

**STATEMENT OF ENVIRONMENTAL EFFECTS
47-50 THE ESPLANADE, ETTALONG BEACH
S4.55(1A) AMENDMENT OF INSTRUMENT OF APPROVAL MP
09_0121**



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Issue Date: 4 March 2020

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Summary

This Statement of Environmental Effects (SEE) is prepared in support of an application pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The NSW Department of Planning and Environment (DPE) approved Project Application number MP 09_0121 on 24 November 2010 under Part 3A of the EP&A Act. Consent was given for the development of a mixed-use residential building to be developed over two stages. Stage 1 involved the construction of a 7-storey mixed use residential building and Stage 2 sought to construct a 2-storey commercial-retail building on the site. MP 09_0121 has subsequently been modified to increase the number of apartments within the building and make minor alterations and additions.

This application seeks to make minor alterations to the ground floor layout by enclosing the currently approved public bathroom for use by retail tenancy 2 ('retail 2') and constructing a new public bathroom within the area of the currently approved retail tenancy 6 ('retail 6') on the eastern side of the building. The proposal is substantially the same development as the approved development and can be assessed under Section 4.55(1A).

The proposal has the following benefits:

- The public bathroom is still provided but is located away from the residential building entry
- Retail 2 gains an exclusive use bathroom which provides greater flexibility in the tenancy's ultimate use.
- The public bathroom will be located within an active through site link with multiple surrounding tenancies and passive surveillance from The Esplanade making it a safe and practical location.

The proposal results in the provision of additional bathroom facilities and is without environmental impact. The proposed changes are not inconsistent with the Gosford LEP 2014 or Gosford DCP 2013. The proposal is recommended for approval.

The Site and its Context

As shown on figures 1 and 2, the site is located in the suburb of Ettalong Beach, some 20km south of Gosford, at the southern end of the Woy Woy Peninsula on Brisbane Water. The subject site is legally described as Lot 2 of DP 1249007. The address of the subject site is 47 - 50 The Esplanade, Ettalong Beach. The site fronts The Esplanade and is bounded by Memorial Avenue to the west and an unnamed service road to the north. Ettalong Beach is immediately south of the site.

Construction of the development approved under MP 09_0121 and its subsequent modifications has been completed. The site is now occupied by a 7-storey apartment building with ground level retail and basement parking. The site is relatively flat, having at most a slight fall south toward Ettalong Beach. The site was previously occupied by a large ground level car park.

Adjacent to the site, on Memorial Avenue, is the Ettalong Diggers Club and Mantra Resort; a mixed-use development offering a combination of hotel accommodation, hospitality and retail activities. East of the site is the Ettalong Beach Motel; a two-storey mixed-use development offering hotel accommodation and hospitality space. Beyond is a variety of uses, including older style low-density local retail and commercial development, as well as long-term vacant land.



Figure 1: Aerial image of the site taken during construction (Six Maps)

Site History

MP 09_0121

On 24 November 2010 approval was granted for:

“a mixed use development over two stages. Stage 1 includes a seven storey mixed use residential apartment building with basement parking. Stage 2 includes a two storey retail/commercial building with at grade parking”.

MP 09_0121 Modification 1

On 24 March 2016 approval was granted for:

“Stage 1 of the approved Project Application is to be modified including fourteen (14) additional apartments (increasing from 45 to 59 apartments). The total GFA increases by 271.64m² and the FSR increases from 2.5:1 to 2.63:1. The proposed height is reduced in height by 1.1m to 22.4m. The external and internal design of the mixed use building has been amended accordingly”.

MP 09_0121 Modification 2

On 4 October 2016 approval was granted to modify a minor transcription error in Schedule 2, Condition A2 of the previous conditions of consent.

MP 09_0121 Modification 3

On 8 September 2017 approval was granted for:

“Minor additions and alterations to the approved mixed use development”.

This included the relocation of an accessible toilet on the Ground Level.

MP 09_0121 Modification 4

On 19 September 2018 approval was granted for:

“minor additions and alterations to the approved non-trafficable roof area and the approved plant room to create 2 private terraces for apartments 601 and 602”.

MP 09_0121 Modification 5

On 6 May 2019 approval was granted for Extensions and additions of apartment balconies, minor internal alterations to the layout of the ground floor and extension and minor reconfiguration of the Level 6 apartment terraces. This application reconfigured the arrangement of the Ground Level accessible bathroom.

Proposal

This application seeks to reconfigure the Ground Level toilet facilities and construct a new public bathroom on the eastern side of the building. The approved public bathroom on the western elevation is to be amended to provide access from retail 2. The approved doorway is to be closed using sandstone to externally match the existing walls. A new accessible public bathroom is proposed to be located on the eastern side of the Ground Level with entry through a door on the eastern elevation. The new bathroom is located within the area that is currently designated as retail 6.

This modification will increase the amount of bathroom facilities provided in the building by allocating one bathroom for the use of retail 2. It retains the provision of a public bathroom but locates it on the eastern side of the building in an activated through site link which has passive surveillance from The Esplanade and the passing trade generated by the surrounding retail tenancies. Locating the public toilet in this area makes them more accessible for customers of the tenancies located on the eastern side of the building and locates them in a more activated area of the development and away from the residential entry creating a better outcome for residential occupants, commercial operators and the public.

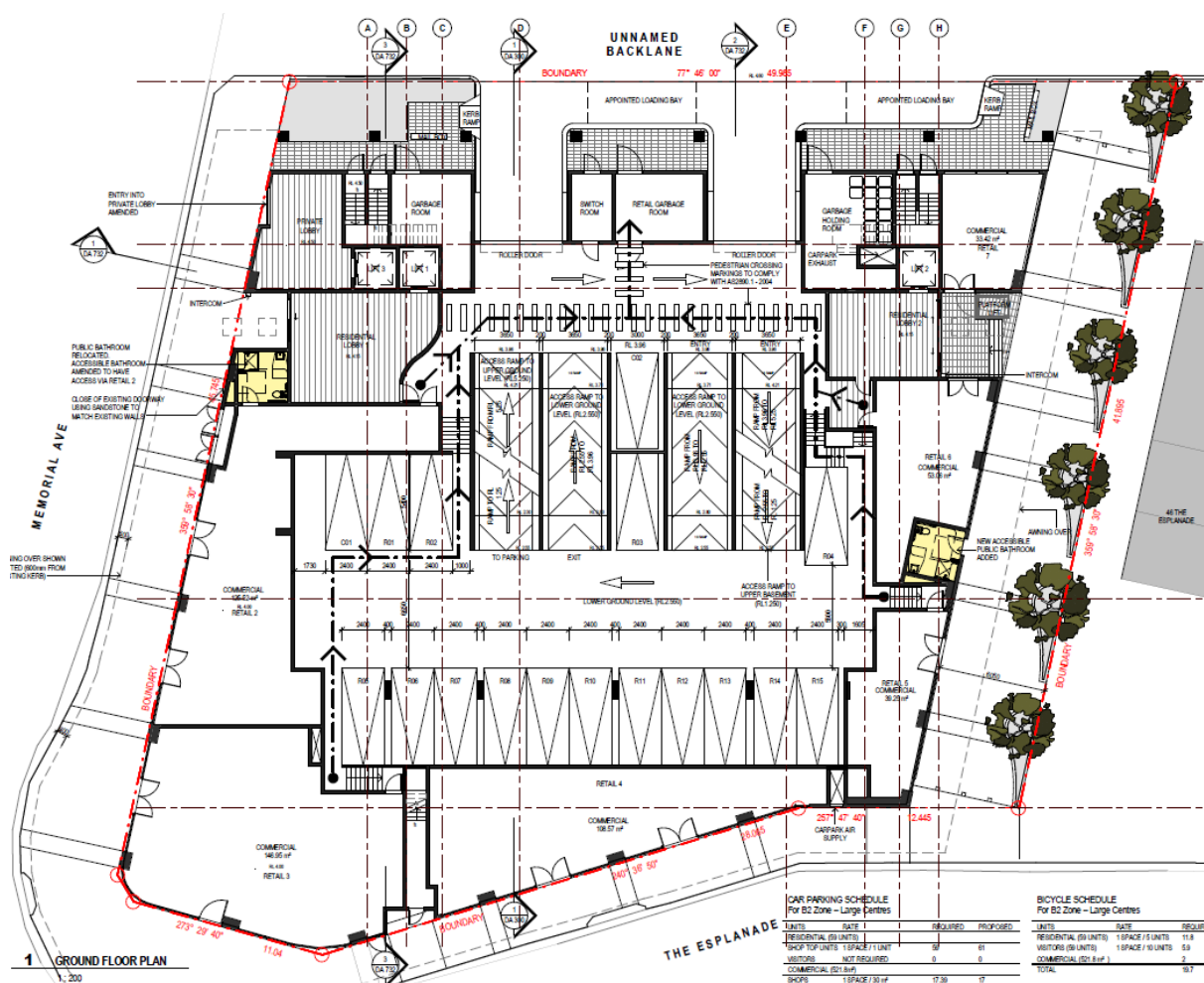


Figure 2 - Proposed Ground Level modifications pertaining to bathroom facilities

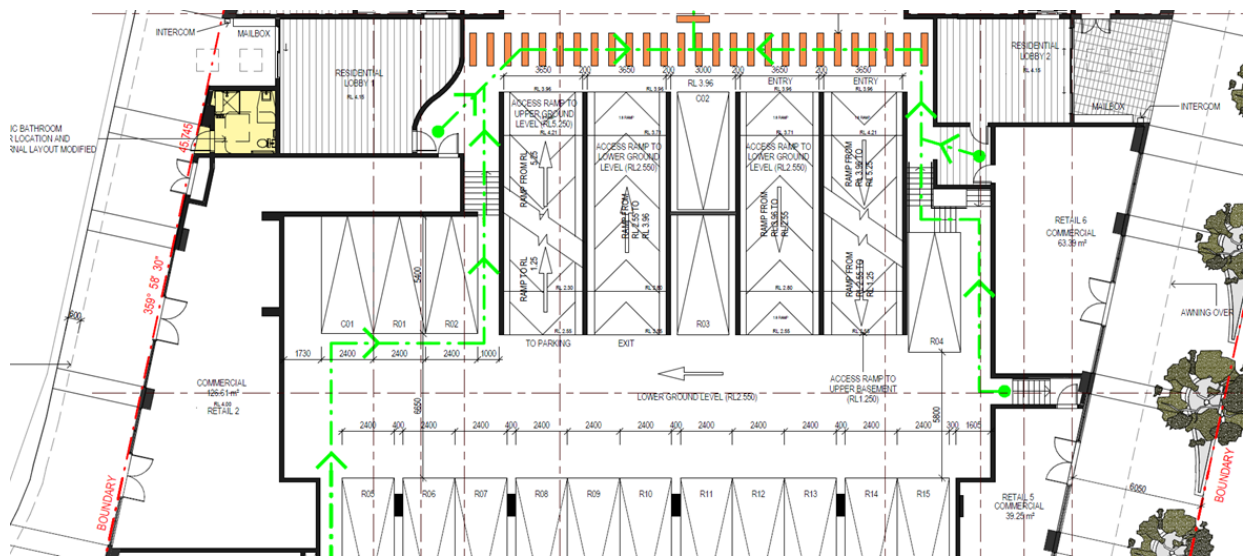


Figure 3 – Ground Level floor plan as approved under Mod 5

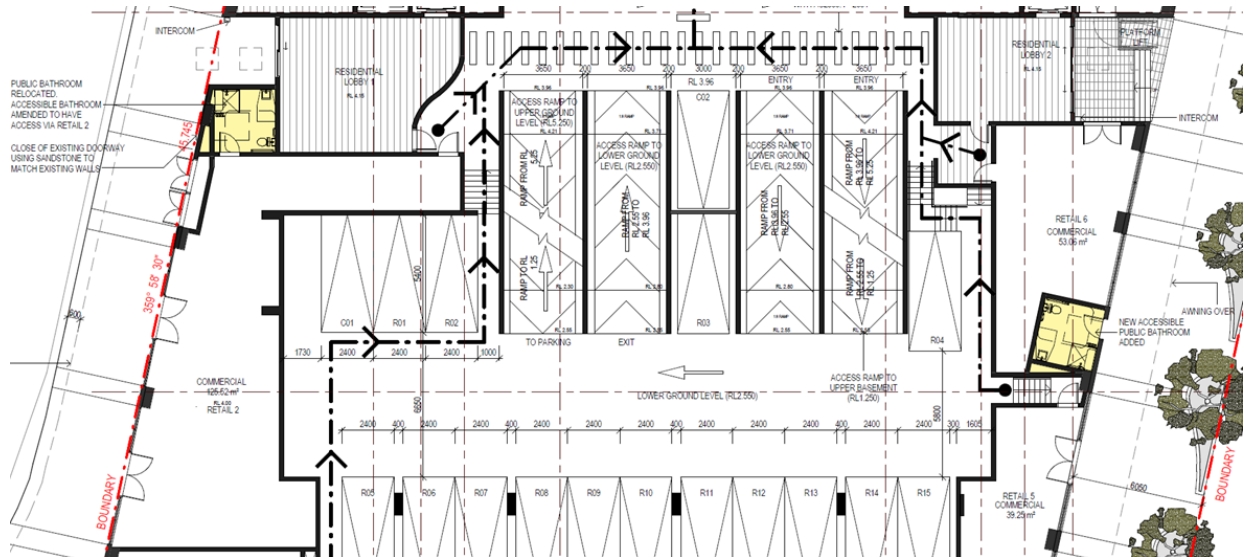


Figure 4 - Proposed Ground Level floor plan

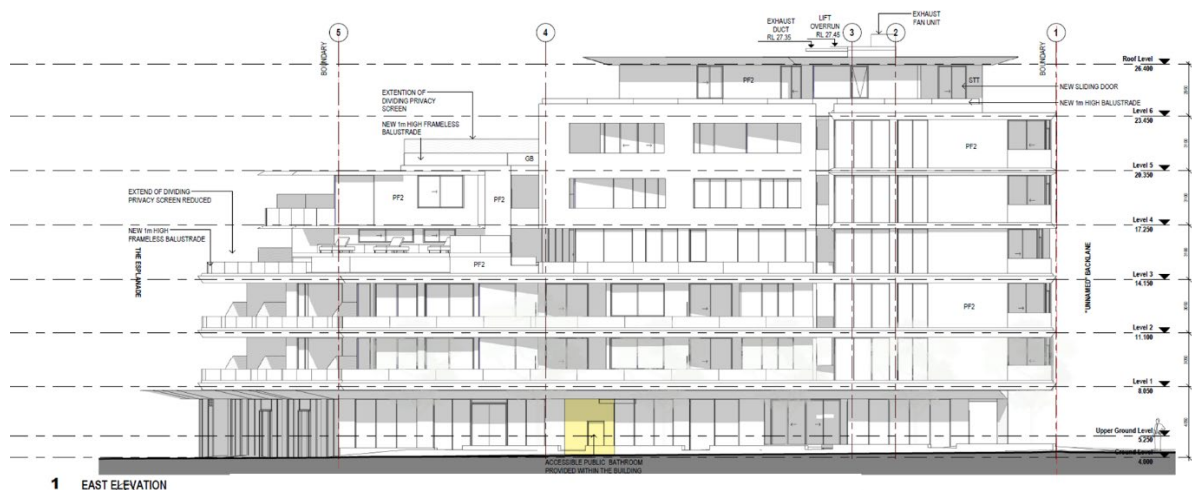


Figure 5 - Proposed change viewed from the eastern elevation

Modification Under Section 4.55(1A) of the Environmental Planning and Assessment Act

This application is made in compliance with Part 4 of the EP&A Act which allows for modification of State Significant Developments under Section 4.55(1A). Section 4.55(1A) states:

(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.

The application seeks only to modify the Ground Level of a mixed-use retail and apartment building by adding a public bathroom and incorporating an approved bathroom into retail 2. The development remains substantially the same. The purpose of this report is to:

- Assess the proposal against all relevant statutory controls;
- Consider whether the proposal is acceptable within the existing and likely future built form of the area;
- Consider whether the proposal is acceptable within the context of the applicable planning controls; and
- Address all significant environmental and external impacts, where applicable.

The application has considered all pertinent matters required under Section 4.15 of the EP&A Act, including SEPP 65, Gosford Local Environmental Plan 2014 and Gosford Development Control Plan 2013. This assessment concludes that the development is of minor environmental impact and will have a positive impact by providing additional bathroom amenities.

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

SEPP 65 (as amended on 17 July 2015) applies to residential flat buildings, mixed-use developments with a residential component and shop top housing. This policy applies when these types of development are at least 3-storeys excluding basements and contain at least 4 dwellings.

The aim of the policy is to improve the design quality of residential flat developments and ensure that developments are socially and environmentally sustainable, are a long-term asset to their neighbourhood, achieve the urban planning and design policies for their locality, are better designed to improve their appearance, contribute positively to the streetscapes and public spaces they are near, and provide for demand, resident's needs, amenity, safety and security. SEPP 65 is supported by the Apartment Design Guide (ADG) which must be considered by consent authorities when determining Development Applications.

The proposal does not relate to any residential areas of the building and will have no substantive impact on the amenity of individual units. To the extent that this minor change has an impact on the apartments, it will be positive by relocating the public bathroom away from the residential entrance. Therefore, the provisions of SEPP 65 and the ADG are not relevant to this application.

Gosford Local Environmental Plan 2014

As demonstrated in the table below, the proposed modifications are not inconsistent with the Gosford Local Environmental Plan 2014.

Aspect	Control	Assessment
Zoning	B2 Local Centre	No change is proposed to the approved retail and residential uses.
Height	11.5m	No change to the approved height is proposed.
Floor Space Ratio	1:1	No change to the approved FSR is proposed. The proposal will not modify the building's FSR.
Heritage	Not heritage listed.	Not applicable.
Flood Planning	Site not identified.	Not applicable.
Acid Sulfate Soils	Class 3	This modification will not alter the proposed best practice management for acid sulfate soils being implemented under previous approvals.

Gosford Development Control Plan 2013

The proposal is shown in the table below to be consistent with the relevant controls and objectives of the Gosford DCP 2013.

Aspect	Detail	Assessment
4.2.6.1 Building Facades	Objectives <ul style="list-style-type: none"> To ensure that buildings are of a high architectural quality that contribute to the desired character of the centre. To ensure that building facades are of an appropriate scale, rhythm and proportion that respond to the desired character of the centre. To ensure building elements are integrated into the overall building form and design. To employ a variety of architectural design techniques that disguise the scale and bulk of multi storey buildings. 	Complies. <p>The proposed modifications represent a continuation of the existing building design. The enclosure of the western bathroom will use sandstone to match the existing walls.</p> <p>The new eastern bathroom will provide access through a single swinging door which is not inconsistent with the existing rhythm of the façade at ground level.</p>
4.2.6.4 Active Street & Active Laneway Frontages	Objectives <ul style="list-style-type: none"> <i>Maintain and enhance the established "main street" retail environment, particularly by concentrating pedestrian activity along existing retail frontages.</i> <i>Encourage a new secondary retail frontage along "active" laneways in proportion to market demand for retail and business floorspace.</i> <i>To have ground floor facades that enhance the public domain, amenity and safety.</i> <i>Co-ordinate the design of shopfronts, business signs and the landscaping of public areas according to "main street" principles.</i> <i>To have street frontages suitable for active business uses.</i> <i>To promote pedestrian activity in the public domain.</i> <i>Conceal on-site parking and services from street frontages.</i> 	Complies. <p>The development creates a partial active laneway which has three retail tenancies along its length. The proposed eastern bathroom will be located within this through site link and will support these retail tenancies.</p> <p>The bathroom entrance will be clearly visible from the Esplanade which will ensure that it remains safe for public use even outside of busy times.</p>
4.2.6.7 Materials	Objectives <ul style="list-style-type: none"> Buildings that are consistent with the palette 	Complies. <p>The enclosure of the western</p>

and Finishes	<p>of materials and finishes within the area to achieve a coherent streetscape.</p> <ul style="list-style-type: none"> • Use of materials and finishes that contribute to the articulation of overall façade design. 	bathroom will use sandstone to match the existing walls.
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Ettalong Beach Village Centre – Desired Character

The development contributes to the desired character of the Ettalong Beach Village Centre by being a mixed-use development providing high levels of amenity to occupants and a high-quality interface with the public domain. The modifications contained within this proposal do not have a substantive impact on the proposal's fulfilment of the desired future character.

Environmental Planning and Assessment Act 1979 S4.15 Assessment

Section 4.15(A) Relevant Planning Instruments

The relevant planning instruments are the Gosford LEP 2014 and the Gosford DCP 2013. They have been considered in this SEE.

Section 4.15(B) Other Impacts of the Development

The relevant matters for consideration are addressed throughout this report.

Section 4.15(C) Suitability of the Site for the Development

The modification relates to a building which has been constructed. Residential and retail uses remain appropriate for the site.

Section 4.15(E) Public Interest

The proposal is not inconsistent with the public interest.

Conclusion

The proposed modification is considered to be minor and without discernible adverse impact. There is no change to the Gross Floor Area or height of the building and the outer appearance of the building will not be significantly altered.

The development, as amended, is substantially the same development as the approved development and may be determined in accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act. The proposed development remains consistent with provisions and objectives within Gosford Local Environmental Plan 2014 and the Gosford Development Control Plan 2013.

It is considered that the matter being dealt with will benefit the residents of the apartments by locating the public bathroom away from the residential entrance. Under the proposal, retail 2 will have an exclusive use bathroom for their staff/customers increasing the possible uses of the tenancy and reducing demand for the public bathroom. The public bathroom is relocated to the eastern side of the building where it will be adjacent to an activated through site link and can be seen by passing cars and pedestrians on The Esplanade making it a safe and practical location. The proposal will have no adverse environmental impacts and is recommended for approval.