



**MAJOR PROJECT ASSESSMENT:  
Mixed-Use Residential, Motel & Retail Development  
Lots 1 and 2, Section E, DP 17053  
85-87 Ocean Parade, Coffs Harbour  
Proposed by Kann Finch Group Pty Ltd**



Director-General's  
Environmental Assessment Report  
Section 75I of the  
*Environmental Planning and Assessment Act 1979*

February 2007

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# 1 EXECUTIVE SUMMARY

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## The Proposal

The Kann Finch Group (the Proponent) is proposing to develop land at Ocean Parade, Coffs Harbour for the construction of a six-storey mixed-use development. The site is described as Lots 1 and 2, Section E, DP 17053, 85-87 Ocean Parade, Coffs Harbour (the site).

The proposal is a project application and seeks approval for demolition of all existing structures and construction of a six-storey mixed-use development comprising 22 motel suites/studios, 28 residential apartments, 3 retail tenancies for two cafes and a convenience store, lap pool, gym and spa, and 2 levels of basement car parking for 78 cars. The proposal is a Major Project under Part 3A of the Act as the building is greater than 13 metres and located outside the metropolitan coastal zone pursuant to Schedule 2, Clause 1(g)(ii) of the *State Environmental Planning Policy (Major Projects) 2005* (MP SEPP).

The proposal has an estimated capital investment value (CIV) is \$9.5 million and will create 50 full-time equivalent construction jobs and 5 on-going operational jobs.

## Key Issues

The proposal was originally accepted and exhibited by Coffs Harbour Council for a period of 30 days. No public submissions were received.

Key issues considered in the Department's assessment included:

- landscaped areas and deep soil planting zones;
- setbacks and building envelope;
- overshadowing of an area of adjacent open space;
- traffic, access and parking; and
- position of the access ramp for persons with a disability.

## Conclusion

Following assessment of the Environmental Assessment (EA), the Proponent lodged amended plans and documents addressing the key issues. The Department has assessed the merits of the project and is satisfied that the impacts of the proposed development have been addressed via the draft Statement of Commitments and recommended conditions of consent, and that the impacts can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. On these grounds, the Department is satisfied that the site is suitable for the proposed development and that the project will provide social and economic benefits to the region.

The Department recommends that the proposal be approved, subject to conditions.

## CONTENTS

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<b>1. EXECUTIVE SUMMARY</b>	<b>3</b>
<b>2. BACKGROUND</b>	
2.1. Background	5
2.2. Site Location	5
2.3. Site Context	7
2.4. Site Description	7
2.5. Existing Development	7
<b>3. PROPOSED DEVELOPMENT</b>	
3.1. The Proposed Development	8
3.2. Development Data	8
3.3. Photomontages	10
3.4. Project Amendments	11
<b>4. STATUTORY CONTEXT</b>	
4.1. Major Project Declaration	12
4.2. Permissibility	12
4.3. Minister's Approval Power	12
4.4. Environmental Planning Instruments	12
4.4.1. State Environmental Planning Policy (Major Projects) 2005	12
4.4.2. State Environmental Planning Policy No. 55 – Remediation of Land	13
4.4.3. State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings	13
4.4.4. State Environmental Planning Policy No. 71 – Coastal Protection	13
4.4.5. State Environmental Planning Policy - Building Sustainability Index	13
4.4.6. North Coast Regional Environmental Plan	13
4.4.7. Coffs Harbour Local Environmental Plan 2000	14
4.4.8. Park Beach Development Control Plan	14
4.4.9. NSW Coastal Policy and NSW Coastal Design Guidelines	14
<b>5. ASSESSMENT</b>	
5.1. Building Envelopes	15
5.2. Landscaping and Deep Soil Planting	16
5.3. Access, Traffic and Parking	16
5.4. Design Quality	18
5.5. Public Interest	19
5.6. Suitability of the Site	19
<b>6. CONSULTATION AND ISSUES RAISED</b>	
6.1. Submissions Received	19
6.1.1. NSW Rural Fire Service	19
6.1.2. NSW Police	20
6.1.3. Coffs Harbour City Council	20
<b>7. CONCLUSION</b>	<b>21</b>
<b>8. RECOMMENDATION</b>	<b>21</b>

**APPENDIX A - CONDITIONS OF APPROVAL**

**APPENDIX B - STATEMENT OF COMMITMENTS**

**APPENDIX C - ENVIRONMENTAL ASSESSMENT**

**APPENDIX D - ENVIRONMENTAL PLANNING INSTRUMENTS CONSIDERATION**

**APPENDIX E - PLANS OF DEVELOPMENT**

## 2 BACKGROUND

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### 2.1 Background

- On 18 August 2005, the Proponent lodged with Council an integrated development application (DA 157/06) for a 6 storey mixed use development at 85-87 Ocean Parade, Coffs Harbour.
- On 28 September 2005, Council received a SEPP1 Objection in relation to non-compliance with Cl 32B of the North Coast REP in relation to overshadowing of open space adjoining the coastal foreshore.
- On 2 March 2006, Council adopted the Draft Park Beach DCP for public exhibition, which includes the subject site.
- On 20 March 2006, Council received amended plans to align the proposal with the Draft DCP.
- The DA was advertised between 12 April and 11 May 2006, for a 30 day period. No public submissions were received.
- On 26 April 2006, Council became aware that the DA was potentially subject to the Major Projects SEPP (MP SEPP) due to the SEPP 1 Objection (Cl 2(a), Schedule 2, MP SEPP).
- On 17 May 2006, Council advised the Department and requested that the application be dealt with under Part 3A of the Act.
- On 7 July 2006, the Proponent requested confirmation that the DA may be lodged with the Department pursuant to the MP SEPP.
- The proposed 6 storey mixed use development exceeds 13 metres in height and is permissible with development consent. The MP SEPP identifies buildings or structures in coastal areas that exceed 13 metres in height as a Project to which Part 3A applies (Cl 1(g)(ii), Sch 2). Subclause (2) states that Part 3A does not apply to *(a) development in relation to which, under another environmental planning instrument, development consent cannot be granted without the concurrence of the Minister or the Director-General* however, as a SEPP 1 Objection was lodged accompanying the EA (overshadowing under cl 32B of the North Coast Regional Environmental Plan), the concurrence does not apply to the proposal.
- On 21 July 2006, under Cl 8J of the Regulation, the Director-General made the opinion that DA 157/06 is a project to which Part 3A of the Act applies. In doing so, he also accepted the following, under s75H of the Act:
  - statement of environmental effects (SEE) as an Environmental Assessment (EA); and
  - period of public exhibition as a period of public availability for a Major Project.
- In accordance with s75F(2) of the Act, the Department issued Director-General's Requirements for the project on 18 July 2006.
- The EA was formally lodged with the Department on 28 August 2006.
- The DGRs required additional information regarding preparation of draft Statement of Commitments, assessment of urban design impacts, water cycle management, infrastructure provision, traffic and parking and heritage. This was received on 22 November 2006.

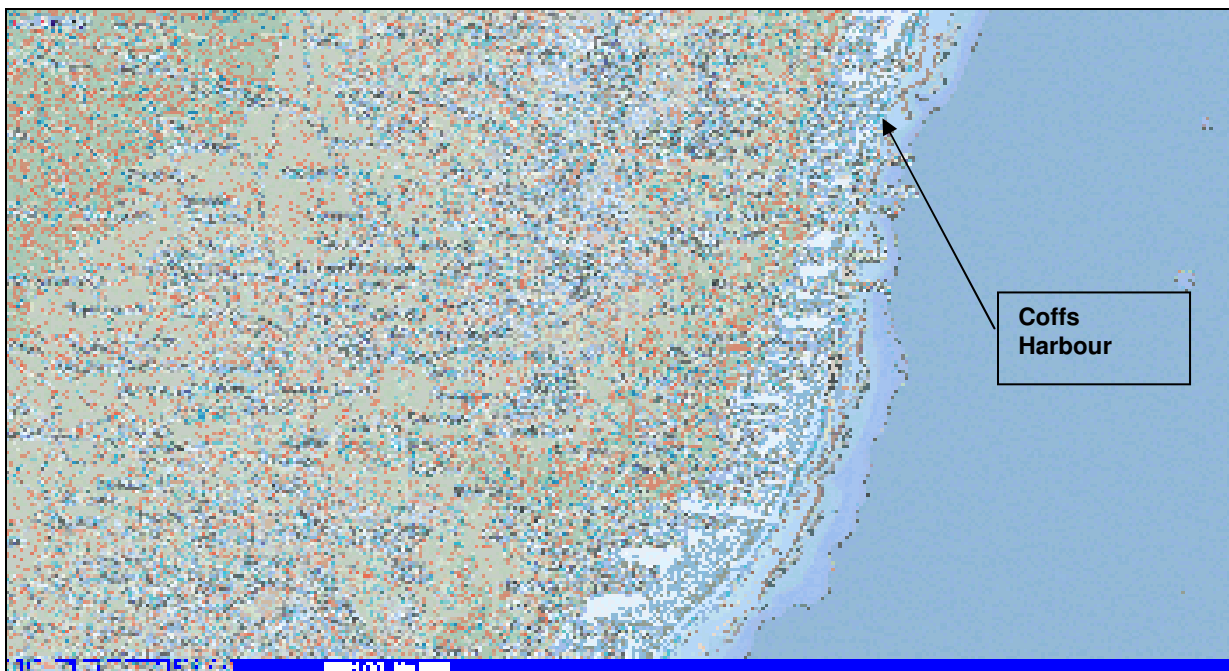
### 2.2 Site Location

The site is located at 85-87 Ocean Parade, Coffs Harbour in the Coffs Harbour Local Government Area. The site fronts onto Ocean Parade and Park Beach Road, with the Park Beach Motel/'Hoey Moey' Hotel to the east and the Ocean Palms motel to the south. The site is located between a 3-storey residential apartment building to the north known as "Hawaiian Gardens" and a 2-storey motel development to the west known as the "Sea Shells".

The site locality is illustrated in **Figure 1** and the regional context is illustrated in **Figure 2** below.



**Figure 1** Site Locality Plan



**Figure 2** Regional Location Plan

### 2.3 Site Context

The site forms part of an urbanised flat grided street pattern with a heavily vegetated sand dune strip to the immediate east. The road network surrounding the site is well-developed and serves Coffs Harbour's main CBD and supermarket complexes. Vehicular access to the site is possible from three frontages being Ocean Parade, Park Beach Road and the unformed laneway to the west of the site. The proposed vehicular access to the development is from the laneway at the back of the site.

### 2.4 Site Description

The site has a total area of approximately 2,037 sqm in area and is flat with only slight variations in levels with the lowest ground level of the proposed building footprint at RL 4.61. The site is rectangular in shape with a frontage to Park Beach Road of 60.42m and frontage to Ocean Parade of 31.255m. The site also has a western frontage to a rear laneway of 33.85m. The southern boundary is 60.565m in length. No existing vegetation is proposed to be retained for this development as it is not considered to be of great significance.

### 2.5 Existing Development

The existing development operates as a motel complex known as "Hawaiian Sands Motor Inn" with single-storey motel consisting of 17 individual units and a double-storey manager's unit. Its vehicular access is from Park Beach Road with parking areas generally screened from the street surrounds by the buildings and landscaping. These buildings are identified to be demolished. **Figure 3** shows the existing development.



**Figure 3** Existing Development

## 3 PROPOSED DEVELOPMENT

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### 3.1 The Proposed Development

The application seeks approval for the following:

- Demolition of all existing buildings and structures on the site;
- Construction of a 6 storey mixed use development with a total FSR of 2.57:1 (total GFA 5241.1 sqm) comprising the following:
  - 22 motel suites/studios (1,169 sqm GFA) located on ground and first level comprising:
    - 11 studio units; and
    - 2 x 1 bedroom units;
  - 28 residential apartments (3,836.1 sqm GFA) located on levels 1 to 5 comprising:
    - 11 x 2 bedroom units;
    - 14 x 3 bedroom units;
    - 1 x 2 bedroom penthouse unit; and
    - 2 x 3 bedroom penthouse unit;
  - 3 retail tenancies at ground level – proposed to incorporate 2 cafes and a convenience store (213 sqm GFA);
  - gym (23 sqm), lap pool and gym;
  - 2 levels of basement car parking for 78 cars (including 4 disabled spaces);
  - landscaping; and
  - servicing for the site.

A total of 3 units within the development (1 motel unit on Level 1 and 1 residential unit each on Levels 2 and 3) fit the standards for adaptable housing.

Architectural drawings showing the proposed development in elevations and floor plans are attached at **Appendix E (Tag E)**.

The lap pool, gym and spa at the western end of the ground level of the site will be screened from the laneway via a combination of masonry wall and landscaped screens. The mid level floors feature single level apartments that are serviced by 2 lift cores. The three penthouse style units on level 5 are set back from the edge of the floor below and feature a 'winged' roof form and landscaped terraces.

Pedestrian access to the podium level, motel and residential units are from both Ocean Parade and Park Beach Road and vehicle access to the underground parking and waste collection area will be from the laneway on the western side of the site. Pedestrian access between the residential/motel levels and the basement parking area will be by internal elevators and fire stairs.

### 3.2 Development Data (amended proposal)

	Proposed	Relevant Development Standard (DCP)	Compliance
<b>Minimum site area</b>	Site area: 2037.3 sqm 22 motel units 28 residential units	Park Beach DCP	Subject to merit assessment. See section 5.6 below.
<b>Height</b>	(Approx) 20.8m to top of building, 21.7m to top of lift overrun	21m max building height	Generally yes See section 5.4 below.
<b>GFA</b>	3,836.1 sqm (residential) 1,169 sqm (motel) 213.0 sqm (retail) 23 sqm (gym) <b>5,241.1 sq TOTAL</b>	N/A	N/A
<b>FSR</b>	2.57:1	N/A	N/A
<b>Site coverage</b>	49.6%	N/A	N/A
<b>Setbacks</b>	3m setback incorporating landscaping and deep soil planting additional 4m setback incorporating minimal landscaping and deep soil planting and terrace at ground level	3m absolute setback incorporating deep soil planting and landscaping additional 4m variable setback incorporating 50% building/ 50% landscaping and deep soil planting	Generally yes See Section 5.1 below.
<b>Land-scaping</b>	Deep soil landscaping proposed along Ocean Parade and Park Beach Road, in accordance with the requirements of Council.	For dev up to 18m in height, trees of similar height are to be planted in the front setback area. Landscaping required around the boundary of the car park	Generally yes See Section 5.2 below.
<b>Car parking</b>	78 on-site	79	Yes See Section 5.3 below.

\* the proposed density of development is considered by the Department to be acceptable for the subject site.

### 3.3 Project Amendments

As a result of consultations with the Department and Council regarding insufficient landscaping and deep soil planting within the subject site (see Section 6.2 below), the Proponent lodged amended plans and documentation on 2 February 2007. The following amendments were made to the proposal:

- Kerb line to the intersection of Park Beach Road and Ocean Parade revised to reflect original kerb alignment and public footpath to be consistent with Council's concept sketches;
- Reductions to the south-west and south-east corners of the two basement car park levels to enable deep soil planting resulting in the loss of 2 parking spaces per level;
- Reduction to the building envelope to allow for deep soil planting along the northern end of the site adjacent to Ocean Parade and a significant area of landscaping and deep soil planting in the south-east corner of the site, as follows (architectural plans are at **Appendix E (Tag E)**):

- At ground floor, tenancy 3 has been reduced by 0.35m and tenancy 2 reduced and the outdoor seating area and planters deleted at the south-east corner;
  - Apartment L1:02 on level 1 has been reconfigured internally and the balcony reduced on the south east corner;
  - Apartment L2:07 on level 2 has been internally reconfigured and the floor area reduced; and
  - The balconies of Apartments L4:06 and L4:07 on level 4 have been reduced and redesigned.
- The disabled access ramp has been shifted to the south-eastern side of Park Beach Road and the entry stairs adjoining the ramp have been deleted;
  - Deep soil zones have been incorporated into the south western corner of the site where the disabled access ramp was originally located; and
  - Minor revisions to the façade of the building to reflect the reductions to the balconies and buildings envelopes.

The amended plans were forwarded to Council who did not raise any issues with the amendments.

### 3.4 Photomontages

**Figure 4** below shows the proposed development, as originally submitted to the Department. As the amendments were considered minimal to the design and appearance of the development (see plans **Tag E**), amended photomontages were not requested.





**Figure 4** Proposed Development

The following photomontages show the existing streetscape currently and with the proposed development superimposed.

#### 3.4.1 View Looking South



*Before*

*After*

### 3.4.2 View Looking North



Before

After

## 4 STATUTORY CONTEXT

### 4.1 Major Project Declaration

On 18 August 2005, an Integrated Development Application (DA) was lodged with Coffs Harbour City Council for a six-storey mixed-use development. The DA was integrated with the NSW Rural Fire Service under Section 100B of the *Rural Fires Act 1997* and with the Department of Natural Resources under Section 116 of the *Water Act 1912*.

The DA later included a SEPP 1 Objection in relation to non-compliance with Clause 32B of the North Coast REP (overshadowing of open space adjoining the beach).

Clause 8J of the Regulation enables the Director-General to accept the:

- Current Development Application as a Major Project application under Part 3A;
- Statement of Environmental Effects as an Environmental Assessment (EA); and
- Period of exhibition as a period of public availability for a Major Project.

On 17 July 2006, the Director-General of the Department authorised for the application to be credited under Part 3A of the Act and be assessed by the Department of Planning.

### 4.2 Permissibility

The proposed site is zoned 2E Tourist zone under the *Coffs Harbour Local Environmental Plan 2000*. The proposed development, consisting of multi-unit housing, motel and retail development is permissible with consent in this zone.

### 4.3 Minister's Power to Approve

The Act requires that the EA be publicly exhibited for at least a 30 day period. Council exhibited the application for 30 day period and this exhibition period was credited to the EA. No submissions were received from members of the public. Additionally, the project is permissible and meets the requirements of the MP SEPP. Therefore, the Department has met its legal obligations and the Minister has the power to determine this project.

The initial SEE accredited as an EA under Part 3A did not address some of the key issues raised in the DGRs including an assessment of urban design impacts, water cycle management, infrastructure provision, traffic and parking, heritage, and the preparation of draft Statement of

Commitments. The Proponent subsequently submitted this information on 22 November 2006 which was accepted by the Department.

#### 4.4 Environmental Planning Instruments

To satisfy the requirements of Section 75I(2)(d) and (e) of the Act, this report includes references to the provisions of environmental planning instruments (EPIs) that govern the carrying out of the project and have been taken into consideration in the EA of the project.

The provisions, including development standards of local environmental plans and development control plans are not required to be strictly applied in the assessment and determination of major projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGRs require the Proponent to address such standards and provisions. Accordingly, the objectives of a number of EPIs and the development standards therein and other plans and policies that substantially govern the carrying out of the project are appropriate for consideration in this assessment as follows:

The proposal is subject to the following environmental planning instruments and strategies:

##### 4.4.1 State Environmental Planning Policy (Major Projects) 2005 (MP SEPP);

The MP SEPP applies to the site as discussed in Section 4.1 of this report.

##### 4.4.2 State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55);

The aims and objectives of SEPP 55 are to provide a state-wide planning approach to contaminated land remediation. SEPP 55 restricts consent authorities from issuing approval for development on land that may be contaminated. Approval may be granted if the consent authority is satisfied that the land is suitable for development or would be suitable if appropriate remediation were undertaken.

The Proponent has identified that contamination of the site is unlikely due to previous and current uses of the site; it is recommended that a condition requiring the preparation of a site audit statement certifying that the site is suitable for the proposed uses be imposed on any approval. An assessment of the proposal against SEPP 55 is at **Appendix D (Tag D)**.

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

SEPP 65 aims to improve the design quality of residential flat development throughout NSW and contains 10 design principles being context; scale; built form; density; resource; energy and water efficiency; landscape; amenity; safety and security; social dimensions and aesthetics. An assessment of the proposal against SEPP 65 is at **Appendix D (Tag D)**.

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

SEPP 71 applies to land and development within the Coastal zone (Clause 4) as defined by the *Coastal Protection Act 1979*. The site is located within the coastal zone. SEPP 71 provides aims of the Policy (Clause 2) and matters for consideration (Clause 8) when assessing development proposals. The Policy has been made under the *Environmental Planning and Assessment Act 1979* to ensure development in the NSW coastal zone is appropriate and suitably located, there is a consistent and strategic approach to coastal planning and management and there is a clear development assessment framework for the Coastal Zone. An assessment of the proposal against SEPP 71 is at **Appendix D (Tag D)**.

#### 4.4.5 State Environmental Planning Policy – Building Sustainability Index (BASIX) (BASIX SEPP)

The BASIX SEPP was introduced as part of the NSW planning system to measure the potential performance of new residential dwellings against sustainability indices. The application was accompanied by a BASIX Certificate which states the proposal will meet the NSW Government's requirements for sustainability if it is built in accordance with the stated commitments. A copy of the BASIX Certificate is at **Appendix F (Tag F)**.

#### 4.4.6 North Coast Regional Environmental Plan (NCREP)

This plan applies land declared by the Minister under section 4 (6) of the Act to be a region, including to the local government area of Coffs Harbour. On 26 September 2006, the Proponent lodged a SEPP 1 objection to Clause 32B(4)(a) of the NCREP (overshadowing of foreshore open space). The proposed development overshadows the area opposite the site, across Ocean Parade at 6.30pm midsummer.

*As the overshadowing will not extend beyond the dune onto the beach, it is unlikely any sunbathers or users of the beach will be affected. Accordingly, the Department has considered that in the context of the surrounding developments, the current height controls for the site, and the stepped back design of the proposed development, this minor overshadowing is considered. This issue is discussed in detail in Section 5.5 of this report. An assessment of the proposal against the NCREP is at **Appendix D (Tag D)**.*

#### 4.4.7 Coffs Harbour City Local Environmental Plan 2000 (CHLEP)

The site is located in the Coffs Harbour local government area and is zoned 2E Tourist zone under the CHLEP. This zone allows for tourist and other development that is compatible with the surrounding environment and within the environmental capacity of a high density residential environment and can be adequately serviced. The proposed uses of motel development, residential development and retail uses are permitted in this zone. An assessment of the proposal against CHLEP is at **Appendix D (Tag D)**.

#### 4.4.8 Park Beach Development Control Plan (DCP)

This DCP applies to multi-unit housing and tourist accommodation development (such as motels) on land at Park Beach. The DCP came into force on 1 February 2000 and was amended on 21 June 2006. The proposal is generally consistent with the DCP. An assessment of the proposal against the DCP is at **Appendix D (Tag D)**.

#### 4.4.9 NSW Coastal Policy 1997 and NSW Coastal Design Guidelines

The *NSW Coastal Policy 1997* responds to the fundamental challenge to provide for population growth and economic development without placing the natural, cultural, spiritual and heritage values of the coastal environment at risk. The Policy is based on the principles of ecologically sustainable development and addresses a number of key coastal themes including population growth, coastal water quality issues and establishing an adequate, comprehensive and representative system of reserves.

The *NSW Coastal Design Guidelines* aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines provide an urban design focus for the coastal context. These policies and Guidelines were specifically nominated in the DGRs as key issues to be addressed in the Environmental Assessment in relation to all relevant legislation and planning provisions applying to the site and the reference to the need to address Coastal Design Guidelines for NSW.

An assessment of the proposal against the *NSW Coastal Policy 1997 and NSW Coastal Design Guidelines* is at **Appendix D (Tag D)**.

## 5 ASSESSMENT

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Key issues considered in the Department's assessment of the EA and consideration of the Proponent's draft Statement of Commitments includes the following:

- Setbacks and building envelope non-compliances;
- Landscaping and deep soil planting;
- Access, traffic and parking;
- Design quality and built form;
- Overshadowing of Park Beach open space (as discussed above in Section 4.4.6); and
- Density.

### 5.1 Setbacks and Building Envelopes

The Park Beach DCP identifies the corner site of Park Beach Road and Ocean Parade as a significant gateway site to the Park Beach North Precinct and sets specific provisions in relation to building envelopes, setbacks and height.

The DCP sets the following controls in relation to setbacks:

- 3m absolute setback with no built development to both frontages; and
- further 4m variable setback allowing for a mix of 50% built development and 50% deep soil landscaping along both these frontages.

Basement car parking is not permitted in these setbacks within the provisions of the DCP to encourage deep soil landscaping in these areas.

The original proposal was not compliant with the required setbacks, specifically:

- planter boxes were included in most of the 3m setback areas; and
- no areas were reserved for deep soil planting zones (in the additional 4m setback).

For the plans as originally submitted, the Department considered the proposal to hold high quality architectural merit, but the lack of regard and compliance with the DCP was considered. The Department raised issue that by proposing that the building intrude into these setbacks, particularly the entire of the 4m setback, the intent of the DCP was disregarded.

In response to issues raised relating to deep soil planting and landscaping (discussed separately in Section 6.2 below), the Proponent amended their proposal with the intent to achieving the objectives of the DCP with regard to protecting public amenity and creating a streetscape character for the site. The Proposal was amended such that the building was effectively cut back at the south east and south west corners to allow for landscaping and deep soil planting.

To achieve these setbacks, the building envelope at ground floor level and in the internal layout of the upper levels of the development in the south-eastern corner have been reduced and reconfigured to allow for areas of landscaping and deep soil planting as follows:

- reduction to the building envelope to allow for deep soil planting along the northern end of the site adjacent to Ocean Parade and a significant area of landscaping and deep soil planting in the south-east corner of the site, as follows (architectural plans are at **Appendix E (Tag E)**):

- at ground floor, tenancy 3 has been reduced by 0.35m and tenancy 2 reduced and the outdoor seating area and planters deleted at the south-east corner;
- apartment L1:02 on level 1 has been reconfigured internally and the balcony reduced on the south east corner;
- apartment L2:07 on level 2 has been internally reconfigured and the floor area reduced; and
- the balconies of apartments L4:06 and L4:07 on level 4 have been reduced and redesigned; and
- the 2 basement car parking levels have also been amended, with 2 spaces per level deleted, such that no development is proposed under the deep soil zones.

The Department considers that the amended plans achieve the objectives of the setbacks control in the DCP in allowing sufficient deep soil planting on the site.

## 5.2 Landscaping and Deep Soil Planting

The intent of the building envelope controls in the DCP are to protect public amenity and enhance the character of the streetscape. The DCP provisions intend that landscaping and deep soil planting occur within much of the zones created by the required building setbacks and that basement car parks are not permitted in these zones to encourage denser vegetation in these areas. Council's intent for the deep soil zones along the two main boundaries of the site is to form the principle of viewing and entering the building through a canopy of trees along both these frontages.

The original proposal relied too heavily on on-street planting in the existing perimeter footpath as compensatory planting areas in lieu of sufficient on-site landscaping and the provision of deep soil planting. The proposal also did not achieve the minimum depth for any deep soil zones on the site due to the basement car parking levels being constructed to almost the perimeter of the site and the south-east corner of the building.

The Department discussed the non-compliances with Council extensively. In considering the intent of the DCP controls aiming for this gateway site to have an entrance of canopy trees, the Department requested a level of compliance with these requirements, specifically in the south-eastern corner of the site. The Department considered that these areas of landscaping could be incorporated into the design of the proposal without unreasonably compromising the design or value of the proposal.

As identified in Section 3.2 of this report, the Proponent submitted amended plans to the Department amending the development to include areas of deep soil planting fronting Ocean Parade and Park Beach Road and an extensive landscaped area on the south-east corner. Amendments to the design of the building in order to achieve this include reductions to the south-west and south-east corners of the two basement car park levels to enable deep soil planting – reduction of 2 parking spaces per level; reduction to the building envelope; ground floor terrace and balconies on some of the upper levels to the south-eastern corner to enable deep soil planting and street tree planting, in accordance with Council's concept sketches; entry stair reduced and access ramp shifted west to provide deep soil planting; deep soil landscaping zones and planted lawns incorporated along Park Beach Road and Ocean Parade; and planters deleted adjacent to the ground floor café, adjacent to the garbage room and to the boundary along Park Beach Road and Ocean Parade and deep soil zones with lawn and street trees indicated as per Council's streetscape concept sketches.

The Department is satisfied that these proposed amendments to the building and incorporation of deep soil planting and increased landscaping on the site achieve the intent of the DCP, with particular regard to the dense planting proposed in the south-east corner of the site which will serve as an entry canopy into the site from Ocean Parade and Park Beach Road. It is recommended that a condition will be imposed on any approval such that the Proponent will need

to consult with Council when choosing vegetation types for the site, particularly the landscaping proposed on Council owned land in this corner.

### 5.3 Access, Traffic and Parking

#### 5.3.1 Parking

The amended proposal incorporates 2 levels of basement car parking comprising a total of 78 car parking spaces. In accordance with the parking rates required by the Park Beach DCP, the proposed development requires the following parking spaces:

Land Use	Parking Requirements (DCP)	Proposed (basement levels)	Proposed (on-street)	Compliance
Residential Units (28 units proposed)	2 spaces/ dwelling (total 56)  No requirements for visitor parking.	40 (residents)  6 (visitors)	N/A	Yes
Motel (22 units proposed)	1 space/ unit + 1 space/ 2 employees + 1 space/ manager's unit (total 23)	22 (motel patrons)  1 (motel staff)	N/A	Yes
Convenience Stores (66 sqm GFA)	1 space/ 20 sqm GFA (for patrons) (total 3.3 spaces)  No requirements for staff parking.	1 (staff)	3.5	Yes
Restaurants (Cafes) (total 147 sqm GFA)	1 space/ 3 seats or 1 space/ 6.6 sqm GFA whichever is the greater (for patrons) (total 23 spaces)  No requirements for staff parking.	5 (staff)	33.5	Yes
<b>Total</b>	<b>79 (residential and motel)</b>  <b>27 (retail)</b>	<b>75</b>	<b>34</b>	<b>Generally yes</b>

The DCP permits the Proponent's of mixed-use development with frontage to Ocean Parade to contribute to the cost of on-street parking in Ocean Parade for the café/ restaurant/ general store patron components of the development.

The Proponent's traffic report identified that although 37 parking spaces were required for the patrons of the retail component of the development; total peak demand is more likely to be 34

spaces. The Proponent proposed to construct these spaces themselves – 9 parallel parking spaces along the street frontages of the site and 25 spaces on the western side of Ocean Parade.

This rate of 37 spaces was based on an initial calculation of 100 seats for the two café/ restaurant tenancies which required 33.5 parking spaces to be provided. The proposal was subsequently amended to incorporate landscaping and deep soil planting requirements and as such, the seating area and tenancy area of these two retail tenancies were reduced. The Proponent stated that as the retail tenancies are subject to future development approval from Council for fitout, the number of seats proposed for each tenancy cannot be calculated at this time. Therefore the on-street parking requirements have been based on the GFA calculation which results in a requirement of 27 spaces to be provided on-street. This equates to approximately 70 seats in total for the two café/ restaurant tenancies. A condition will be recommended for any approval that this parking allocation be required and a condition imposed such that should any increase above this seating maximum be proposed for the two café/ restaurant tenancies, further Section 94 contributions will be required to be paid to Council for the provision of further on-street car parking for the development.

Council advised the Department that the proposed on-street parking for patrons of the retail component of the development was acceptable however the requirement is for 37 not 34 spaces. Council also advised that instead of the Proponent constructing the spaces during construction, they would be required to pay Section 94 Contributions of \$151,792.50 towards the provision of 37 spaces for off-street public car parking (a rate of \$4,102.50 per car space in accordance with the *Park Beach Area Contribution Plan 2006*). This payment has been reduced to \$110,767.50 based on the requirement for 27 spaces, as discussed above. A condition has been recommended for the approval accordingly.

Although the DCP does not require staff parking for the retail component of the development, the Department considers that the proposed 6 staff car parking spaces within the basement levels to be acceptable.

The DCP also does not require visitor parking for the residential component of the development. Due to a shortfall in the provision for residents parking created by having these 6 spaces allocated within the basement levels, the Department has considered that these visitor spaces can be adequately catered for by on-street parking in the surrounding area.

Accordingly, the residential component of the development will be allocated 49 spaces in total. As the DCP requires 2 spaces per residential unit, this allocation creates a shortfall of 7 spaces. Accordingly, 42 residential units will be allocated 2 parking spaces with 7 units being allocated 1 parking space. The Department considers that this reduced number of car parking spaces is acceptable as the parking rate of 2 spaces for each of the 2 and 3 bedroom residential units is considered to be

It is recommended that a condition be imposed on any consent for the above parking allocations.

### 5.3.2 Access and Traffic

The traffic study has advised that the constraints of the site dictate the use of a 2-way, single lane ramp connecting the parking levels. The report suggests that traffic control devices be installed to control the use of these 2-way, single lane sections and must take into account vehicle manoeuvring requirements at the entry and exit to these sections. Similarly it is recommended that traffic movements at the roller shutter entry door to the parking area need to be controlled to allow right-of-way to vehicles entering the car park area.

In relation to traffic management, the traffic study concludes that the traffic impacts of the development on the adjacent road network are not significant, however make the following recommendations for incorporation into the development:

- Curtail the northern wall of the access driveway 2.5m from the kerb line in the laneway, to provide adequate sight distance. Alternatively, reduce the height of the wall to 600mm over this distance;
- Provide either a 1.5m splay or 2.7m radius curve to the driveway/pool wall on the southern side of the driveway to provide adequate sight distance;
- Create a shared traffic zone in the laneway to reduce vehicle speeds and enhance pedestrian safety; and
- Provide a loading zone in Park Beach Road east of the laneway suitable for a 12m service vehicle, to provide for waste removal and other commercial vehicles servicing the development.

The Department has assessed the access arrangements of the proposal and has recommended that the above findings be imposed as conditions on any approval. Council did not comment on the above requirements.

#### 5.4 Design Quality

The proposed density of the development is considered appropriate for the subject site as in generally consistent with the height and density provisions set out in the Park Beach DCP. As shown in the photomontages (**Appendix G, Tag G**), the architectural form, materials and colours respond to the environment and surrounding context. The proposal features a pitched roof to the top floor and a mix of materials including timber screens and louvres, concrete paving and colours such as pearl, green tea and shale grey for the roof.

The proposal is consistent with the maximum height of 21m (the proposal is approximately 20.8m to the top of the building, approximately 21.7 to the top of the lift overrun) and will create a focal point into the precinct which is marked with 18m building heights on the adjoining northern lots then taller buildings further north. The extra height is considered acceptable as it a minor exceedence only and will not create negative amenity, overshadowing or visual impacts. It is not considered that the proposal will negatively affect the privacy to adjoining buildings as privacy screens and balustrades are proposed nor affect views from the beach. A search by the Department of Conservation found that no aboriginal places or objects are recorded on the site.

The design of the residential component of the development was considered against the provisions of SEPP 65, including the key principles relating to context, scale, built form, density, resource, energy and water efficiency, landscape, amenity, safety and security, social dimensions and aesthetics. The building is stepped at the upper levels particularly from the eastern end of the site responding to the established development pattern on Ocean Parade, maintaining the character of surrounding streetscapes and open space areas, and providing an acceptable level of internal amenity and outlook.

The building consists of a number of environmentally sustainable principles including solar access and building amenity, and the residential component has been demonstrated to comply with BASIX. All the requirements stated in the BASIX Certificate will be required as a condition recommended on any approval to be implemented prior to occupation of the building.

The proposed materials and colours and variety of façade articulation devices including balconies, sunhoods, awning projections and louvred screen, along with the articulation and design of the building will contribute to the streetscape and character of the surrounding area.

#### 5.5 Overshadowing – SEPP 1 Objection

On 26 September 2006, the Proponent lodged a SEPP 1 objection to Clause 32B(4)(a) of the NCREP (overshadowing of foreshore open space). The proposed development overshadows the

area opposite the site, across Ocean Parade at 6.30pm midsummer. This area is a small part of a cleared (grassed) dune area adjacent to the coastal foreshore. Clause 32B(4)(a) of the NCREP states the following:

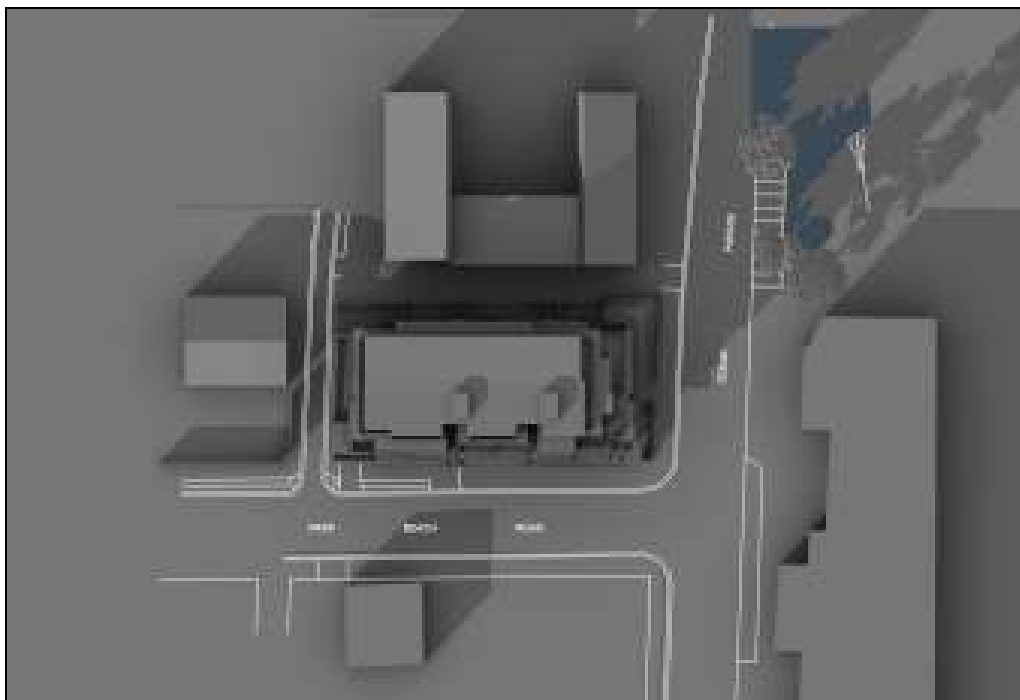
(4) *The Council shall not consent to the carrying out of development:*

(a) *On urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches and adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time).*

The justification provided by the Proponent to object to the development standard is that strict adherence is unreasonable and unnecessary as the purpose of this clause is to preserve the amenity of beaches and adjacent open space as well as not creating adverse environmental impacts on the preservation of the coastal dune area in the particular instance.

The Proponent claims that the proposed development complies with the intent of this clause to the extent that no overshadowing occurs for the midwinter period before 3pm and that only minor additional overshadowing occurs before 6.30pm daylight saving time midsummer to the extent that the overshadowing occurs on cleared land. The Proponent also argues that natural coastal dune vegetation is not overshadowed, rather cleared open space, and therefore the extent of non-compliance is considered to be of an extremely minor nature and will have no detrimental effects of the preservation of the coastal dune area, or the amenity of the small section of the coastal strip.

As the overshadowing will not extend beyond the dune onto the beach, it is unlikely any sunbathers or users of the beach will be affected. Accordingly, the Department has considered that in the context of the surrounding developments, the current height controls for the site, and the stepped back design of the proposed development, this minor overshadowing is considered. An assessment of the proposal against the NCREP is at **Appendix D (Tag D)**. **Figure 5** below shows the extent of overshadowing on the dune area.



**Figure 5** Shadow Diagram, 6.30pm December 22<sup>nd</sup>  
(Blue shading is the overshadowing on the cleared (grassed) dune area).

## 5.6 Density of the Proposal

The density controls in Council's Park Beach DCP state that the density for the residential component should not exceed 1 dwelling per 80sqm and for the motel component, should not exceed 1 unit per 40sqm. The control also provides for a merit assessment where the proposal involves a mix of dwelling sizes and is consistent with the maximum allowable height limit. Council has confirmed that for this site, the density should be governed by the height control, and not the density table.

The proposal meets the maximum height control (excluding a minor non-compliance for the lift overrun) set out in the DCP for this site. The proposal provides 2 and 3 residential bedroom units ranging in size from 89sqm to 163sqm in addition to the 1 bedroom and studio motel apartments ranging from 31sqm to 44sqm. The Department considers that the proposal meets the objectives of the merit assessment in the DCP as the intention is to permit a mix of dwelling types rather than only restrict a development to the dwelling sizes specified in the DCP.

Council has raised no objection to the proposal in terms of density.

## 5.7 Public Interest

The proposal meets the objective of creating a revitalized urban living environment that will provide a range of apartment styles, retail uses and tourist accommodation.

The proposal will generate economic and employment benefits during its construction, operation and ongoing maintenance and is likely to have a positive effect on property values in the vicinity.

## 5.8 Suitability of the Site

The site is considered suitable for the proposed development for the following reasons:

- the site is suitable and safe for the use proposed;
- the proposal is considered compatible with and beneficial for the locality; and
- development will not lead to unmanageable traffic or transportation demands.

# 6 CONSULTATION AND ISSUES RAISED

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## 6.1 Submissions Received

Whilst the DA was being assessed by Council, it was placed the proposal on public exhibition for 30 days between 12 April and 10 May 2006. Council also referred the DA to the following agencies for comments during the public exhibition:

- Department of Planning (Grafton);
- NSW Rural Fire Service;
- Department of Natural Resources; and
- NSW Police.

Following this period, submissions were received by NSW Police and NSW Rural Fire Service (RFS). No submissions were received by members of the public.

After the DA was accepted by the Department and accredited to a Major Project under Part 3A of the Act, the Department referred the proposal to Council for their comments.

Comments received by the abovementioned agencies are summarised below and discussed in more detail in Section 6 of this report.

### 6.1.1 NSW Rural Fire Service

On 18 January 2006 the NSW RFS advised that they do not support the proposal and raised concern that the proposal has not been provided with the required APZ – the vegetation to the east is considered to be Group 2 Vegetation (heath) on 0-5 degrees down slope which requires an APZ of 50m.

The APZ mentioned above by the RFS refers to cleared land across Ocean Parade and to the north of the Hoey Moey property which Council has advised is Crown Land which Council manages. Council has advised that it will maintain this area as a mown reserve and will control the future planting and maintenance of the reserve and also a section of land in question which is a primary beach access point.

The Department has further considered that as the subject site is not heavily vegetated, the likely bushfire risk is extremely low and therefore Council maintaining the vegetation in question is considered to be an acceptable outcome.

The Proponent's Statement of Commitments (**Appendix B, Tag B**) state that construction of the development will comply with the Australian Standard AS 3959-1999; level 2 "construction of buildings in bushfire prone area" as per the recommendations made in the Bushfire Risk Assessment Report prepared by Steven Ellis dated 2004-12-7 and submitted at Appendix I of the EA. This report states that the requirement for level 2 construction buildings can be varied to impose separation distances as set out on page 5 of this report.

This report also states that a Bushfire Evacuation Plan dealing with wildfire attack is being prepared and will be submitted in due course. This requirement will be recommended as a condition to be imposed on any approval by the Minister.

### 6.1.2 NSW Police

On 10 July 2006 the NSW Police submitted an informal crime risk assessment of the proposal which concluded that the proposal enhances the natural surveillance of the site and will not adversely affect the area.

### 6.1.3 Coffs Harbour City Council

Council advised that it supports the proposal in principle however offered the following comments in relation to non-compliances with the Park Beach DCP which was amended in June 2006. These issues are discussed in more detail in Section 6 of this report.

#### Landscaping

The proposal relies too much on on-street planting in the existing perimeter footpath as compensatory planting areas in lieu of on-site landscaping and the provision of deep soil planting and does not achieve the minimum depth of the deep soil zones on the site due to the basement car parking levels being constructed to almost the perimeter of the site.

Council's Park Beach DCP provisions that landscaping and deep soil planting occur within much of the zones created by the required building setbacks and that basement car parks are not permitted in these zones to encourage denser vegetation in these areas.

Council also advised that the existing date palms (3) located on the Park Beach Road nature strip will be required to be removed from this position as these palms are not considered suitable in this area, in terms of precinct streetscape.

Landscaping and deep soil planting is discussed in detail in Section 5.2 of this report.

#### Setbacks

Council noted that there are inconsistencies between the Proponent's setbacks to boundaries in the submitted drawings, in particular:

- setback to boundaries on Basement 1 and Basement 2 to that detailed on Section 01; and
- setback to boundaries shown on Basement 1 and 2, Section 01 and to that detailed on landscape concept plan – Details Rev B.

The Proponent advised that these were inconsistencies in the plans and submitted amended plans accordingly. Setbacks are discussed in detail in Section 5.1 of this report.

#### Disabled Access

The access ramp for person with a disability was originally located in the south-western corner of the site, adjacent to the garbage rooms. Council raised issue that a more appropriate location would be further to the east, adjoining the access stair entry into the development. The amended proposal incorporated the access ramp in this revised location.

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## 7 CONCLUSION

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The Department has assessed the EA and considered the submissions on the proposal. The key issues in agency submissions related to setbacks, landscaping, deep soil zones and disabled access. The Department has considered these issues and a number of conditions are recommended to ensure these issues are satisfactorily addressed and minimal impacts as a result of the proposal.

The Proponent commented on the draft conditions of approval and these have been taken into consideration.

On these grounds, the Department considers the site to be suitable for the proposed development and that the project is in the public interest. Consequently, the Department recommends that the project be approved, subject to conditions of approval.

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## 8 RECOMMENDATION

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It is recommended that the Minister for Planning pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979*:

- (A) approve the project as described in the Proponent's Environmental Assessment, subject to amendments made during assessment, including plans and documents and the Statement of Commitments, subject to the conditions of approval by signing and dating the Determination of Major Project; and
- (B) authorise the Department to carry out post-determination notification.

For Ministerial approval:

Prepared by:

Endorsed by:

Verity Humble-Crofts  
**Environmental Planner**  
**Coastal Assessments**

Heather Warton  
**Director**  
**Urban and Coastal Assessments**

Alix Carpenter  
**A/ Team Leader**  
**Coastal Assessments**

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## **APPENDIX A. CONDITIONS OF APPROVAL**

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## APPENDIX B. STATEMENT OF COMMITMENTS

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In accordance with the requirements of Part 3A of the *Environmental Planning and Assessment Act 1979*, the following outlines the commitments KAS Developments and the nominated Contractor will make to manage and minimise potential impacts arising from the proposed development at 85-87 Ocean Parade, Coffs Harbour.

### 1. Environmentally Sustainable Development

The Client and nominated Contractor will ensure that the appropriate building systems are installed during the construction process in accordance with the BASIX Certificate No. 92842M and Assessor Certificates prepared by Envirohome.

(Superseded by *Condition F11 BASIX* of the Instrument of Approval, **Appendix A, Tag A**).

### 2. Heritage Conservation & Archaeology

As stated in the letter issued from the Coffs Harbour & District Local Aboriginal Land Council dated 27.09.06, when the excavation for the underground car park is commenced to a depth of 1.5m to 2.0m, a qualified representative will be informed and an inspection of the excavation will be carried out.

If any Cultural Heritage material/s are discovered during any time of the construction process, all works in the vicinity of the find must cease immediately and further advice be sought through the Coffs Harbour & District Local Aboriginal Land Councils office.

### 3. Management of Geotechnical Conditions

The nominated Contractor will take effective measures in the event that acid sulphate soils are encountered in accordance with the Acid Sulphate / Geotech report (Appendix H of the EA) sub appendix C - Acid Sulphate management Plan prepared by Coffey Geosciences Pty Ltd.

This report is to be carried out in full. All works associated with the management plan are to be supervised by a qualified environmental/ engineering/ soil science professional.

A report will be submitted to the relevant authority within one (1) month of the successful completion of the Acid Sulphate management Plan detailing the methods used and the amount of lime used.

(Varied by *Condition B8 Acid Sulfate Soil Management Plan* of the Instrument of Approval, **Appendix A, Tag A**).

### 4. Dewatering

A detailed management plan outlining the dewatering systems for both the long and short-term development of the site is to be submitted to the relevant Authority prior to the issue of a Construction Certificate.

### 5. Stormwater Management

The nominated Contractor shall carry out the stormwater drainage in accordance with the Stormwater Concept Plan prepared by Sydney All Services Pty Ltd - Drawings SW01 (a), SW02 (a) issued Nov 2006.

(Varied by *Condition B16 Stormwater and Drainage* of the Instrument of Approval, **Appendix A, Tag A**).

## 6. Waste Management

Prior to the commencement of work a detailed Construction & Demolition Waste Management Plan will be submitted by the nominated Contractor to the Department of Planning (In addition to the Construction & Demolition Waste Management Plan submitted to the Dept. Planning - 07.11.06).

The plan will detail the type and quantity of waste estimated to be generated during the demolition and construction phases of the project. The plan will also detail recycling, reuse and waste reduction measures and how materials are to be stored.

The Client will obtain separate development approval from the relevant consent authority where spoil from the excavation is to be deposited off site on land within the City of Coffs Harbour. The approval will be obtained prior to the issue of the Construction Certificate. Note that this approval is not required where spoil is deposited at a licensed landfill facility.

(Varied by *Condition B15 Construction Waste Management Plan* of the Instrument of Approval, **Appendix A, Tag A**).

## 7. Demolition

All demolition works will be carried out by the nominated Contractor in accordance with the current provisions of the Australian Standards AS 2601 "The demolition of Structures". All materials containing asbestos are to be handled in accordance with the relevant requirements of WorkCover NSW, the Occupational Health and Safety Act and the Australian Standards AS 2601 "The demolition of Structures".

Where demolition, excavation or removal of vegetation is to take place on or adjacent to the site, measures will be taken in accordance with Council's Erosion and Sediment Control Policy and practice for Building & Development Sites to prevent erosion of soils at each appropriate construction stage.

(Varied by *Condition B11 Demolition Report* of the Instrument of Approval, **Appendix A, Tag A**).

## 8. Construction Management

Effective measures will be taken by the nominated Contractor to suppress dust emissions during the course of the development, with details of dust control being submitted prior to the issue of the Construction Certificate. Work practices will be developed to minimise vibration and noise impacts as far as practical during the construction.

Construction works will be limited to the following hours:

- Monday to Friday 7.00am – 6.00pm;
- Saturday 7.00am – 1.00pm if inaudible from adjoining properties;
- Otherwise 8.00am – 1.00pm;
- No construction work is to take place on Sundays or public holidays.

The use of public footpaths and roadways will not be used for the storage of building materials unless written approval is obtained from the relevant Authority. Such approval will only be granted where conditions warrant and in instances where public thoroughfare will not be adversely affected. A properly constructed hoarding is to be constructed in all cases where occupation of the footpath/ roadway is necessary for building purposes or where public safety is involved.

## 9. Rural Fire Services Requirements

Construction will comply with the Australian Standards AS 3959-1999; level 2 "construction of buildings in bushfire prone areas" as outlined in the Bushfire Risk Assessment Report (Appendix I of the EA).

(Varied by *Condition F9 Bushfire Evacuation Plan* of the Instrument of Approval, **Appendix A, Tag A**).

## 10. Landscaping

The nominated Contractor will provide landscaping in accordance with the Landscape Plan & Report (Appendix F of the EA) prepared by King & Campbell Pty Ltd. These works will be completed prior to occupation of the development unless other satisfactory arrangements to the certifying Authority for their completion are made.

(Superseded by *Condition B5 Landscaping* of the Instrument of Approval, **Appendix A, Tag A**).

## 11. Swimming Pool & Spa

The pool mechanical equipment will be adequately soundproofed so as not to create a noise with reference to the Protection of the Environmental Operations Act 1998 and supporting regulations. The immediate surrounds of the pool and spa area are to be completely enclosed with an approved fence/ wall and gates complying with the current Swimming Pools Act and BCA.

The permitted hours of use of the pool are:

- Monday to Saturday 7.00am – 9.00pm;
- Sunday 8.00am – 9.00pm;
- Public holidays 8.00am – 9.00pm.

## 12. On Street Parking

The formalisation of the on street parking along Park Beach Road and Ocean Parade as proposed on the architectural drawings – Drawing DA00, Sept 2006 will be undertaken by the Client as part of the construction process. The on street parking will be formalised and plans submitted to the relevant Authority prior to the issue of the Construction Certificate and be designed and constructed in accordance with the current Australian Standards AS 2890.5 and the relevant Authorities. No engineering works are to be undertaken until plans and specifications have been approved. All work will be at the developers cost.

(Superseded by *B31 Developer Contributions – Car Parking* of the Instrument of Approval, **Appendix A, Tag A**).

## **APPENDIX C. ENVIRONMENTAL PLANNING INSTRUMENTS CONSIDERATION**

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COULD BE PROVIDED AS A CD WHEN PRESENTED TO THE MINISTER

## APPENDIX D. ENVIRONMENTAL PLANNING INSTRUMENTS CONSIDERATION

### 1) North Coast REP

This plan applies land declared by the Minister under section 4 (6) of the Act to be a region, including to the local government area of Coffs Harbour.

Control	Compliance	Comment
<p><b>32B Development control—coastal lands</b></p> <p>(1) This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.</p> <p>(2) In determining an application for consent to carry out development on such land, the council must take into account:</p> <p>(a) the NSW Coastal Policy 1997,</p> <p>(b) the Coastline Management Manual, and</p> <p>(c) the North Coast: Design Guidelines.</p> <p>(3) The council must not consent to the carrying out of development which would impede public access to the foreshore.</p> <p><b>(4) The council must not consent to the carrying out of development:</b></p> <p><b>(a) on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or</b></p> <p>(b) elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm</p>	<p>No</p>	<p>The Proponent lodged a SEPP 1 Objection against Clause 32B(4)(a) of the NCREP (overshadowing of foreshore open space) as the proposed development inflicts minor overshadowing on adjacent open space at 6.30pm midsummer.</p> <p>The justification provided by the Proponent to object to the development standard is that strict adherence is unreasonable and unnecessary for the following reasons:</p> <ul style="list-style-type: none"> <li>▪ Strict compliance with this development standard will tend to hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the EP&amp;A Act, which state the following objectives: <ul style="list-style-type: none"> <li>i. the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;</li> <li>ii. the promotion and co-ordination of the orderly and economic use and development of land;</li> </ul> </li> <li>▪ The purpose of this clause is to preserve the amenity of beaches and adjacent open space as well as not creating adverse environmental impacts on the preservation of the coastal dune area in the particular instance. The Proponent claims that the proposed development complies with the intent of this clause to the extent that no overshadowing occurs for the midwinter period before 3pm and that only minor additional overshadowing occurs before 6.30pm daylight saving time midsummer to the extent that the overshadowing occurs on cleared land and generally matches the extent of existing overshadowing; and</li> <li>▪ Natural coastal dune vegetation is not</li> </ul>

midwinter (standard time) or 7pm midsummer (daylight saving time).

overshadowed and therefore the extent of non-compliance is of an extremely minor nature and will have no detrimental effects of the preservation of the coastal dune area, or the amenity of the small section of the coastal strip.

The Department has considered that at 6.30pm midsummer, shadows cast by the proposed building, which encroach onto adjacent open space which is a cleared (grassed) dune area, affect only a small portion of the reserve; and would not extend to any beach areas and therefore not impact on sunbathers and surfers. Due to the small extent of overshadowing on this area it is considered that the overshadowing does not impact on any areas used by the public for formal recreational activities.

Accordingly, the Department has concluded from the analysis that in the context of the surrounding development and the planning controls applying to the site, the design of the proposal is not considered to be inconsistent with the anticipated development of this site or the immediate area. The proposed encroachment of shadows at the statutory time of 6.30pm midsummer daylight saving time into part of the adjacent open space is not considered to be significant nor is it considered to be inconsistent with the assumed objectives of Clause 32B(4)(a) of the NCREP.

## 28 Objectives

The objectives of this plan in relation to the natural environment are:

(a) to protect areas of natural vegetation and wildlife from destruction and to provide corridors between significant areas,

(b) to protect the scenic quality of the region, including natural areas, attractive rural areas and areas adjacent to waterbodies, headlands, skylines and escarpments, and

(c) to protect water quality, particularly within water catchment areas.

Yes

The proposed development does not adversely affect any areas of the natural environment in that it does not remove any areas of natural vegetation or wildlife habitat; does not detract from the scenic quality of the area and will not affect water quality within the catchment – the Proponent has stated that appropriate measures to deal with ASS during construction will be required. This requirement will be imposed as a condition of consent.

## 49 Objectives

Yes

The application has been publicly exhibited in accordance with the requirements of the MP

The objectives of this plan in relation to the erection of tall buildings are to ensure that proposals for buildings over 14 metres are:

- (a) subject to the opportunity for public comment, and
- (b) assessed for their local impact and regional significance.

SEPP and has been assessed for its local significance. It is not considered to have any regional significance.

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### **51 Development control— Director's concurrence for tall buildings**

(1) In this clause, a reference to a building does not include an aerial, chimney stack, mast, pole, receiving tower, silo, transmission tower, utility installation or ventilator or any other building, or a building of a class or description of buildings, exempted by the Minister from the provisions of this plan by notice published in the Gazette.

**(2) The council shall not, without the concurrence of the Director, grant consent to a development application for the erection of a building over 14 metres in height.**

Yes

(3) In deciding whether to grant concurrence to a development application in respect of development referred to in subclause (2), the Director shall take into consideration the likely regional implications of the development as regards its social, economic and visual effect and the effect which it will or is likely to have on the amenity of the area.

(4) The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development for the purpose of a building over 14 metres in height in the same way as those provisions apply to and in respect of designated

The proposed building is measured as RL 26.5m in height which invokes Clause 51(2) of the NCREP as it is over 14m in height. This means that the application would normally be assessed by the relevant Council and the Director would retain a concurrence role only.

Schedule 2 (1) of the MP SEPP details coastal developments that Part 3A of the Act applies to. Subclause (2) of this clause however states that Clause 2 does not apply to:

*(a) development in relation to which, under another environmental planning instrument, development consent cannot be granted without the concurrence of the Minister or the Director-General,*

however, this clause continues to apply to development in relation to which, under

*(a) State Environmental Planning Policy No 1—Development Standards, development consent cannot be granted without the concurrence of the Director-General, whether or not the concurrence may be lawfully assumed.*

Therefore, as a SEPP 1 Objection has been lodged accompanying the EA (see above), Clause 51(2) of the NCREP does not apply to the proposal.

development.

## 2) Coffs Harbour Local Environmental Plan 2000

The site is located in the Coffs Harbour local government area and is zoned *2E Tourist zone* under the CHLEP. This zone allows for tourist and other development that is compatible with the surrounding environment and within the environmental capacity of a high density residential environment and can be adequately serviced.

Control	Compliance	Comment
<b>14 Services</b>		
Objective of provision		
To ensure that all development has adequate water and sewage services.		
Consent shall not be granted to the carrying out of any development on land to which this Plan applies unless:		
(a) a water supply and facilities for the removal or disposal of sewage and drainage are available to that land, or	Yes	The Proponent has advised the Department that appropriate servicing to the site is available. Appropriate conditions of consent will be imposed to ensure adequate servicing of the site occurs.
(b) arrangements satisfactory to the consent authority have been made for the provision of that supply and those facilities, or		
(c) the consent authority has formed the opinion the development proposed does not require that supply or those facilities.		

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

The aims and objectives of SEPP 55 are to provide a state-wide planning approach to contaminated land remediation. SEPP 55 restricts consent authorities from issuing consent for development on land that may be contaminated. Consent may be granted if the consent authority is satisfied that the land is suitable for development or would be suitable if appropriate remediation were undertaken.

A Geotechnical Assessment Report and an ASS Management Plan was submitted with this report was submitted accompanying the EA which concluded that all soils below 2m depth need to be considered as potential acid sulphate soils (ASS) and excavated soils will require treatment with lime to neutralise acidity produced by oxidation of the soils when excavated.

The Geotechnical report above did not mention potential contamination of the land. Whilst the previous uses on the site are unlikely to have caused any contamination, a Site Audit Statement will be required prior to the issue of a Construction Certificate to verify that the site is suitable for the proposed uses.

A standard condition relating to the above will be imposed on the consent.

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

SEPP 65 aims to improve the design quality of residential flat development throughout NSW and contains 10 design principles of context; scale; built form; density; resource; energy and water efficiency; landscape; amenity; safety and security; social dimensions and aesthetics.

SEPP 65 applies only to the residential portion of the proposed development.

Control	Compliance	Comment
(a) the advice [of a Design review Panel] (if any)	N/A	
(b) the design quality of the residential flat development when evaluated in accordance with the design quality principles, and	✓	see Table 1 below
(c) the publication <i>Residential Flat Design Code</i> (a publication of the Department of Planning, September 2002)	✓	see Table 2 below

**Table 1: Design Quality Principles**

<b>Principle 1: Context</b>	✓	
<b>Principle 2: Scale</b>	✘	Generally complies with relevant height, FSR and view corridor provisions. Non-compliances are considered acceptable.
<b>Principle 3: Built Form</b>	✓	
<b>Principle 4: Density</b>	✓	
<b>Principle 5: Resource, energy, and water efficiency</b>	✓	To be strengthened by consent conditions.
<b>Principle 6: Landscape</b>	✓	Some alterations to proposed landscaping plus additional detailed landscape plans are required, which will form the basis of conditions.
<b>Principle 7: Amenity</b>	✓	
<b>Principle 8: Safety and Security</b>	✓	
<b>Principle 9: Social Dimensions</b>	✓	
<b>Principle 10: Aesthetics</b>	✓	

**Table 2: Residential Flat Design Code (Clause 30 (2) (c) of SEPP 65)**

## **.Part 01 Primary Development Controls**

<i>.Building Height</i>	<b>x</b>	Upper ceiling heights comply with the height controls and the non-compliances caused by lift overruns are considered acceptable.
<i>.Building Depth</i>	✓	
<i>.Building Separation</i>	✓	Considered acceptable.
<i>.Street Setbacks</i>	✓	
<i>.Side and rear setbacks</i>	✓	
<i>.Floor Space Ratio</i>	✓	No set FSR or GFA control.

## **Part 02 Site Design**

<b>.Site Analysis</b>	✓	
<b>.Site Configuration</b>		
<i>.Deep Soil Zones</i>	<b>x</b>	See Section 5.2 of the Planning Report.
<i>.Fences + Walls</i>	✓	
<i>.Landscape Design</i>	<b>x</b>	See Section 5.2 of the Planning Report.
<i>.Open Space</i>	✓	See Section 5.2 of the Planning Report.
<i>.Orientation</i>	✓	
<i>.Planting on Structures</i>	✓	
<i>.Stormwater Management</i>	✓	To be imposed as a condition of consent.
<b>.Site Amenity</b>		
<i>.Safety</i>	✓	Conditions will be imposed from the NSW Police in relation to safety and security.
<i>.Visual Privacy</i>	✓	
<i>.Building Entry</i>	<b>x</b>	Access ramp for disabled persons has been relocated. See Section 3.4 of the Planning Report.
<i>.Parking Access</i>	✓	Recommendations made in Traffic Study to be imposed as conditions of consent.
<i>.Pedestrian Access</i>	✓	
<i>.Vehicle Access</i>	✓	Recommendations made in Traffic Study to be imposed as conditions of consent.

## **Part 03 .Building Design**

<b>.Building Configuration</b>		
<i>.Apartment Layout</i>	✓	
<i>.Apartment Mix</i>	✓	
<i>.Balconies</i>	✓	
<i>.Ceiling Heights</i>	✓	
<i>.Flexibility</i>	✓	
<i>.Ground Floor Apartments</i>	N/A	

.Internal Circulation	✓	
.Mixed Use	✓	
.Storage	✓	Compliance required as consent condition.
.Acoustic Privacy	✗	A condition of consent has been imposed such that appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the Noise Impact Assessment report.
.Daylight Access	✓	
<b>.Building Form</b>		
.Awnings and Signage	✓	
.Facade	✓	
.Roof Design	✓	
.Maintenance	✓	
.Waste Management	✓	
.Water Conservation	✓	Appropriate conditions will be imposed on the consent.

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

SEPP 71 applies to land and development within the coastal zone (Clause 4) as defined by the *Coastal Protection Act 1979*. The site is located within the coastal zone. SEPP 71 provides aims of the Policy (Clause 2) and matters for consideration (Clause 8) when assessing development proposals. The Policy has been made under the *Environmental Planning and Assessment Act 1979* to ensure development in the NSW coastal zone is appropriate and suitably located, there is a consistent and strategic approach to coastal planning and management and there is a clear development assessment framework for the Coastal Zone.

The major themes of SEPP 71 include retention of visual amenity, protection of the coastal foreshore in relation to amenity, views and public access and suitability of development with the area.

### Clause 2: Aims of the Policy

Aims of Policy	Compliance	Comment
(a) to protect and manage the natural, cultural, recreational and economic attributes of the NSW coast;	Yes	The development will not negatively impact on the natural environment or NSW coast.
(b) to protect and improve existing public access to and along coastal foreshores;	Yes	The development will not adversely affect the public access to and along the NSW coast.
(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	Yes	See (b) above

the natural attributes of the coastal foreshore:

(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge;	N/A	
(e) to ensure that the visual amenity of the coast is protected;	Yes	The scale of the proposed development is considered to be compatible with the surrounding development and it is not considered that the development will negatively affect the visual amenity of the coast.
(f) to protect and preserve beach environments and beach amenity;	Yes	See above.
(g) to protect and preserve native coastal vegetation;	N/A	
(h) to protect and preserve the marine environment of NSW;	N/A	The proposed development will not affect the aquatic environment of the adjoining area or any marine environments.
(i) to protect and preserve rock platforms;	N/A	
(j) to manage the coastal zone in accordance with the principles of ESD;	Yes	Suitable conditions will be placed on the consent in relation to ESD principles.
(k) to ensure that the type, bulk, scale and size of development is appropriate for the location; and	Yes	The scale of the proposed development is considered to be compatible with the surrounding development and it is not considered that the development will negatively affect the visual amenity of the coast.
(l) to encourage a strategic approach to coastal management	Yes	See above.

#### Clause 8: Matters for Consideration

Matters	Compliance	Comment
(a) the aims of this Policy set out in clause 2;	Yes	See assessment 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;	Yes	The development will not adversely affect the public access to and along the NSW coast.

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability;	N/A	
(d) the suitability of development given its type, location and design and its relationship with the surrounding area;	Yes	The scale of the proposed development is considered to be compatible with the surrounding development and it is not considered that the development will negatively affect the visual amenity of the coast.
(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	
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities;	Yes	The scale of the proposed development is considered to be compatible with the surrounding development and it is not considered that the development will negatively affect the visual amenity 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	
(h) measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a> ) and marine vegetation (within the meaning of that Part), and their habitats,	N/A	
(i) existing wildlife corridors and the impact of development on these corridors;	N/A	
(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	

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(k) measures to reduce the potential for conflict between land-based and water-based coastal activities;	N/A
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	N/A
(m) likely impacts of development on the water quality of coastal water bodies,	N/A
(n) the conservation and preservation of items of heritage, archaeological or historic significance,	N/A
(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
(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.	N/A

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## 6) State Environmental Planning Policy (Building Sustainability Index) (BASIX SEPP)

The BASIX SEPP was introduced as part of the NSW planning system to measure the potential performance of new residential dwellings against sustainability indices. The EA was accompanied by a BASIX Certificate.

## 7) Park Beach Development Control Plan (DCP).

This DCP applies to multi-unit housing and tourist accommodation development (such as motels) on land at Park Beach. The DCP came into force on 1 February 2003 and was amended on 21 June 2006.

Control	Compliance	Comment
<b>Density</b>	Yes	The proposal meets the objectives of the merit assessment, and provides for a mix of dwelling types, being 1, 2 and 3 bedroom dwellings. This is discussed in Section 5.6.
<b>Design</b>	Yes	The urban design and built form of the proposal is considered to be acceptable and fits into the surrounding context of the site.
<b>Privacy</b>		3 sides of the site front onto roads and laneways with the exception of the northern boundary and the Proponent's EA states that landscaping and screening at ground level will provide additional privacy and amenity between these two facades. It is considered however that additional screening is required on the northern boundary of the proposed building and this will be imposed as a condition of consent.
Noise Mitigation	N/A	
<b>Vehicle and Parking Access</b>		
<b>Design and Safety</b>		
Car parking areas will be constructed to all weather hard stand surface and be graded and drained to Council's stormwater system.		Neither the EA nor the traffic report states the surface area or drainage details for the car park area. These requirements will be imposed as conditions of consent.
Parking spaces are to be clearly marked and signposted.		These requirements will be imposed as conditions of consent.
Vehicles shall be able to enter and leave the site in a forward direction.		Neither the EA nor the traffic report state compliance with this requirement which will be imposed as conditions of consent.
<b>Landscaping</b>		
Proposals for parking areas are to be accompanied by a landscape plan illustrating means to soften the visual impact of any structure and parked cars.	Yes	
Car parks for development in residential areas are not to occupy the entire front of the allotment – landscaping is required at least around the boundary of the car park.	Yes	
<b>Parking Spaces</b>	Yes	See Section 5.2 of the Planning Report.
Residential:		

28 units x 2 spaces = 56

Motel:

1/ unit + 1/ 2 employees = 23

Convenience Store (65 sqm):

1/ 20 sqm GFA = 3

Restaurants (153 sqm):

1/ 6.6 sqm GFA = 23

Total:

On-site: 80

Off-site: 25

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### Mixed-use Developments on Ocean Parade

Mixed-use developments involving allotments with frontage to Ocean Parade require the Proponent to contribute to the cost of on-street parking in Ocean Pde and Park Beach Rd – only applies to cafe/ restaurant/ general store. All residential and staff parking must be provided on-site.

Yes

Council has indicated that the proposed off-site car parking is acceptable.

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### Access

Access to parking areas is to be designed to minimise conflict between pedestrians, cyclists and traffic. Council may require road or traffic management works to ensure safe access to parking areas.

Yes

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### Driveways

2-way driveway width – min 4.5m, max 6.0m

Yes

Driveway proposed width is 5.5m

Prior to construction, a vehicle crossing application is to be submitted and approved by Council.

Will be imposed as a condition.

Details of any rear lane access are to be submitted. Upgrading of the rear lane to council's standard will be at the developers cost.

The Proponent's traffic study states that access by cars into the car park is restricted by the narrow width between kerbs in the laneway. This report states that safety for drivers and pedestrians can be improved by:

- Curtailing the northern wall of the access driveway at a distance of 2.5m from the kerb

line in the laneway, or alternatively, reduce the height of the wall to 600mm over this distance;

- Providing either a 1.5m splay or 2.7m radius curve to the driveway/pool wall on the southern side of the driveway; and
- Creating a shared traffic zone in the laneway.

These recommendations will be imposed as conditions of consent.

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### Open Space and Landscaping

All development proposals are to be accompanied by a landscaping plan prepared by a qualified landscape architect.	Yes	
The plan shall show the precise location of existing trees, etc.	Yes	
For buildings over 18m in height, trees will be planted in the front setback area and attain a height of at least 18m. Approx locations shown.	Yes	Will be imposed as a condition.
Where windows and balconies overlook each other, trees and shrubs shall be used to provide screening. Trees shall be planted to allow for full development of the tree.	Yes	
Applicants shall provide street trees if required by Council to do so, using species recommended by Council.		Will be imposed as a condition.
Balconies or terraces shall be provided with the following minimum areas:  Motel: 6 sqm  Large dwelling: 12 sqm	Yes	
In order to provide useful open space to dwellings and tourist units above ground level, any balcony or terrace shall be directly accessible from the living area of the dwelling/unit and have a min dimension of 2m.	Yes	

Balconies and terraces shall not protrude over the landscape area to allow for growth of large trees.

### Water Quality

Sediment and Erosion Control

Condition

Drainage

Deep Soil Zones

### Services

Water Meters	Yes	Proponent has advised that the proposed development is capable of meeting all the requirements. Appropriate conditions will be imposed on the consent.
Mains Extension	Yes	
Letterboxes	Yes	
Garbage Collection Services	Yes	
Signs		Subject to separate application to Council.

### Building Height

21m max building height

Buildings to not exceed 6 storeys for corner sites

Generally consistent

6 storeys – approximately 20.8m in height to highest point of building excluding lift overruns – approximately 21.7m inclusive of lift overruns.

Height means distance measured vertically from the topmost point of the building to natural ground level

### Setbacks

To the north of the building: 6m with basement car park underground

3m absolute setback – no built development

Generally consistent.

See Section 6.2 of the Planning Report.

4m variable setback – built dev from max 50% of building length

These 2 setbacks are to have deep soil planting where there is no building

## **8) NSW Coastal Policy 1997 and NSW Coastal Design Guidelines**

The *NSW Coastal Policy 1997* responds to the fundamental challenge to provide for population growth and economic development without placing the natural, cultural, spiritual and heritage values of the coastal environment at risk. The Policy is based on the principles of ecologically sustainable development and addresses a number of key coastal themes including population growth, coastal water quality issues and establishing an adequate, comprehensive and representative system of reserves.

The *NSW Coastal Design Guidelines* aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines provide an urban design focus for the coastal context. These policies and Guidelines were specifically nominated in the DGRs as key issues to be addressed in the Environmental Assessment in relation to all relevant legislation and planning provisions applying to the site and the reference to the need to address Coastal Design Guidelines for NSW.

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## **APPENDIX E. PLANS OF DEVELOPMENT**

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## **APPENDIX F. BASIX CERTIFICATE**

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## APPENDIX G. PHOTOMONTAGES

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