

Project	Ballina Gateway Corner of Kerr Street and River Street, Ballina	Our Ref: 05/021
Applicant	Sundowner developments (NSW) Pty Ltd	Consent Authority: Department of Planning
Local Authority	Ballina Shire Council	Datum: AHD Date: 23 Nov 2006

Town Planning Response to Public & Government Agency Submission

1.0 Introduction

The Department of Planning (consent authority) has requested pursuant to Section 75H(6) of the Environmental Planning & Assessment Act 1979 a response to the issues raised by both the general public and government agency during the exhibition period for the Ballina Gateway project.

Newton Denny Chapelle has been instructed by Sundowner Developments (NSW) Pty Ltd to address the following issues.

1. Breaching of 16m building height control

- Development on the waterfront should be lower than everywhere else in Ballina, not higher. Ballina Shire Council LES – Tall Buildings, October 1983, 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"*.

Comment: The building heights comply with the Department of Planning Design Guidelines Drawing – Maximum Heights and Site Coverage Plan dated 17 March 2006 issued by the Department for the site.

The proposed development has honoured the intent of the Department of Planning's Maximum Heights and Site Coverage Plan requirements. The River Street Buildings (Buildings C & E) are developed to 10 metres high and relate directly to the existing fabric and building pattern along River Street (see Figure 1).

The waterfront apartments are setback 20m from the riverfront to create a generous public foreshore space and minimize overshadowing of the marine environment. The waterfront café has been developed to activate the foreshore and focus attention back on the river. It has not been developed to its maximum allowable height (16m) as this would be detrimental

to the outlook from the central residential building (Building D) and would unnecessarily overpower the existing slipways.



Figure 1: View along River Street towards Kerr Street intersection showing strong “Gateway” building on the corner with lower development along River Street which relate to the existing built fabric along River Street and mask the higher residential building in the centre of the site.

Chapter 2 of the Ballina DCP provides the following extract from the “Building Principle”;

Ballina is undergoing a transition from a coastal town to a coastal city. The built form is currently very low rise and contains an ageing building stock. NSW State Government policies and guidelines will require that new buildings achieve better performance in the areas of environmental design, residential amenity and building form. The Town Centre is to contain buildings that are appropriate to a coastal regional city and reflect best practice in architectural and environmental design.

Source/Basis: SEPP No. 65 – Design Quality of Residential Flat Development, Residential Flat Design Code, Coastal Design Guidelines for NSW

The NSW Government Coastal Design Guidelines for NSW provide general urban characteristics for a coastal city, which include, inter alia, a *full range of building heights from low scale to tall*. The guidelines provide opportunities for the reinforcement of the city centre with higher densities with mixed-use developments also encouraged.

The subject application improves upon the earlier concepts detailed for the site as evidenced in the Architectural Design Statement which accompanies the EAR (Appendix 2) in respect to providing a greater setback from the riverfront; improving the public domain characteristics of the interface between the building and the riverfront; reducing shadows; adopting ESD building design principles; providing for extensive public access and utilisation of the foreshore. To this end, the development has accorded with the Department of Planning Design Guidelines Drawing – Maximum Heights and Site Coverage Plan dated 17 March 2006 issued by the Department for the site.

2. 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.

Comment: It is submitted the DGEARS issued for the site were the paramount standard given the Department advised within the DGEARS that the *“Development must demonstrate that the proposal is consistent with the design guidelines developed by the Department of Planning in consultation with Ballina Shire Council...”*

On 17 March 2006 the Department provided the Design Guidelines Plan, and noted the *‘enclosed drawings ... summarises the Department’s advice and fulfil thereby the corresponding item in the [Director General’s Environmental Assessment Requirements]’*. The plan attached depicts areas ‘A’ and ‘B’ of the project as having a maximum height of 22 metres.

3. 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 and 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.*

Comment: The issues raised within the submission are not supported.

The provision of open space accords with the Department of Planning Design Guidelines Drawing – Maximum Heights and Site Coverage Plan dated 17 March 2006 issued by the Department for the site.

Ballina Shire Council has historically required the provision of 2.7 metres for public foreshore land as evidenced within the Department of Planning assessment report for the Ramada Development (DA 234-5-2003).

“Along the river frontage with the redevelopment of properties Council has required dedication of a strip of land generally 2.7 metres in width for the purposes of a cycle link. To date this link extends along the river frontage from Cook Park to the subject site with the exception of one property which is currently up for auction. It is Council’s intent to create a continuous link along the foreshore. However, in general, developments undertaken to date, while providing for the dedication of this land, have not created an appropriate relationship between the developments themselves and the adjacent link. For example the adjoining Pelican Moorings development has an approximately 2.5m high car park wall located directly on the property boundary adjacent to the 2.7m wide cycleway. This does not create an attractive inviting space for use by the public.”

The proposal provides some 14 metres of public foreshore land in a location where no public access currently exists. This represents the greatest land area provided for public foreshore

access in Ballina for a commercial development fronting the Richmond River. The land will be in Council ownership and therefore accessible at all times to the public.

The proposal does not seek to reclaim crown land. A lease has been proposed over the existing slipways to ensure there is an efficient and logical pedestrian network along the foreshore.

4. Need for type of development

- Why is such a development needed in the Ballina area given other current developments and shop vacancies.

Comment: Ballina Shire Council has detailed within the Combined DCP.

Ballina has a high proportion of smaller family types, such as couples without children, and Ballina Island has a relatively low household occupancy rate. These demographic trends combined with other influences such as population growth, the low availability of 'greenfields' residential release areas and the need to support increased accessibility and mobility levels means that the provision of housing in close proximity to services and facilities should be encouraged. Housing should be provided within the Town Centre to address Shirewide housing needs in a sustainable manner and to create a more vibrant and prosperous Town Centre by increasing the number of potential commercial customers 24 hours a day.

Reference should also be made to the Economic Impact Assessment prepared by Hill PDA (Appendix 15 of the EAR submission).

It is submitted the type of housing development is encouraged within Ballina and specifically having regard to the context of the site to the Ballina CBD. In respect to the commercial component of the development, we note the subject land is zoned commercial and therefore permits this form of retail/commercial land uses.

5. 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).*

Comment: The matters raised in this submission are not supported for the following reasons.

- Ballina Shire Council's Open Space Contribution Plan has been applied only to identify an adopted standard (open space m²/person) for the provision of open space.
- Council has traditionally only required a 2.7m width for foreshore public land. The development provides a 14m wide foreshore area.
- Occupancy rates are applied to the development based on Council's Section 94 Plan and hotel occupancy rates.

6. Inaccurate population predictions

- Questions the validity of population predictions for the hotel accommodation.

Comment: The population figures utilised in this assessment are greater than those figures adopted by the Traffic Consultant (Masson Wilson Twiney) employed by the Department of Planning to review traffic and car parking measures for the Ramada Hotel (DA 234-5-2003).

7. Contradictions within the EA

- Contradictory occupancy rates
- "guestrooms" versus "apartments" used to describe the 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

Comment: The above matters are deemed to be of an administrative manner with no material impact on the development. Each point is discussed below.

- Occupancy rates are obtained from Ballina Shire Council's Section 94 Contributions Plan.
- The hotel will include 90 hotel rooms either described as apartments or guestrooms.
- The EAR report proposed a 90 room hotel, 84 apartments distributed over four residential buildings, an amenities building with a pool and gym and approximately 1,200 square metres of ground floor retail space including a destination café building on the waterfront. The development sits upon a subterranean 2 storey common basement carpark.
- The proposal contains a maximum height of 22m which accords with the Department of Planning Design Guidelines Drawing – Maximum Heights and Site Coverage Plan dated 17 March 2006.

8. Local Economy

Comment: The submission endorsing the project on economic grounds is supported by the HILL PDA report.