

any potential impacts. To address this issue a condition is recommended requiring further investigation to determine impacts of potential sea level rise on groundwater levels.

5.6 Other Issues

5.6.1 Service Laneway

The Council, as part of their submission, requested that the Proponent reconstruct the full length of the laneway and pavement from Memorial Avenue to Picnic Parade. As they are not the sole beneficiaries of the laneway and pavements, the Proponent states that they should only be required to reconstruct the length of the lane that adjoins their site.

The Department considers that it is unreasonable to require the proponent, with less than half of the laneway frontage, to reconstruct the full length of the lane way to Picnic Parade. Whilst the proposal will increase traffic within the area, the proponent's traffic modelling indicates all surrounding roads will operate within capacity. The Department therefore recommends that the proponent only be required to reconstruct that section of the laneway that fronts the subject site (as highlighted in pink in Figure 3).

5.6.2 Public Domain

The proposal will result in public domain improvements including the upgrade of the footpaths surrounding the site, the provision of retail units at ground level and the construction of a 6 metre wide pedestrian access path along the site's eastern boundary. These improvements will activate the surrounding streets with the pedestrian path (linking The Esplanade to the service lane that bisects the site) allowing direct unimpeded access between the main street (Ocean View Road) and the foreshore. This will occur as the Pedestrian path will connect with the existing 'Rocks Arcade' located directly north of the site (Refer to Figure 8).

The Pedestrian link is a multi-purpose public space that will provide suitable landscaping, seating for the public and alfresco space for the proposed retail/shop units. The design and materials proposed will be consistent with the remainder of the development. The Department considers that the inclusion of the link will enhance both the public domain within the locality and improve access within the Ettalong commercial area.

5.6.3 Privacy

The proposal has been designed to protect privacy of neighbouring sites. This has been achieved by limiting residential units to the southern site and by providing a building setback of over 18 metres to the north.

The provision of the 6 metre pedestrian link together with the additional building setbacks at the 7th storey (6.83 metres) provides appropriate separation between the proposed windows/balconies on the upper levels and the boundary to ensure that any future residential building developed to the east can obtain appropriate levels of privacy.

5.6.4 Impact Upon the Local Economy

As part of the EA, the Proponent submitted an Economic Impact Assessment report. The report concluded that the project would have a positive impact upon the local economy, in particular by providing additional retail experiences for local consumers and tourist and capturing escape expenditure.

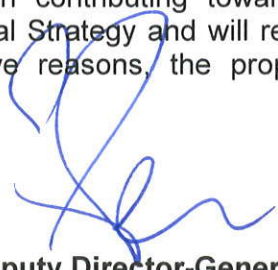
The site is located within a commercial zone which permits retail, commercial and residential land uses. The Department considers that the permissible land uses are of an appropriate scale and mix that would not compromise the viability of existing commercial and retail floor space thereby not result in any long term or significant detrimental impact upon the local economy.

6. RECOMMENDATION

The proposed development achieves an appropriate level of design and will maintain the amenity of the locality and surrounding development. The proposal will provide a suitable height transition to the neighbouring Outrigger building and surrounding development. In addition, the proposal would assist in contributing towards long term dwelling targets contained in the Central Coast Regional Strategy and will reinforce the role and function of Ettalong town centre. For the above reasons, the proposal is supported, subject to recommended conditions of approval.



**Director
Metropolitan Projects**



13/11/10

**Deputy Director-General
Development Assessment & Systems Performance**

APPENDIX A ENVIRONMENTAL ASSESSMENT

See the Department's website at www.majorprojects.planning.nsw.gov.au

APPENDIX B PROPONENT'S RESPONSE TO SUBMISSIONS

See the Department's website at www.majorprojects.planning.nsw.gov.au

APPENDIX C CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The Minister's consideration and determination of an application under Part 3A must be informed by the relevant provisions of the Act, consistent with objects of the Act. The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the application. The project does not raise significant issues with regards to the Objects under the Act.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT

There are five accepted ESD principles:

- a) *Decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);*
- b) *If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*
- c) *The principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);*
- d) *The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*
- e) *Improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

The Department has considered the proposed development in relation to ESD principles and has made the following conclusions:

Integration Principle – The Department has considered all issues raised in submissions and the proposal does not compromise a particular stakeholder or hinder the opportunities of others. The site is serviced by existing and proposed infrastructure. The environmental impacts of the proposal have also been addressed through the proponent's Statement of Commitments and the recommended conditions of approval.

Precautionary Principle – Although currently vacant, the development area was previously occupied by built structures. The site does not contain any sensitive endangered or threatened environments and therefore the development would not threaten or create any irreversible environmental damage or degradation.

Inter-Generational Principle – The proposal represents a sustainable use of the site as the redevelopment will utilise existing infrastructure and make more efficient use of the site. The redevelopment of this site will also have positive social, economic and environmental impacts.

Biodiversity Principle – Following an assessment of the proponent's EA and PPR it is considered with appropriate certainty that there is no threat of serious or irreversible environmental damage as a result of the proposal. The site has been extensively developed for some time and has a low level of environmental sensitivity.

Valuation Principle – The approach taken for this project has been to assess the environmental impacts of the proposal and identify appropriate measures to mitigate adverse environmental effects and maximise energy efficiency through design. The development has been designed in accordance with BASIX targets utilising energy and water efficient fittings. The above measures will be included in the total cost of the project and considering greenhouse gas emissions linked to environmental performance, accessibility and travel the proposal is considered to be acceptable.

SECTION 75I(2) OF THE ACT & CLAUSE 8B OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

The DG's report to the Minister for the proposed project satisfies the relevant criteria under Section 75I of the Act as follows:

Section 75I(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report.	The Proponent's EA and PPR are located on the Department's website www.planning.nsw.gov.au .
Any advice provided by public authorities on the project.	A summary of the advice provided by public authorities on the project for the Minister's consideration is set out in Section 4 of this report.
Copy of any report of the Planning Assessment Commission.	No review has been required to be carried out by the Planning Assessment Commission
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project.	Each relevant SEPP that substantially governs the carrying out of the project is identified in within this Appendix below.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division.	An assessment of the development relative to the prevailing environmental planning instrument is provided later in this Appendix.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The environmental assessment of the project application is this report in its entirety.

The DG's report to the Minister for the proposed project satisfied the relevant criteria under Clause 8B of the EP&A Regulation as follows:

Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The impact of the development on the public interest is discussed in section 5 of this report.
The suitability of the site for the project	The site is considered to be suitable for the redevelopment
Copies of submissions received by the Director-General in connection with public consultation under Section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in this report.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)

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

The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy No. 71 – Coastal Protection

Other controls to be considered in the assessment of the proposal are:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 55- Remediation of Land

The provisions of development standards of local environmental plans are not required to be strictly applied in the assessment and determination of major projects under Section 75R Part 3A of the Act. Notwithstanding, the objectives of the above a EPIs, relevant development standards and other plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment in accordance with the DGRs.

COMPLIANCE WITH PRIMARY CONTROLS

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

SEPP - BASIX aims to establish a scheme to encourage sustainable residential development across New South Wales. The current targets of BASIX for Residential Flat Buildings commenced on 1 July 2006 and require all new residential dwellings in NSW to meet targets of a 20% reduction in energy use and 40% reduction in potable water.

A BASIX report prepared by Vipac Engineers together with a BASIX Certificate form part of the EA. The report states that the proposal is capable of satisfying the BASIX targets of a 20% reduction in energy use and a 40% reduction in potable water.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development and the Residential Flat Design Code

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. An assessment against these principles is given in the below table.

A Design Verification Statement has been provided by Kann Finch Architects, stating that the subject development has been designed having respect to the design quality principles.

Key Principles of SEPP 65	Department Response
Principle 1: Context	The site is located within an area undergoing significant change in terms of future built form. The proposed buildings are of a height and form that appropriately address the future desired character of the Ettalong town centre. The proposed buildings would not have any detrimental impacts on the amenity of surrounding development or the natural features of the locality
Principle 2: Scale	The proposed Stage 1 building will be higher than immediately surrounding development (with the exception of the Outrigger building to the west). To minimise impacts, the scheme has been devised to incorporate a range of heights between 3 and 7 storeys which will create an adequate transition between the neighbouring 9 storey 'Outrigger Building' and the desired future building heights of the Ettalong town centre as outlined within the PUDs and draft LEP 2009.
Principle 3: Built Form	The buildings form will act as a transition between the neighbouring 'Outrigger building' and surrounding low rise development.
Principle 4: Density	The site is located within a town centre area which is undergoing transition. The development has been designed in accordance with the permissible uses for the site zoning.

	The density of the development will satisfy regional policy which is to increase housing density within town centres that have appropriate availability of infrastructure, public transport, community facilities and environmental quality.
Principle 5: Resource, Energy and Water Efficiency	The application has been accompanied by a valid BASIX Certificate for the residential element of the development, illustrating its ability of compliance with water and energy efficiency targets.
Principle 6: Landscape	Given the large footplate of the Stage 1 building, landscaping is limited to a 6 metre pedestrian link running along the eastern boundary and large communal roof terraces on upper levels. The restricted ground level landscaped area limits deep soil planting. The link enhances public access between the town centre and the beach and has been designed to allow a flexible public space that can be used for different purpose. The link will be landscaped with vegetation that is appropriate for the coastal location. The upper landscaped terraces, have been designed to be open usable spaces that will not result in any adverse impacts upon the amenity of future residents. The scale and design of planting will not add to the bulk and mass of the building, thereby minimising significant impacts upon the visual quality of the locality.
Principle 7: Amenity	The development would not result in any loss of solar access to surrounding residential development. The new development would comply with SEPP 65 Design Quality of Residential Flat Development, supported by the Residential Flat Design Code, with the exception of solar access, discussed in Section 5 of the report. In addition, the proposed new residential units will have an outlook to Brisbane Water and surrounds. A range of unit sizes are proposed providing appropriate room dimensions and layouts and the development allows for ease of access for all age groups and degrees of mobility.
Principle 8: Safety and Security	The proposal has been designed to activate the street frontages this area of the Ettalong town centre. The upper level residential units will provide passive surveillance to the surrounding, beach front, streets and the proposed new pedestrian link. The scheme will also provides a clear distinction between public and private spaces. External lighting is proposed to assist with pedestrian safety. The residences will have secure access arrangements in place and proposed public footpaths are wide with the building design in a manner to prevent potential dark non visible areas.
Principle 9: Social Dimensions and Housing Affordability	The two buildings would have a total of 10 (22%) 1x bedroom units (small and larger), 26 (58%) 2x bedroom units (small and larger) and 9 (20%) 3 bedroom units. The mix is diverse enough to offer a wide mix of unit sizes to assist with the affordability of the development.
Principle 10: Aesthetics	The buildings have been designed to include a range of varied and complimentary materials. The mix of textures and colours of sharing a similar hue would assist in breaking up the bulk of the buildings and providing visual interest. In addition, the proposed materials will create a building that will assist in creating an appropriate transition between the large adjoining 'Outrigger Building' and surrounding lower level development.

An assessment of the proposal against the Residential Flat Design Code is set out in the table below:

	RFDC requirement	Proposed	Complies
Solar Access	70% 9am-3pm	40%	No
Building Separation	Min 18m between habitable rooms	11 m (with screening)	No
Building depth	10m- 18m	<16m	YES
Naturally cross ventilated	Min 60% of units	33 units for 74%	YES
Kitchens with natural ventilation	Min 25%	25 units or 56%	YES
Single aspect apartment- distance from window	Max 8m	100%	YES
Depth of kitchen from window	Max 8m	100%	YES
Apartment Size (min)	1 bedroom= 50m ²	1 bedroom= -60m ² - 71m ²	YES ²
	2 bedroom= 70m ²	2 bedroom= -87m ² - 110m ²	YES
	3 bedroom = 95m ²	3 bedroom= -129m ² - 172m ²	YES
Balcony Depth	Min 2m	>2m	YES
Floor to ceiling heights	≥2.7m	≥2.7m	YES

In light of the assessment detailed in Section 5.2 of this report above, it is considered that the proposal displays an acceptable level of consistency with the Principles in SEPP 65 and the accompanying RFDC. It is noted that although the scheme only provides an 11m separation between habitable windows, however privacy screens are proposed thereby preventing direct overlooking.

Furthermore as discussed earlier in the report, whilst the proposal does not meet the minimum solar access requirements, apartments will receive excellent water views to compensate for a reduced level of solar access thereby providing an acceptable level of amenity to south facing apartments.

State Environmental Planning Policy No.71 – Coastal Protection

The Coastal Protection SEPP applies to the project as the site is located within the Coastal Protection area. Clause 2 outlines the overarching aims of this policy are to protect the coastal environment. Clause 8 outlines the matters for consideration that need to be addressed when assessing a development application within the coastal protection zone. The aims of the policy and the matters for consideration are outlined below:

CLAUSE 2: AIMS OF THE POLICY	COMPLIANCE	COMMENT
To protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and	Yes	The proposal includes measures to protect any artefacts found on the site, enhances areas of public space and the economic function of the Ettalong coastal centre.
To protect and improve existing public access to and along coastal foreshores to the extent that it is compatible with the natural attributes of the coastal foreshore, and	Yes	The proposal includes a new pedestrian link through the site. The link will improve public access from the town centre to the foreshore.
To ensure that new opportunities for public access to and along coastal	N/A	See above

foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and		
To protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and	Yes	There are no known items found on the site. If any are found during construction they will be protected.
To ensure that the visual amenity of the coast is protected, and	Yes	The proposed height, bulk and scale combined with the proposed external appearance of the building will create an appropriate transition between the adjoining 9 storey Outrigger building and the surrounding low level development thereby reducing the visual impact of urban development along Brisbane Waters.
To protect and preserve beach environments and beach amenity, and	Yes	The proposal will only create additional overshadowing of the adjacent beach
To protect and preserve native coastal vegetation, and	N/A	No vegetation exists on the site
To protect and preserve the marine environment of New South Wales, and	N/A	The site is not immediately adjacent to a marine environment
To protect and preserve rock platforms, and	N/A	There are no rock platforms located on the site
To manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the <i>Protection of the Environment Administration Act 1991</i>), and	Yes	The proposal is appropriate for the zone and the subject site and is in accordance with the principles of ecologically sustainable development.
To ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and	Yes	The proposed height, bulk and scale combined with the proposed external appearance of the building will create an appropriate transition between the adjoining 9 storey Outrigger building and the surrounding low level development thereby enhancing the natural scenic quality of the surrounding area.
To encourage a strategic approach to coastal management.	Yes	The proposal generally complies with the overarching strategic strategies applicable to the locality.
CLAUSE 8: MATTERS FOR CONSIDERATION	COMPLIANCE	COMMENT
The aims of this Policy set out in clause 2	Yes	See separate assessment
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	Refer to Clause 2 assessment above
Opportunities to provide new public access to and along the coastal foreshore for	Yes	Refer to Clause 2 assessment above

pedestrians or persons with a disability		
The suitability of development given its type, location and design and its relationship with the surrounding area	Yes	The design of the proposal provides an appropriate transition between adjoining developments and its mixed use nature is compatible with the subjects sites zone and position within a town centre.
Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	Yes	The proposal will not result in any significant overshadowing of the coastal foreshore or will it result in any significant loss of views from a public place to the foreshore. This has been discussed in further detail within Section 5.22 of the DG Report.
The scenic qualities of the New South Wales coast, and means to protect and improve these qualities	Yes	The height, scale and overall design of the building will provide a transition between the neighbouring 'Outrigger Building' that currently dominates and detracts from the scenic quality of the coast.
Measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that Act) and their habitats	N/A	There are no natural habitats located on the site
Existing wildlife corridors and the impact of development on these corridors	N/A	There are no wildlife corridors on the site
The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	N/A	The site is not subject to any likely coastal hazards or processes such as, flooding, king tides or proposed sea level rises.
Measures to reduce the potential for conflict between land based and water based coastal activities	N/A	The proposed land based uses will not impact upon water based activities
Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	Yes	If any artefacts are found on site they will be protected
Likely impacts of development on the water quality of coastal waterbodies.	N/A	Water disposal/runoff from the site will enter into Council stormwater facilities
The conservation and preservation of items of heritage, archaeological or historic significance	Yes	If any items of heritage, archaeological or historic significance are found on site they will be preserved.
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	Yes	The proposal encourages increased densities within existing town centres.
Only in cases in which a	Yes	With anticipated growth potential of the

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		surrounding land holdings, the proposal will likely have a positive impact upon the environment in terms of bulk and scale. The proposal includes both water and energy saving techniques.
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State Environmental Planning Policy (Major Development) 2005

The *Major Development SEPP* applies to the project as discussed in Section 3.1 of this report.

COMPLIANCE WITH OTHER CONTROLS

State Environmental Planning Policy (Infrastructure) 2007

Schedule 3 of the SEPP requires referral of applications for traffic generating development to the RTA for concurrence. The proposed works are not defined as traffic generating development.

SEPP 55

The proposal was supported by a Contamination and Acid Sulphate Soils Report (Hyder Consulting Pty Ltd, F0003-AA002957-AAR-05, 8 April 2010). A desktop study was undertaken, concluding that previous residential and commercial uses, mean that contamination and Acid Sulphate Soils are unlikely to present a constraint to the proposed development.

The report recommends however, that a more comprehensive site investigation is carried out on soil samples taken by Parsons Brinckerhoff (2005) in relation to actual acid sulphate soils (AASS) and potential acid sulphate soils (PASS). If AASS or PASS are detected, the report confirms adequate management techniques (such as neutralisation) are available. A condition has therefore been imposed, requiring additional testing prior to construction, and the undertaking of any necessary management techniques if required.

Coastal Design Guidelines

Under the Coastal Design Guidelines, Ettalong is classified as a small coastal town, with a population of approximately 4,000 (2001 Census), providing a range of services including commercial, retail town centre with a main street, suburbs, parks, churches and education. The proposal is consistent with the desired future character of the Coastal Design Guidelines for the following reasons:

- The proposal would assist with the economic viability of the town centre through the provision of new commercial and retail uses and community facilities;
- The proposal will utilise a previously developed site and would not impact upon any sensitive endangered or threatened environments;
- The project incorporates environmentally sustainable practices including photovoltaic cells, grey water recycling and use of energy efficient devices all contributing positively to reducing the production of greenhouse emissions within the site;
- The proposal will not result in any significant loss of views from a public place to the foreshore;
- The proposal will improve access to the coastal foreshore or waterways through the provision of a new 6m wide pedestrian link;
- The proposal will result in the upgrade and revitalisation of key streets within Ettalong, improving the streetscape, street activation and pedestrian links;

- The staggered design of the proposal retains established building heights along the active street frontage, while the higher storeys to the rear will provide an appropriate transition to the neighbouring 9 storey Outrigger building.

APPENDIX D RECOMMENDED CONDITIONS OF APPROVAL
