions to local and district parks, playing fields and the like. Access to the riverfront does not fall under this plan, so calculations are spurious (false).	1
Inaccurate population predictions	
Question validity of population predictions for the hotel accommodation.	1
Contradictions within the EA	
- Contradictory occupancy rates "guestrooms" versus "apartments" used to describe accommodation in the hotel 48, 36 and 90 = 174, not 175 rooms/units/apartments - Discrepancy in height description – 22m, but described as being compliant with controls	1
River Revetments	
The proximity of the site to the main river channel and the non-uniform alignment of the river bank will cause a severe erosion situation. Timber boardwalks over the existing revetments are inadequate.	1

LETTERS OF SUPPORT (1 submission)

Details / Comment	No. of times raised
Local Economy	
- The project will: (i) act to strengthen the Ballina Town Centre's position in the Shire's retail hierarchy by stimulating spending in the core of the town centre, (ii) act as a "gateway" to the town centre, (iii) generate an increase in tourism through its proposed mixed use, (iv) generate jobs during construction and operation, (v) turnover approximately \$1.7M in retail spending, and (vi) provide an improvement in the provision of convenient parking in the town centre. - The development will stimulate further investment and employment generation.	1
Building Height	
Support for a height of 7 storeys, allowing 14metres of waterfront land to be dedicated for public access.	1

OTHER (1 submission)

Details / Comment	No. of times raised
Acoustic Amenity	
The Ballina Hotel at 253 River Street operates until 3:00am. It is submitted that in any construction of the residential accommodation at the proposed site it should be acoustically attenuated to ensure that persons staying in the accommodation cannot be disturbed from activities occurring outside and reduce the capacity for noise complaints to be made against any existing licensed premises in close proximity.	1
Tourist Resort Accommodation	
It is submitted that Building A be approved only as a tourist resort accommodation and ancillary activities and not as a hotel as defined by the Liquor Act 1982. Trading hours for the site should be restricted as set out at point 6.3 of the Acoustic Report prepared by Carter Rykenskild Group.	1

Attachment 2 – Copies of Submissions from Agencies

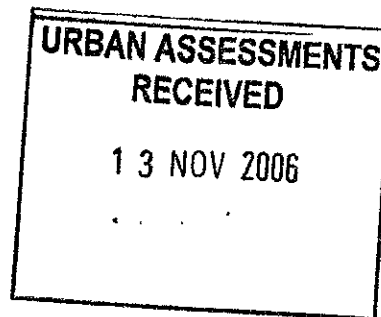
enquiries refer
Andrew Smith
in reply please quote
DA 2006/394 (rkg)

SAM L.



ballina
shire council

6 November 2006



The Director
Urban Assessments
GPO Box 39
SYDNEY NSW 2001

Dear Sir

**Re: Ballina Gateway Project, Corner of River and Kerr Streets - Major Project 05-0009
Mixed Use Development Comprising Tourist, Residential and Retail Uses**

I refer to your letter dated 15 September 2006 and provide the following comment to assist you in your assessment of the above referenced major project application.

Urban Design

The proposed development provides a number of valuable design contributions to enhancing the Ballina Town Centre. Some of these positive elements include:

- The dedication of a 14 metre wide public foreshore open space corridor;
- Pedestrian links from River and Kerr streets to Richmond River;
- Retention of slipways and siting of a single storey waterfront café to enhance enjoyment of this foreshore;
- Building B and F setback of 20 metres from the river; and
- Three storey presentation to River Street of Building C.

The development can and should provide an even greater enhancement to the Town Centre by being modified to comply with the building envelope controls, including building heights, contained within the Ballina LEP and Combined DCP. To this end, Council at its Ordinary Meeting held on 26 October 2006 resolved that:

Council advise the Department of Planning that the proposed development be amended to comply with:

1. *Clause 17 – Limitation on Building Height – of the Ballina LEP 1987; and*
2. *Provisions of Chapter 2 – Ballina Town Centre – of the Ballina Shire Combined DCP.*

In relation to the provisions of Chapter 2 – Ballina Town Centre of the Combined DCP, the proposed development should be modified to address and comply with the precinct specific controls that apply to the Riverside West Precinct and Western Entrance Precinct contained in Part 3 of the Chapter and also the General Design and Development Controls in Part 4 of the Chapter. A copy of the report to Council's October Ordinary Meeting is attached.

Compliance with the provisions of Chapter 2 of the Combined DCP is not only important given the property's key strategic entry location into the Ballina Town Centre and being one of the few remaining riverfront properties in the Town Centre with substantial redevelopment opportunities, but also as it will provide enhanced amenity and liveability for existing and future residents and enjoyment of the public domain within and surrounding the development.

Civil Design and Infrastructure

Council's Engineer is currently undertaking a detailed assessment of the documentation submitted with the application and will shortly provide you more detailed comments. Preliminary comments are as follows:

Intersection Upgrade

Further consultation is required between the Applicant, Council and RTA with regard to the future improvement to traffic management at the Kerr/River Street roundabout. The proposed development has been assessed at the RTA regional traffic committee. Council is still awaiting correspondence regarding the recommendations that came from this meeting.

Parking

The development is proposing short term loading zones on Kerr Street and River Street. Given the scale and location of the development this is considered unacceptable and further investigation is required into the provision of an onsite set down and pick area. As the basement loading zone can only accommodate delivery vehicles 2.5m high, it is envisaged that the proposed loading zones would be saturated by service vehicles and public transport.

The carparking rates used appear to be generally acceptable. Further justification is required for the rate used for apartments with dual key access and the number of full time hotel staff proposed.

Riverbank Stability

The geotechnical report has not investigated how the stability of the riverfront will be maintained pre and post construction.

Stormwater

Insufficient details have been provided to demonstrate compliance with Council's DCP 1 Chapter 13. Concept plans and supporting calculations have not been provided to demonstrate compliance with Council's DCP 1 Chapter 13. No water quality modelling has been undertaken and only a concept water treatment train is provided.

The principle of Water Sensitive Urban Design (WSUD) must be consideration as part of the stormwater design and management for the site.

The Engineering Infrastructure Report by Ardill Payne and Partners states, *roof water will be discharged via a first flush primary treatment system to underground storage tanks for recycling*. Given the number of buildings in the proposal, the roof catchment area is required to be calculated to determine the size and capacity of rainwater tank storage required on site. It has been specified the collected rainwater will be recycling on site but has not outlined the specific nature of reuse on site. The use of this water is encouraged to be used for toilet flush

and calculations are required to determine the roof catchment area, quantity of water collected and the number of toilets on site to be connected to this non-potable supply.

The treatment techniques for stormwater onsite and those proposed prior to discharge from site must be outlined before consent is given.

Flooding

Detail has not been provided regarding compliance with Council's flooding policy for the design of the basement levels.

Staging

The technical documentation provided has not considered the proposed staged construction of the development.

Public Infrastructure

Design details are required for the following public infrastructure:

- New paved area along River Street in accordance with recently upgraded River Street.
- Proposed boardwalk.

Landscape Treatment of Public Foreshore Open Space

Council does not support the landscape treatment of the areas immediately in front of the waterfront apartments B and F. Of the 14 metres to be dedicated to Council only 6 metres of it will be available for public use. The remaining 8 metres is proposed to be a planted and mounded area to buffer the private open space of the waterfront apartments. It is inappropriate that such buffering be located on public open space. The landscaped areas between the promenade and the property boundary should be a space that is level and actively useable by the public and should include seating and shade trees and a combination of paved and grassed areas.

Noise

The Environmental Noise Impact Assessment (ENIA), dated 10 July 2006 by the Carter Rytenskild Group has been reviewed and the following points highlighted as deficient and further clarification and information required;

1. Monitoring period conducted over three (3) days and not the standard seven (7) days as outlined in 3.5 of the Industrial Noise Policy (INP) NSW EPA 2000. Section 3.5 however does state, *that in areas where the background noise levels are affected significantly by nearby road traffic with regular daily pattern, three (3) days worth of valid data may be sufficient. However, care should be exercised in assuming a pattern of noise levels in an area. It is recommended that, where any doubt exists, the full week's monitoring should be performed.* The subject ENIA does not justify why the three (3) days worth of data is valid for this development.

2. Actual location of the noise logger on the site is unclear. The ENIA states that the logger was located towards the southern end of Kerr Street but site is unclear. The Environmental Criteria for Road Traffic Noise (ECRTN) NSW EPA 1999, in the Technical Notes on page 12 points (iii) and (v) explains assessment location for traffic noise.
3. ENIA on page 4 references Bayshore Drive?
4. The ENIA reference LA10 throughout the report and this should be an LAeq to account for all noise including peaks
5. Considering the intrusiveness and amenity criteria the following noise limits should apply.

	Intrusiveness	Amenity
Day	55	60
Evening	47	50
Night	40	45

An intrusiveness criterion is the limiting criterion and represents the project-specific noise levels to be applied to this project.

6. Page 5 of the ENIA recommends applying a design target level of 45dB(A) LA10 inside a dwelling from short term noise events. This statement is not explained and therefore does not make sense. LA10 should not be referenced as the appropriate parameter to measure is LAeq. If 45dB(A) is the target level inside then the outside is 55dB(A) or greater and this does not meet the project-specific noise levels.
7. Road Traffic Noise Criteria and Table 2 of the ENIA indicate the recommended Design Sound Level in LAeq with sleeping areas being the most restrictive having a maximum level as 40dB(A).
8. The acoustic measures specified for Block F along eastern side, which will be impacted upon from vehicle movements and patrons voices particularly at night, have not been considered.
9. Minimal consideration has been given to the assessment of noise on the residential dwellings surrounding the proposed development particularly to the west of the site. Table 5 in Section 5.4 Predicted Commercial Activity Noise Impact Levels predicts the impacts from proposed onsite activity at the nearest proposed residences onsite and the residential premises to the west across Kerr Street. However these are indicated in LA10 and the table doesn't reference residential premises to the west?
10. The report has not given any consideration to surrounding activities (i.e. service station and licensed hotel) that might impact upon the proposed development. Only minimal consideration was given to the RSL carpark.
11. No consideration has been given to construction noise in the ENIA and the impact on the surrounding residential properties.

12. No consideration has been given to external balconies and the acceptable level for these. These areas still need to be considered accordingly by the INP and ECRTN. Section 7.0 of the ENIA states *that future occupants should reasonably expect noise intruding onto balconies from commercial landuses in the locale*. This is not always the case and consideration of noise on external balconies is required to be considered. Section 7.0 also states that the report recommends mitigating noise from most onsite commercial activities to achieve an indoor level of 45dB(A), which should be 40dB(A) refer to Point 5. This is only achievable with all windows and doors closed therefore placing restrictions on openings and enforcing the provision of mechanically ventilation.
13. Section 7.0 states that *road noise impacts has been recommended through building shell treatments to achieve indoor noise levels* this means that sleeping areas must have a maximum sound level of 40 dB(A) refer to above Point 7 which has not been demonstrated. This point contradicts the earlier comment in Section 7.0 which also states that the report recommends to mitigate noise from most onsite commercial activities to achieve an indoor level of 45dB(A), which should be 40dB(A) refer to Point 12.

In summary Council is not satisfied that the applicant has adequately addressed the issue of noise generation, mitigation, and management in the ENIA. As a consequence, in terms of potential noise impacts from the proposed development on surrounding residential properties and external road traffic noise on the residences within the proposed development, a revised ENIA considering all of the abovementioned points but not limited to such, needs to be submitted for further consideration.

Contamination

A review of the Preliminary Environmental Site Investigation by Coffey Geosciences Pty Ltd, dated 25 November 2005 has identified that further detailed assessment of the site is required to determine the Remediation Action Plan (RAP) and remediation measures required. The site history has identified that the site has been used for a variety of purposes including industrial uses for many years and the soil sampling undertaken on site has identified that contamination does exist from these landuses. The historical research has identified two (2), potentially three (3) underground storage tanks (UST) and heavy metal contamination surrounding the slipway activities.

The Coffey report states that *given the history of industrial use, the presence of at least two UST's and the laboratory results that indicate some soil and groundwater contamination, the site, in its present condition, is not considered suitable for the intended residential use, and further assessment is required*.

Council supports the Discussion and Recommendations in the Coffey report and requests that further investigation be undertaken prior to consent being given.

The preliminary investigation has established the existence of tributyltin in sediments below the slipways. There is insufficient data at this time to assess the vertical and horizontal extent of the tributyltin and additional sampling and analysis is required.

It has been stated in the Dilapidation and Demolition Report by Ardill Payne and Partners page 5 that as part of the demolition process further detailed investigations of the contaminated areas is proposed. Council would suggest that further detailed investigation of contamination must occur prior to demolition as the development is proposed in three (3) stages and the

extent of contamination and options for remediation must be known prior to works commencing on site.

Acid Sulfate Soils (ASS)

Adequately addressed and a condition to be placed on any consent issued for the development for an Acid Sulfate Soils Management Plan to be produced.

However it is noted that in the Engineering Infrastructure report by Ardill Payne and Partners it has been suggested that the treatment and disposal of ASS may have to occur off site, giving examples of disposal on sporting fields. Council does not encourage this practise and would not support this as an option and that all ASS's should be treated on site before transport and disposal off site.

Dewatering

This issue has been adequately addressed and a condition should be placed on the development for the preparation of a Dewatering Management Plan and an assessment of insoluble iron hydroxide.

Following satisfactory amendments to the proposed development Council will be happy to further assist in your determination of the application by providing recommended conditions of consent. Please find attached a copy of three submissions which were received by Council.

Should you have any queries please contact Andrew Smith in Council's Regulatory Services Group on 6686 1254.

Yours faithfully


Rod Willis
Group Manager
Regulatory Services

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
THURSDAY, 26 OCTOBER, 2006 AT 9.00 A.M.**

That the applicant be advised that Council has no objection to the applicant using materials for the fence being of a custom orb profile

That the Development Application fees paid by the Society be refunded as a donation.

In addition, the relevant applicable standard conditions and/or applicable building, civil construction or development conditions shall be applied to the Notice of Determination.

45. Formal Signing - Agreement Between NSW Department of Commerce & Ballina Shire Council – 261006(005)

Mr Foster Rayward, Regional Manager from the Department of Commerce outlined the arrangement between Council and the Department.

8. DA 2006/394 – Ballina Gateway Project – Cnr River & Kerr Streets, Ballina (Sundowner Developments (NSW) Pty Ltd – 261006(006)

Andrew Smith, Town Planner briefed Councillors on this development and answered questions from Councillors.

RESOLVED: (D. Wright/P. Moore)

That Council advise the Department of Planning that the proposed development be amended to comply with:

1. Clause 17 – Limitation on Building Height - of the Ballina Local Environmental Plan 1987; and
2. Provisions of Chapter 2 – Ballina Town Centre – of the Ballina Shire Combined Development Control Plan.

Adjournment

The Mayor declared the meeting adjourned at 10.50 a.m.

The meeting resumed at 11.16 a.m.

9. DA: 2006/802 – W & P Nardi – No. 57 Dress Circle Drive, Lennox Head – 261006(007)

Applicant: W & P Nardi

Property: Lot 51 DP 29654
No. 57 Dress Circle Drive, Lennox Head

Proposal: Garage

- 8 DA 2006/394 – Ballina Gateway Project – Cnr River & Kerr Streets, Ballina (Sundowner Developments (NSW) Pty Ltd)
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8. **DA 2006/394 – Ballina Gateway Project – Cnr River & Kerr Streets, Ballina (Sundowner Developments (NSW) Pty Ltd**

Introduction

The Department of Planning has received a Major Project Application from Sundowner Developments (NSW) Pty Ltd for a mixed-use development comprising tourist, residential and retail uses at the corner of River and Kerr Streets, Ballina.

Under the Environmental Planning and Assessment Act 1979, the proposal is classified as a Major Project and is accompanied by an Environmental Assessment Report. The Minister for Planning is the approval authority for the application.

The application has been on public exhibition from 22 September 2006 until 23 October 2006. One copy of the application documentation has been submitted by the Department of Planning in Sydney to Council for comment.

Council staff are currently undertaking an assessment of the technical issues associated with the proposal including such matters as urban design, public foreshore access, traffic management, parking, geotechnical and hydrogeological issues, water and sewer servicing, flooding, stormwater management, riverbank stability, development contributions/planning agreements, site contamination, noise impacts and acid sulphate soils management. A written submission will be forwarded to the Department of Planning in relation to these matters shortly after Council's October Council Meeting.

The intent of this report is to seek confirmation on the position Council holds about key urban design aspects of the proposed development. This will then form the basis of the submission to the Department of Planning.

Details of the Proposed Development

Development consent is sought for a staged mixed-use development encompassing a 90-room tourist hotel, 84 residential apartments distributed over four residential buildings, an amenities building with pool and gym and approximately 1200sqm of ground floor retail space including a café on the waterfront.

The proposed development (architectural drawings attached) comprises the following key components:

- A 90 room, seven (7) storey tourist hotel (Building A, 22m in height) on the corner of River and Kerr Streets.
- A three storey building (Building C, 10 metres in height) fronting River Street comprising retail at ground level and 2 levels of dual key serviced apartments.
- Two, 5 storey (16m in height) waterfront residential apartments (Buildings B & F).

- A seven (7) storey residential building (22m in height) comprising 2 & 3 bedroom apartments and located centrally on site (Building D).
- A two storey retail/amenities building (Building E) with retail at ground level and pool/gym at first floor level. This building connects with Buildings C and D at their eastern ends.
- A single storey waterfront café (Building G) occupies the middle finger of the site between the two slipways.
- The development sits upon a subterranean 2 storey common basement carpark with one entry/exit point to River Street and one exit point onto Kerr Street.
- Provision of a 14 metre wide public open space corridor along the entire River frontage of the site within which is to be constructed a 6 metre wide promenade with seating, timber bridges connecting both sides of the slipways and timber viewing decks/jetties over the river.

Report

Building Envelope Controls

The Ballina LEP and Chapter 2 – Ballina Town Centre - of the Ballina Shire Combined Development Control Plan contain the principal **local** urban design and planning controls for the subject site. As Council would be aware both the Ballina LEP and Combined DCP establish a maximum height limit in the Ballina CBD of 16 metres, which equates to 5 storeys. This height provision has been in place since the introduction of the Ballina LEP in 1987 and has been consistently applied without exception during this time.

Notwithstanding this, the Department of Planning issued the applicant with a Maximum Heights and Site Coverage Plan dated 17 March 2006 (copy attached). In endeavoring to provide the applicant with some development certainty in regard to the maximum building envelope acceptable to the Department, this plan endorsed a significant departure from the long held height restrictions provided in the Ballina LEP.

The 7 storey component of the hotel building (Building A) has a 43 metre frontage to Kerr Street. Building D has a length of 70 metres. By way of comparison, Riverside Ramada, which is 5 storeys in height, has a length or frontage to Fawcett Park of 72 metres.

The variation in building heights across the site and in particular the three storey presentation of Building C to River Street, the two, five storey residential buildings sited 20 metres back from the River and the single storey café building is one of a number of positive design elements in the overall proposal. While Building A does provide a clear statement defining the entry to the Town Centre and Building D is centrally located within the site, there does not, however, appear to be any overriding urban design or public benefits as to why these buildings should exceed the established height controls.

Council staff advised both the applicant and the Department on several occasions prior to lodgement of the application that the buildings should comply with the established height provisions contained in the Ballina LEP. The recently completed Ballina Town Centre guidelines have also reconfirmed the suitability of the existing height controls.

In addition to height provisions, Chapter 2- Ballina Town Centre- of the Ballina Shire Combined DCP has also established other building envelope controls applicable to this site. Whilst this application was lodged in September 2006, prior to the 1 October 2006 commencement date of Chapter 2 of the Combined DCP, Chapter 2 is now in force and must be taken into consideration. The applicant and the Department have been made aware of Council's formulation of this plan (in pre-lodgement discussions and correspondence) and in fact a draft copy of the DCP was forwarded to the applicant on 11 July 2006.

Chapter 2 – Ballina Town Centre seeks to establish the desired future character within the various precincts identified in the plan. To help achieve the desired future character, building envelope controls relating to height, street setbacks, building depth and coverage, building separation distances and other precinct specific controls are established.

The subject site is located within two precincts under the Ballina Town Centre Plan. The Western Entrance Precinct covers only a small portion of the site and essentially that part of the site upon which the hotel is located (i.e. Building A). The remainder of the site is within the Riverside West Precinct.

A number of building envelope controls established for these two precincts have not been complied with in the proposed design. For example, in the Western Entrance Precinct, buildings are to be setback 6.0 metres from Kerr Street. The proposed 7 storey hotel building has a zero building line to Kerr Street. It is also recommended that the building should better address the Kerr/River Street intersection, including a possible splay of the building at this point.

In the Riverside West Precinct, the maximum building depth has been exceeded (eg. Building B has a maximum depth of 31 metres instead of 24 metres) and minimum separation distances between buildings has not been provided (eg. Distance between Building D and F is 9.5 metres instead of 12 metres). In addition to the height and depth, there is concern about the substantial length and overall bulk of Building D within the development.

There are other development controls within the Riverside West Precinct that apply to the subject site including the provision of active ground level frontages to streets, foreshore open space and mid-block pedestrian links, provision of public open space along the foreshore, and retention of existing Norfolk Island Pine Trees.

The proposed development does provide appropriate active ground level frontages along River Street (Building A and C) and returning part way along the mid-block pedestrian link on the eastern side of the property adjoining the RSL carpark (Building E). However, apart from the waterfront café, the southern or riverside portion of the site does not contain active ground level uses.

A key objective of the Riverside West Precinct is that part of the foreshore between the War Memorial Park and Kerr Street is to be dedicated to Council for public open space. The development proposes to dedicate a 14 metre wide strip of land along the site's entire river frontage. This is considered to satisfactorily address the public foreshore open space requirement and will provide a valuable contribution to the overall development. Council's Civil Services will inform the Department of the standard of embellishment prior to dedication.

Two existing Norfolk Island Pines are sited in the south-west corner and one in the north-west corner of the site. The proposed development does not seek to retain the Pines. The Riverside West Precinct states that the existing Norfolk Island Pines are to be retained and buildings setback from the trees to ensure their long term protection.

Conclusion

The proposed Gateway Development provides a number of valuable design contributions to enhancing the Ballina Town Centre. Some of these positive elements include:

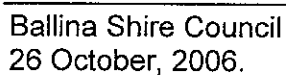
- The dedication of a 14 metre wide public foreshore open space corridor;
- Pedestrian links from River and Kerr Streets to the Richmond River;
- Retention of slipways and siting of a waterfront café to enhance enjoyment of this foreshore;
- Building B and F setback 20 metres from the river; and
- Three storey presentation to River Street of Building C.

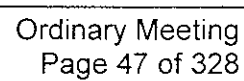
The development can and should provide an even greater enhancement to the Town Centre by being modified to comply with the building envelope controls, including building heights, contained within the Ballina LEP and Combined DCP.

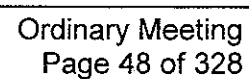
RECOMMENDATION

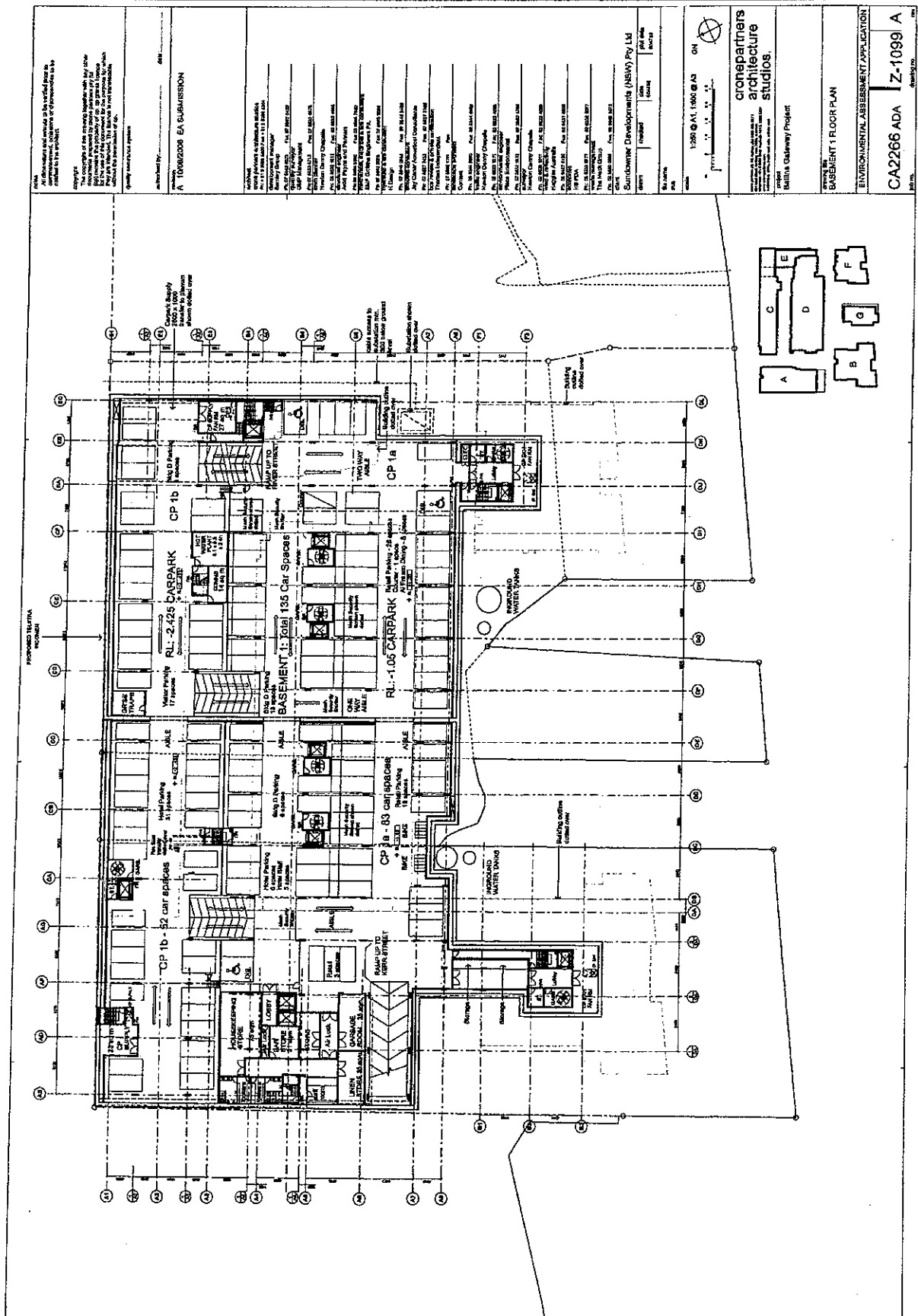
That Council advise the Department of Planning that the proposed development be amended to comply with:

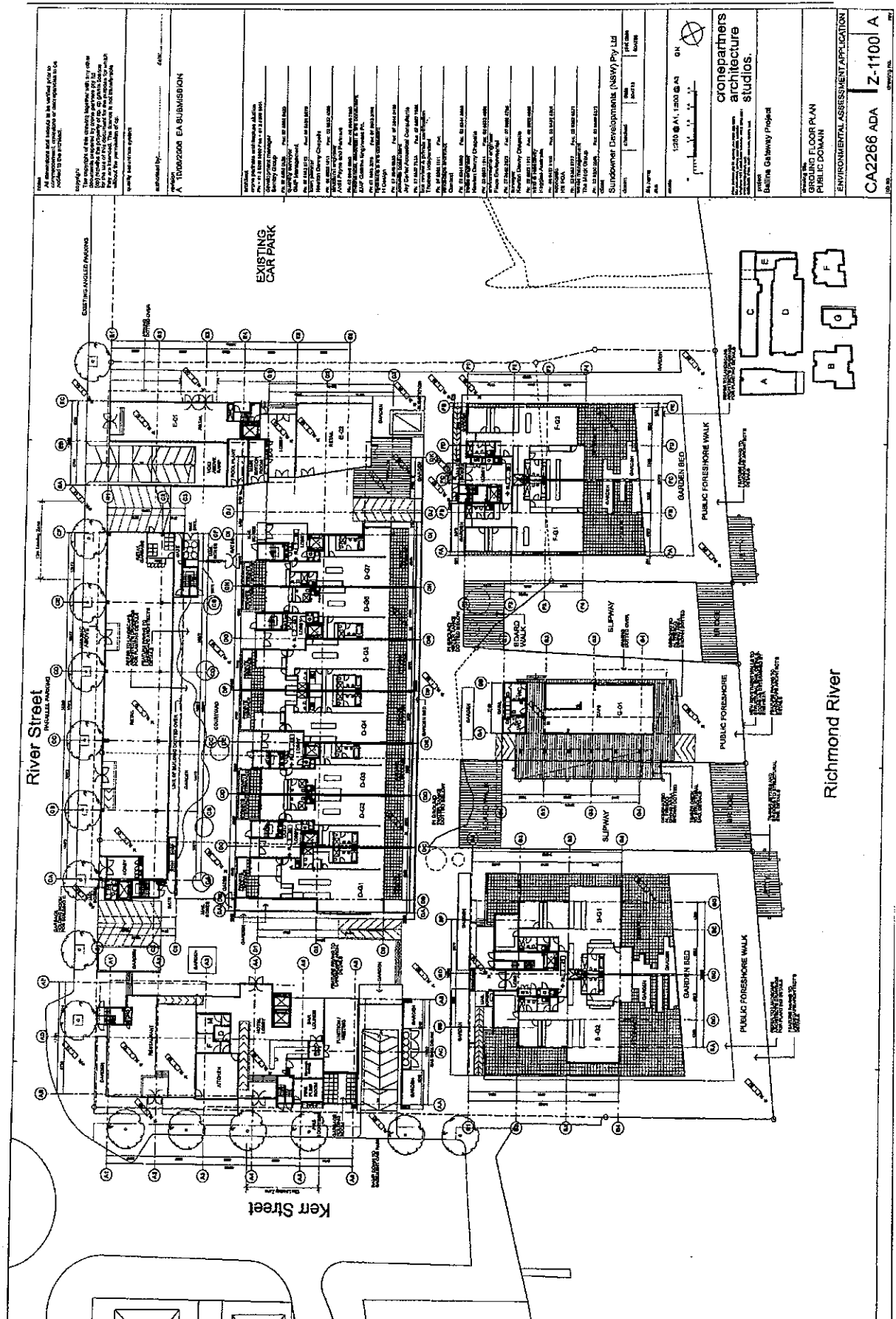
1. Clause 17 – Limitation on Building Height - of the Ballina Local Environmental Plan 1987; and
2. Provisions of Chapter 2 – Ballina Town Centre – of the Ballina Shire Combined Development Control Plan.

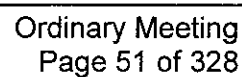


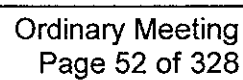


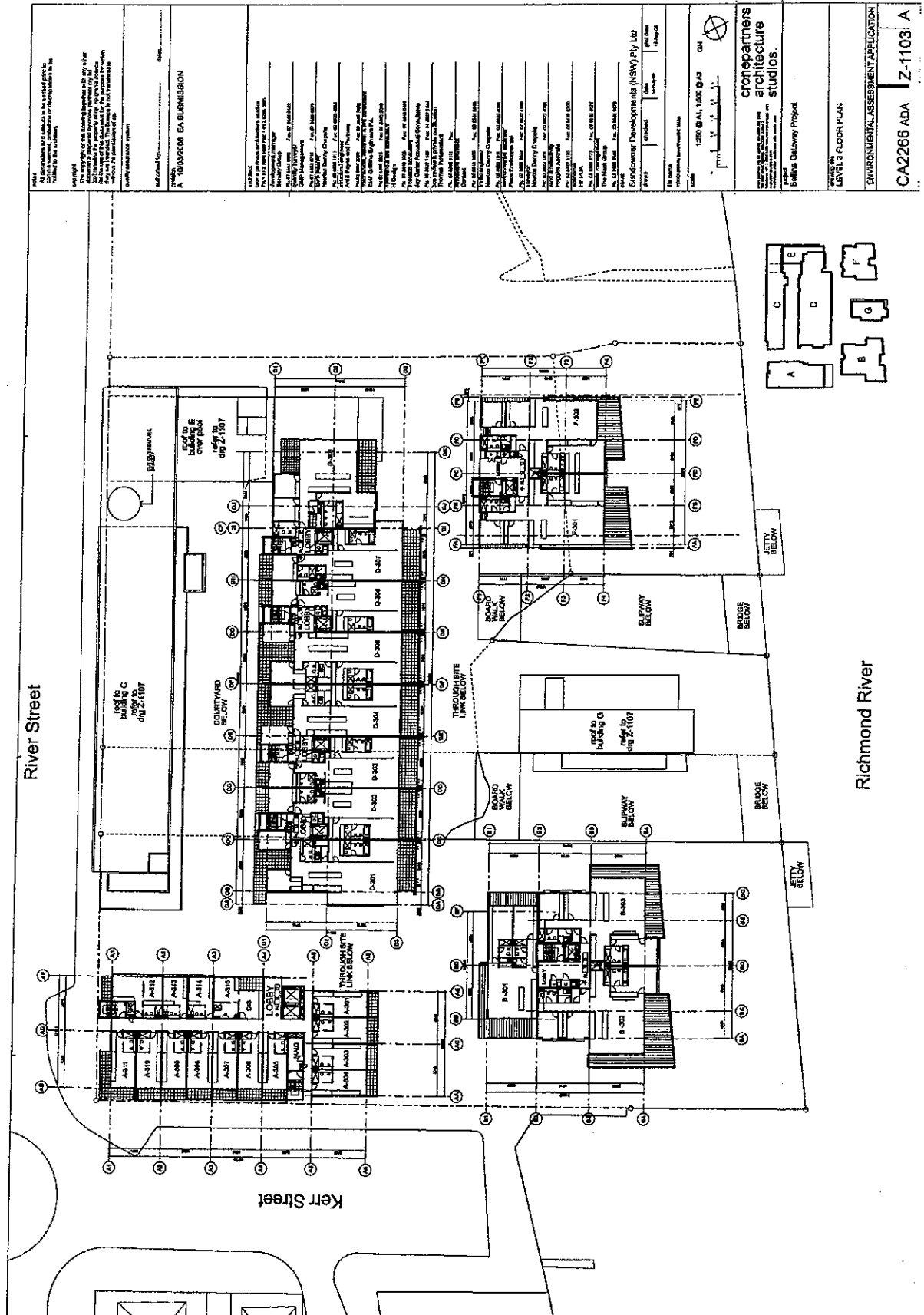


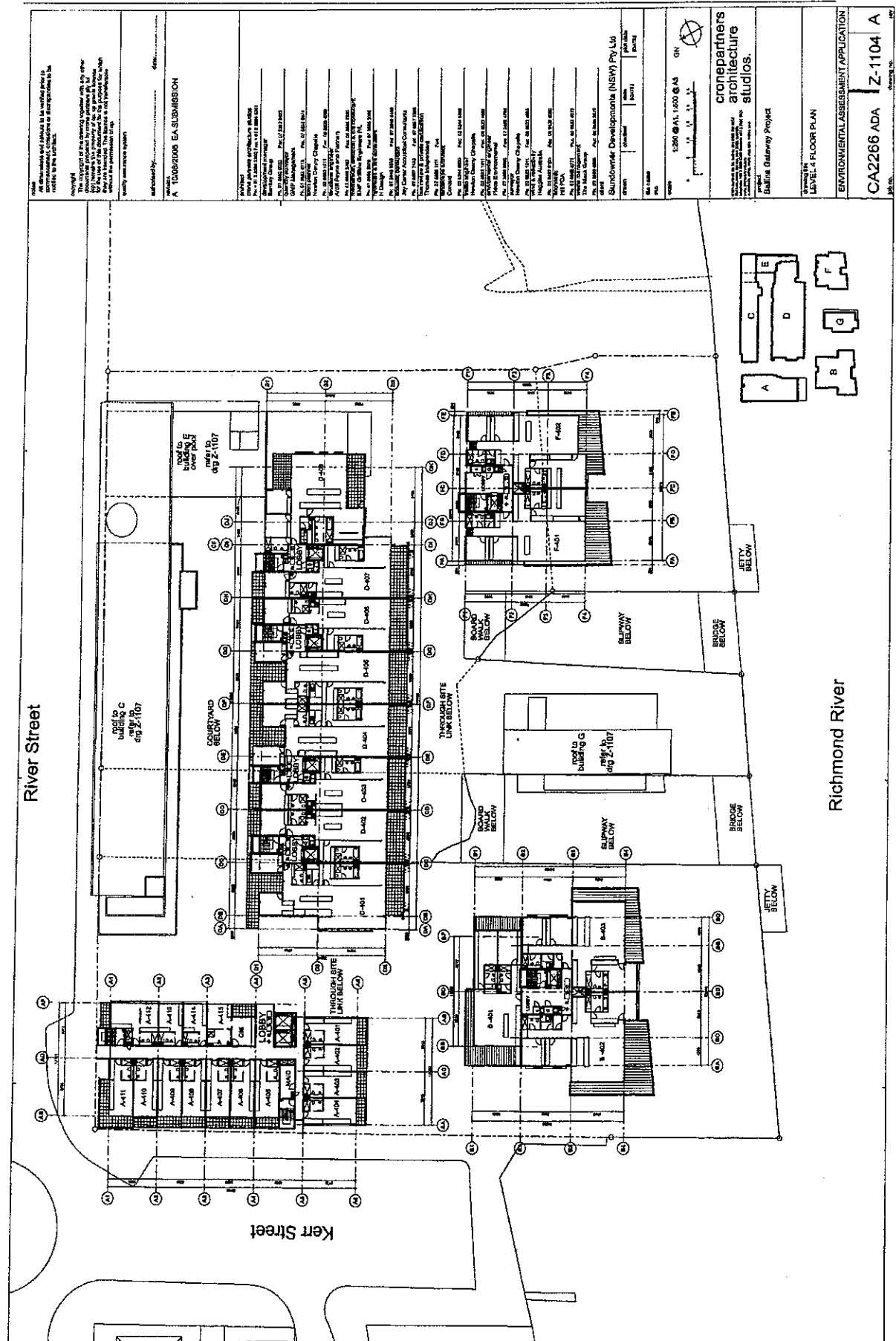


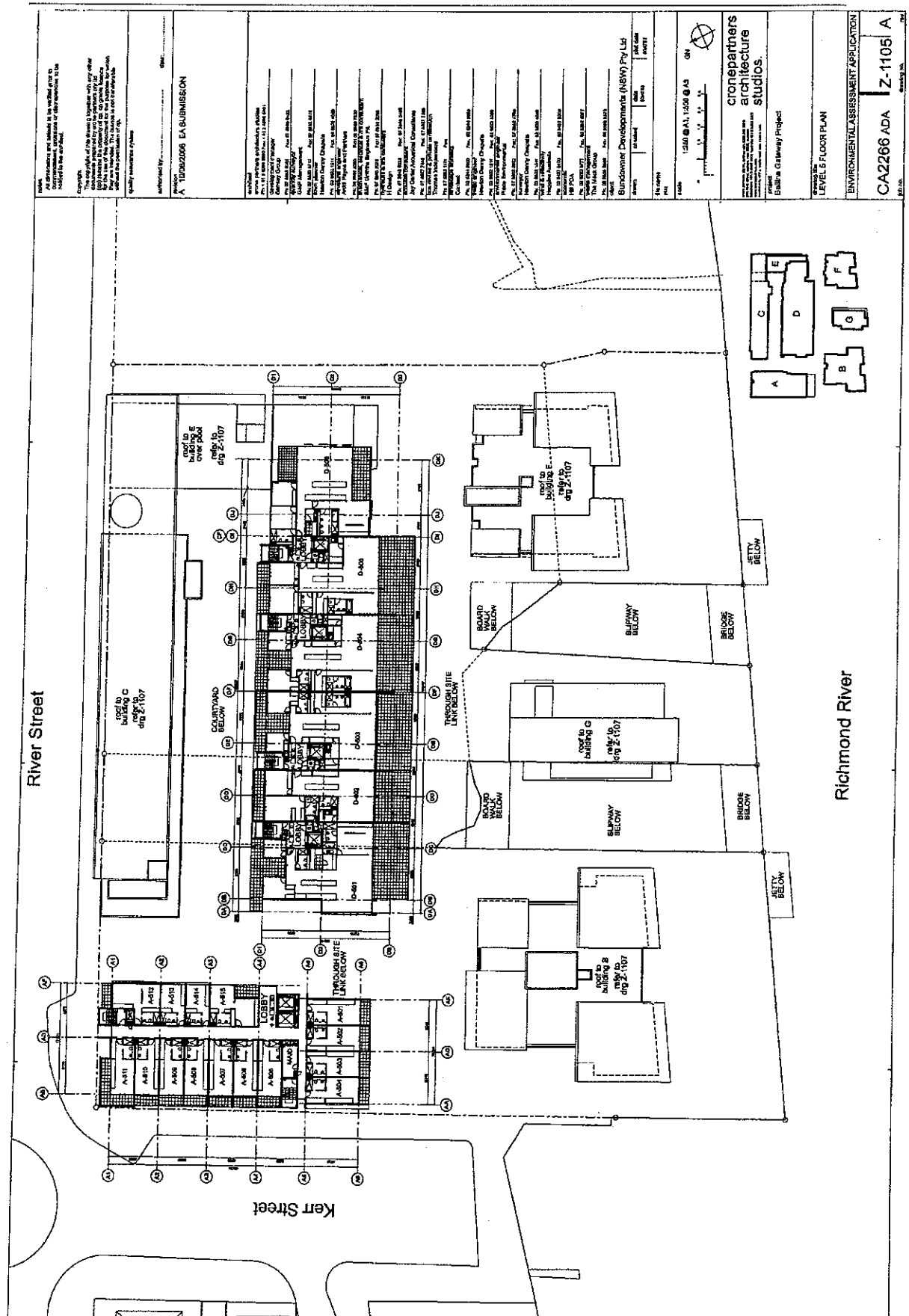


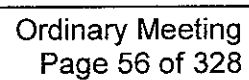


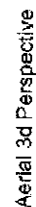


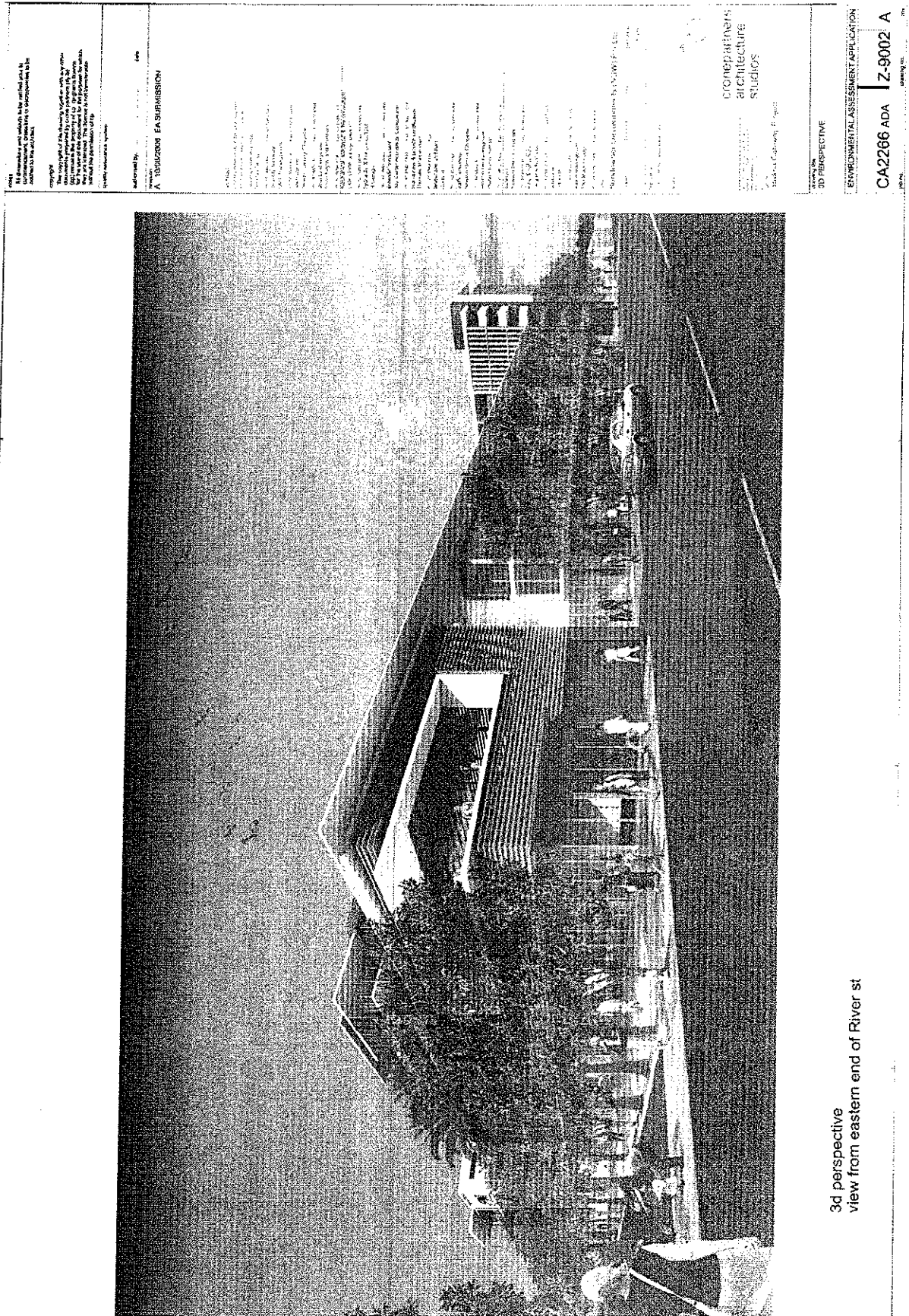












3d perspective
view from eastern end of River st