

BALLINA GATEWAY PROJECT, BALLINA

Proposed Mixed Use Development

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ATTACHMENT 1:

- a. Letter from the Department of Planning dated 11 November 2006 containing the public submissions and submissions from other government departments to be addressed.
- b. Letter from the Department of Natural Resources dated 21 November 2006 containing submissions to be addressed.
- c. Letter from the Department of Planning dated 5 December 2006 containing issues to be addressed.

ATTACHMENT 2:

Newton Denny Chapelle
Response to Public and Government Agency Submission.

ATTACHMENT 3:

Newton Denny Chapelle
Response to Public and Government Agency Submission - Traffic and Carparking.

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Heggies Pty Ltd
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Response to Dept. of Planning letter dated 5 December 2006 – Waste Management
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ATTACHMENT 9:

Revised Statement of Commitments
(Revisions are shown in italics)

INTRODUCTION

This report defines our responses in relation to the Current Proposed Development as submitted. The Preferred Project outcomes will follow in a separate submission as agreed with the Department of Planning 21 December 2006.

In November 2005, Crone Partners submitted a Major Project Application to the Department of Planning. Following this application, the “design guidelines” evolved as part of the due process through a series of meetings and telephone discussion with stakeholders. The chronology is detailed in the Department of Planning letter dated 17 March 2006. It became evident during this period that a better outcome could be sought for the site. This 11,311 square metre site represents a unique opportunity for regeneration and renewal for Ballina, as there is not another site of this amalgamated size or location available in Ballina on the waterfront. The amalgamation of the site delivers major public benefit by allowing connectivity of the foreshore which is one of the major objectives of the *Ballina Combined Development Control Plan*.

The Department of Planning recognised that the existing planning controls were not flexible enough to create a broader vision and developed the Design Guidelines Drawing – Maximum Heights and Site Coverage Plan in consultation with the stakeholders. This allowed some flexibility to the existing controls resulting in a far superior development proposal which delivers;

- A 14 metre wide public foreshore open space corridor along the riverfront,
- Pedestrian links from River and Kerr Streets to the Richmond River,
- Retention of the slipways
- Siting of a single story waterfront café to enhance enjoyment of the foreshore,
- Residential buildings setback 20m from the river, and
- A three storey presentation to River Street of Building C.

Indeed, Ballina Shire Council acknowledge these outcomes as being desirable.

The current development proposal represents a 15% reduction in Floor Plate Area from the Project Application Scheme and a reduction of 22% in Gross Floor Area (GFA) from the maximum allowable GFA stipulated in the Design Guidelines issued by the Department of Planning. The design aims to revitalise the site and precinct, contribute to the growth, culture and identity of Ballina and integrate well-designed open space providing access to the river foreshore.

This report is made in response to submissions made by the general public, government agencies and the Department of Planning during the exhibition period for the Ballina Gateway Project, as requested by the Department of Planning, pursuant to Section 75H(6) of the Environmental Planning & Assessment Act 1979. A copy of the letters containing these submissions can be found at **Attachment 1**.

1. RESPONSES TO PUBLIC SUBMISSIONS

Breaching the 16m building height control

- Objection to building heights in excess of the maximum of 16m (5 storey) Council controls. The community and the Council believe that the 16m building height is adequate.

Response: The building heights comply with the Department of Planning Design Guidelines Drawing – Maximum Heights and Site Coverage Plan dated 17 March 2006 issued by the Department for the site. These were developed in consultation with Ballina Shire Council.

- A seven storey (22m) building will set a precedent for future developments. All other developments have been restricted in height and even so impose a huge visual and bulk impact to the riverfront.

Response: A seven storey building will not set a precedent for future developments in Ballina. It is only possible to have the seven storey buildings as part of this particular site, as the site is a unique site in the CBD, of considerable size (due to amalgamation) and depth with waterfront access. The seven storey buildings form part of a composition of buildings addressing the importance of the 'gateway' location. Apart from the hotel building which marks the corner of the Kerr and Rivers streets and signals the western gateway the Ballina CBD, the other seven storey building is in the centre of the site surrounded by other lower scale buildings reducing the impact of this building upon River Street and the Richmond River. The size of the amalgamated site allows for a composition of buildings supporting urban consolidation and delivering a substantial setback from the river frontage to create a foreshore space that hasn't yet been achieved elsewhere in Ballina.

- Objection to the trade-off on height for provision of foreshore access.

Response: It is the quality of the foreshore access that is of paramount importance and creates the public benefit. The proposed development delivers high quality public foreshore access that has not been achieved with the other recent foreshore developments further east along the waterfront. Pelican Moorings only achieves a 2.7 metre wide path along the river front. The Ramada delivers 8 metres. The proposed development achieves 14 metres of public open space comprising 6 metres of pathway and the balance as landscaped gardens facilitating passive and active recreation opportunities. The foreshore residential buildings are set back another 6 metres achieving an overall setback of 20 metres. The retention of the slipways and the configuration of the foreshore buildings creates a large 'courtyard' space with the waterfront café at the centre. This creates an exceptional sense of openness and space and allows sun to public foreshore even in winter. This is not achieved elsewhere, where the waterfront developments continually overshadow the public foreshore in winter and dominate the waterfront as the buildings are perched close to the river's edge.

The proposed development achieves an FSR of 2.46 : 1 (refer to the Project Statistics Report submitted with the EA). While the site has no FSR controls as stipulated in the *Ballina Shire Combined DCP*, the maximum allowable FSR for other precincts of the Ballina CBD (Town Centre Core and Northern Fringe Precinct) is 2.6 : 1 with a maximum building height of 16 metres (5 storeys). If the proposed development were to utilise these controls, the resulting development could not deliver the same quality of foreshore open space. The built form would have a larger footprint with less site permeability.

- Development on the waterfront should be lower than everywhere else in Ballina, not higher. *Ballina Shire Council LES – Tall Buildings, October 1983*, concluded that “it is to be recommended that all land directly adjacent of the river foreshore be excluded from tall and medium rise building consideration”.

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission - Comment No. 1 in **Attachment 2**.

Impact on Local Character

- Objection to Building A (Hotel) as it is out of character with the Ballina locality, in particular the zero setback, height, narrow footpath and bulk.

Response: The building heights and setbacks comply with the Department of Planning Design Guidelines Drawing for the site. The drawing specifically calls for zero setbacks to Building A. The *Ballina Shire Combined DCP* stipulates the desired future character for the Western Entrance Precinct (of which Building A forms a part) as a precinct which provides;

a sense of arrival to the Town Centre with the built form addressing the highly prominent Kerr and River Street corner. Buildings are designed to give definition to this corner.

Building A gives definition to the prominent corner creating a sense of arrival at the Town Centre.

- The development depicts a large development totally out of character with surrounding areas. The bulk and scale of development will change the general landscape of the area with the construction of an excessively oversized complex which is not warranted in the area.
- Concern regarding the changing characteristic and feel of Ballina as a laid back naturally beautiful and peaceful holiday destination. Concern that Ballina is becoming the new Noosa of the Northern Rivers and a “Gold Coast” style urbanised hub.

Response: Ballina is targeted as a new regional centre for growth and development – *Chapter 2 of the Ballina DCP – Building Principles*;

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

The proposed development provides a superior setting to the existing built form and better facilities for residents and holiday makers.

Traffic & Carparking

- A comprehensive traffic assessment has not been undertaken. There has been little or no assessment of the impact the proposed development may have during construction.

- In adequate pedestrian access audit. The audit was based on a one-hour period on Friday 4th August 2006 between 8am – 9am. This is inadequate in determining overall pedestrian access for such a busy street.
- Traffic data is based on outdated information, i.e. Eppel, Olsen & Partners modelling was based on data contained in the PARAMICS traffic model, with the data being based on information sources collected during 2002 – 2004, two years out of date. The traffic flow data was based on the Ballina Road Network Study of 2000, six years out of date. Contests that there has been significant change over the last 6 years and these studies would not accurately reflect current traffic trends.
- Objection to developer not having to upgrade roundabout and install traffic lights immediately to maintain normality to traffic flows in Kerr and River Streets. Other future developments may need to fund the upgrades.
- Concerns regarding exacerbation of existing traffic, access and parking problems associated with functions at the Blue Room Hotel. The construction of the proposed development has the potential to make these problems totally chaotic.
- Development should not be commenced before completion of Ballina Bypass, which would ease the congestion in River and Kerr Streets.
- Camoola Ave is extremely narrow and carries an enormous amount of traffic because it is the only street on the southern side of River Street, which gives access via a roundabout to Kerr, and River Streets. The proposed vehicle occupancy of the Gateway project would exacerbate enormously the already impossible car egress from the riverfront.

Access

- Concern regarding access to and across River Street and the Pacific Highway during construction.
- Objection to entry basement carpark from Kerr Street, opposite Camoola Avenue, resulting in an increase in traffic in Kerr Street. Concerns regarding safety and the increased volume and speed of traffic that will need to use the roundabout at Kerr St/ Pacific Hwy & River St.

Parking

- Insufficient car parking spaces (309 spaces) and increased number of cars parking in Camoola Avenue as a result of patron for the new hotel and restaurant.
- The application seeks parking 'based upon other similar facilities'. Parking requirements are compared to existing similar developments, which may not necessarily have enough parking spaces, eg: the Ramada Hotel under Construction.
- In calculating car parking spaces, consideration should be given to the fact that: (i) there is no public transport in the area (ii) the two buses/day referred to in the application will run to the shopping centres only (iii) there are a number of tourist attractions in the area that can only be accessed by motor vehicle (iv) majority of visitors will be using private or hire vehicles to get around, and not rely on public transport.

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission – Traffic and Carparking in **Attachment 3**.

Non-Compliance with Council Planning Controls

- The development does not comply with both the LEP and the Town Centre DCP, in particular setbacks, building separation and envelopes.

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission - Comment No. 2 in **Attachment 2**.

Loss of Visual Amenity

- Objection to buildings extending out to the Richmond River past the existing building, thereby restricting views for local residents and River Street users and workers along the river.

Response: The proposed development allows a 20m setback from the river which allows adequate views and provides a better solution than the existing built forms within the immediate locality.

- One of Ballina's greatest attributes is its visual amenity, which gives the town its distinctive appearance. An increase in the present maximum building height has the potential to destroy this.

Response: The visual amenity of the town, and in particular River Street, is haphazard and poor quality. The site currently delivers poor accessibility to the riverfront, minimal retail activity to River Street, an irregular built form and no sense of arrival at the Town Centre. The current development proposal offers buildings which have been designed with separate identities, respond to Ballina's subtropical lifestyle, rejuvenate the streetscape, reinforce the connection and enhance public access between the main street and the Richmond River. The proposed scheme offers the opportunity to ultimately achieve a continuous river foreshore promenade from Kerr Street to the Ballina RSL once redevelopment of the adjacent RSL car park is undertaken. The Proposed Development has the potential to reinstate good quality "Main Street" streetscapes which help define Ballina CBD. The proposed development can mark the point of transition to urban renewal.



Photo of River Street



River Street with RSL in background

- Disparity between existing low and high rise has further potential to destroy visual amenity.

Response: A mixture of higher and lower scale buildings is a proven urban response to creating good townscapes. *Chapter 2 of the Ballina DCP* stipulates "a mix of higher and lower scale buildings" as the desired future character of the Riverside West Precinct. The NSW Government - *Coastal Design Guidelines for NSW* also provides general urban characteristics for coastal cities which include "a full range of building heights from low scale to tall" to reinforce the city centre.

- The present appearance of River Street should be retained.

Response: The visual amenity of the town, and in particular River Street, is haphazard and poor quality. The present site buildings make an insignificant contribution to the street scape and appearance of River Street. There is great potential to rejuvenate the streetscape.

Foreshore Access

- Public access along the foreshore is a 'given' and should not be used as a trade-off for increased height of buildings.
- Residents of Ballina would be intimidated and restricted to accessing and using the river by the size, height and presence of the development.
- Objection to reduction in public access to the foreshore.
- Objection to any portion of the river being reclaimed in order to provide riverfront access for the development instead of being allowed for on the land.
- Riverfront land should be given to Council. While the land is under control of private interests there is no guarantee that it will remain accessible to the public.



Current foreshore condition



Current foreshore condition

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission - Comment No. 3 in **Attachment 2**.

We also reiterate that it is the quality of the public foreshore access which is paramount. Merely providing access along the foreshore results in the poor quality of space that is already in existence further east along the foreshore.

Flora & Fauna – responses provided by Place Environmental

- Question validity of statement that a comprehensive fauna report was unnecessary in the subject circumstances. Upon what grounds does the author of the report make the claim that a comprehensive fauna report is unnecessary?

Response: It is common practice for fauna habitat assessment (as opposed to full fauna survey) to be carried out in such heavily disturbed and urbanised environments. The ecological values of such areas are well known, and the suite of species likely to occur can be predicted with accuracy when assessments are carried out by experienced professionals familiar with the region. We maintain that full fauna survey was unnecessary in this instance.

Norfolk Pines

- Concern regarding removal of two Norfolk Pines at the rear of the Sundowner Motel.

Response: The precise nature of concern in regard to the Northfolk Island Pines is unclear. However, we can reiterate that, despite being a common coastal zone species in New South Wales, the Norfolk Island Pine is not native, and from a botanical perspective of little ecological

significance. It is acknowledged that the trees provide some value as vantage points for birds using this section of the Richmond River, although they are unlikely to be significant in this regards. Offsetting the loss of these trees from a visual amenity perspective was discussed in the ecological assessment report. Reference should also be made to the Landscape Plan prepared by "Context Landscape Design".

Osprey Pole

- Concern regarding relocation of the Osprey nesting pole. The relocation of the Osprey nesting pole must constitute a likely significant effect on an endangered species.

Response: Relocation of the nestin pole (and its potential impact on the Osprey) has been resolved with NSW National Parks and Wildlife Service. Advice to this effect was provided as Appendix 4 of the Place Environmental Report.

Overshadowing

- Loss of morning sun for residents in Camoola Ave.

Response: The EA submission includes shadow diagrams for 9am, noon, 3pm and 6pm on the summer and winter solstices and the equinox. It is clear from the shadow diagrams that there will be no additional overshadowing of the the residents in Camoola Ave, even in winter.

- Proposal does not comply with North Coast REP, EP&A Act and Coastal Policy overshadowing provisions.

Response: Included here are the provisions from the North Coast Regional Environmental Plan 1988 concerning overshadowing.

32B Development control—coastal lands

(1) This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.

(2) In determining an application for consent to carry out development on such land, the council must take into account:

- The NSW Coastal Policy 1997,*
- The Coastline Management Manual, and*
- The North Coast: Design Guidelines.*

(3) The council must not consent to the carrying out of development, which would impede public access to the foreshore.

(4) The council must not consent to the carrying out of development:

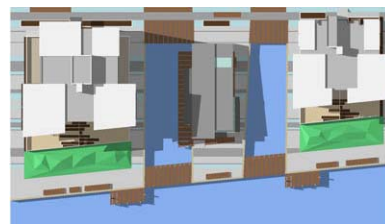
- On urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time)*

The development provides access to the foreshore that is not currently available. There is minimal overshadowing of the land directly adjacent to the site. Refer to the shadow diagrams submitted as part of the EA.

The proposed development will result in some overshadowing of the Richmond River and the adjacent foreshore, however it is considered that, given the site orientation with the river to the south of the site, any proposed development would result in some overshadowing of the river and river bank during winter. The massing and setback of the foreshore buildings ensure that no continuous shadow is cast over the river frontage. This is evident in the shadow diagrams submitted as part of the EA. The winter shadows show that at least 50% of the river foreshore will receive sun during the day. The public foreshore walk will receive full sun from 15 September to 27 March between the hours of 9am to 3pm. Refer to the shadow diagrams below.



Sept 15, 9am



Sept 15, 3pm

The open space accords with the design guidelines configuration in relation to built-form. The proposed public domain along the river frontage will create an attractive public space, notwithstanding that some overshadowing will occur.

- Unacceptable building heights will result in an increased overshadowing to the CBD and give a “closed in” city feeling that is not wanted on the North Coast.

Response: The site is situated to the south west of Ballina CBD and accordingly does not overshadow River Street except for on late summer evenings. The three storey presentation to River Street of Building C is a deliberate design decision to create a mediation in scale between the existing River Street buildings and the taller buildings within the site. Moreover, it enables greater solar access to the courtyard between Buildings C & D. There is minimal overshadowing of the land directly adjacent to the site. Refer to the shadow diagrams submitted as part of the EA.

Bulk and Scale of Development

- Objection to bulk and scale of the development as it will destroy the ambiance and aesthetics of River Street.

Response: The building heights comply with the Department of Planning Design Guidelines Drawing for the site. With the exception of the Hotel building on the corner of River and Kerr Streets, the proposed development presents a three storey building to River Street. This is in accordance with the Ballina Combined DCP which allows three storeys along River Street with a zero setback, and a further two storeys above with a 4 metre setback. A five storey building of this configuration would result in a built form with a far greater presence to River Street than the proposed development.



Proposed scheme



DCP scheme

- The size and scale of the proposed development is inappropriate for the townships and contravenes agreed regulations.

Response: The building heights comply with the Department of Planning Design Guidelines Drawing for the site. This has been dealt with under Impact on Local Character, Non-compliance with Council Planning Controls and Loss of Visual Amenity.

Obstruction of River Flows & Flooding

- The drawings suggest that the development will protrude further into the river than the existing structures and if that is the case, appropriate river studies should be conducted to ensure the development does not affect the flow of, or exacerbate flooding of the Richmond River.
- The addition of jetties on the plans encroaches still further on the main channel of the river, and this will create even more problems than exist at present in times of heavy rain and floods. The eddy current caused by allowing reclaimed land in the first place and showing as Lot 10 DP 244352 on the plans creates backwaters of dead animals and timber. Any further incursion into the main channel by jetties or wharves, which appear on the project plan, would only exacerbate this problem.

Response: Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 1. Response –Public Submissions in **Attachment 4**. (Note: there is an existing timber jetty attached to Lot 10 DP 244352.)

Building on Crown Land (Lot 10 DP 244352)

- Query regarding ownership of Lot 10 DP 244352. Is this Crown Land? How did this become freehold land?
- Council previously agreed that Lot 10 DP 244352 would never be built upon. When initially granted, it was on the condition that it would be used as parkland.

Response: Lot 10 DP 244352 is under 'Fee Simple' title and owned by Wantana Pty Ltd. There is no limitation on time within which to carry out development on the lot. The land may be resumed by the Minister (as for any freehold title) by notification in the government gazette and upon payment of an equitable compensation.

- Concern regarding stability of buildings on reclaimed land.

Response: Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 1. Response –Public Submissions in **Attachment 4**.

Need for Type of Development

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

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission - Comment No. 4 in **Attachment 2**.

Acoustic Amenity

- Objection to increase in traffic noise as a result of new development.
- Concern about increase in noise travelling across the water.
- Concern regarding noise, vibration (stability of nearby buildings) and shock during construction.

Response: Refer to Carter Rytensild Group Response to Submissions – 1.0 Department of Planning Attachment 1 – Acoustic Amenity, **Attachment 5**.

Building Design / Layout

- Objection to block style buildings with large footprints and narrow walkways between tall buildings.

Response: The current development proposal offers buildings which have been designed with separate identities, respond to Ballina's subtropical lifestyle, rejuvenate the streetscape, reinforce the connection and enhance public access between the main street and the Richmond River. The buildings generally have a horizontal expression that relates to the pattern of adjacent buildings. The horizontal sunscreens are framed by projecting slab edges and offset by vertical elements such as the fire stairs. The balconies to the residential apartments can generally be enclosed / or open, especially along the waterfront, which results in a 'playful' façade. The buildings are no more "block" style nor with a larger footprint than any of the other significant recent regional developments in Ballina. The proposed through site links range from 6m to 13.16m wide which is in accordance with the 6 metres stipulated in the *Ballina Combined DCP Chapter 2 - 4.7 Pedestrian Access Links*.

- Objection to colour scheme, design and layout.

Response: The proposed development has been designed in accordance with the North Coast Design Guidelines prepared by the Department of Planning to "promote building designs that enhance and protect the north coast's unique environment". The guidelines describe design that is "light and airy", closely related to the natural environment, and maintain "traditional character which emphasizes planting and use of natural materials".

For Towns and Villages, the guidelines identify the following elements as being desirable:

- Relating buildings to the water physically and in design, light airy structures which take advantage of the views and the proximity to water
- Incorporating dominant design elements such as distinctive parapet designs, roof and façade detailing which unify and provide character
- Incorporating characteristic building materials.

The buildings relate both physically and aesthetically to the water, particularly the waterfront buildings. The apartments are mostly dual aspect to gain the benefit of the views, solar access and sea breezes. The façades are modulated by louvred screens and fabric awnings which give

the occupants control over the effects of the weather. Buildings are disposed about the site to give maximum access to water views. The proposed development incorporates parapet lines and cantilevered sun screening elements which provide strong terminations to the top of the buildings. The colours and materials blend with the natural colours of the surrounding environs with off-white to mid grey as the base colour with more strongly coloured highlights. Many of the materials are used in their natural state such as anodized aluminium, hardwood timber cladding and timber louvres.

Local Infrastructure

- Concern regarding increased loading to the West Ballina STP and the fact that this STP discharges to "The Canal", which is subject to poor tidal flushing.
- Objection to allow the addition of this large number of equivalent tenancies while not knowing what effect additional effluent will have on receiving waters.

Response: Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 1. Response –Public Submissions in **Attachment 4**.

Wind

- The precinct's micro-climactic character will be adversely affected through exacerbation of the present wind-tunnel effect that regularly arises on the northern bank of the estuary. Overshadowing of the adjacent section of River Street and its side roads will be substantially less tolerable for users, particularly in cold windy winter conditions.
- Residents of the new apartments will not be able to open a window or door when the wind is blowing.

Response: Refer to Heggies Pty Ltd Response to Summary of Submissions by Dept. of Planning – Wind related issues in **Attachment 6**. Also refer to the shadow diagrams that were submitted as part of the Environmental Assessment.

Increase in Boating Activity

- Concerns regarding increase in boating traffic as a result of the development. No current restrictions on the nature of waterway craft being used or enforced regulations on specific activities.
- Developers should approach the appropriate authorities and encourage them to develop policies for speed limits for boaters, and the waters they occupy for 2 km in both directions.

Response: The proposed development makes no provision for boat mooring, nor allows sea craft access to the existing slipways.

Open Space Contributions

- Occupancy projections have been used to calculate the area of open space required by the project. However, contribution of land along the riverbank does not fall under, nor meet the requirements of Council's Open Space Contribution Plan, which requires contributions to local and district parks, playing fields and the like. Access to the riverfront does not fall under this plan, so calculations are spurious (false).

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission - Comment No. 5 in **Attachment 2**.

Inaccurate Population Predictions

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

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission - Comment No. 6 in **Attachment 2**.

Contradictions within the EA

- Contradictory occupancy rates
- “guestrooms” versus “apartments” used to describe the accommodation in the hotel
- 48, 36 and 90 = 174 not 175/rooms/units/apartments.
- Discrepancy in height description – 22m, but described as being compliant with controls

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission - Comment No. 7 in **Attachment 2**.

River Revetments

- Proximity of the site to the main river channel and the non-uniform alignment of the river bank will cause a severe erosion situation. Timber boardwalks over the existing revetments are inadequate.

Response: Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 1. Response –Public Submissions in **Attachment 4**.

LETTERS OF SUPPORT

Local Economy

- The project will: (i) act to strengthen the Ballina Town Centre's position in the Shire's retail hierarchy by stimulation spending in the core of the town centre, (ii) act as a “gateway” to the town centre, (iii) generate an increase in tourism through its proposed mixed use, (iv) generate jobs during construction and operation, (v) turnover approximately \$1.7M in retail spending, and (vi) provide an improvement in the provision of convenient parking in the town centre.
- The development will stimulate further investment and employment generation.

Response: The submission endorsing the project on economic grounds is supported by the Hill PDA report.

Building Height

- Support for a height of 7 storeys, allowing 14 metres of waterfront land to be dedicated for public access.

Response: The design is based on delivering a significant amount of open space as articulated in the Architectural Design Statement. The submission endorsing the proposed 7 storey height limit and 14 metre setback from the waterfront is recognition of this design premise.

OTHER

Acoustic Amenity

- The Ballina Hotel at 253 River Street operates until 3.00am. It is submitted that in any construction of the residential accommodation at the proposed site it should be acoustically attenuated to ensure that persons staying in the accommodation cannot be disturbed from activities occurring outside and reduce the capacity for noise complaints to be made against any licensed premises in close proximity.

Response: The development makes provision for noise attenuation as stipulated in the Acoustic Report, however it remains the responsibility of the management of the licensed premises to ensure that patrons behave in a respectful manner once outside the premises.

Tourist Resort Accommodation

- It is submitted that Building A be approved only as a tourist resort accommodation and ancillary activities and not as a hotel as defined by the Liquor Act 1982. Trading hours for the site should be restricted as set out in point 6.3 of the Acoustic Report prepared by Carter Rykenskild Group.

Response: Building A (hotel) is envisaged to be tourist accommodation and the proposed design reflects this.

2. RESPONSES TO GOVERNMENT AGENCIES

A: Ballina Shire Council Letter to Department of Planning dated 6 November 2006.

Urban Design

Ballina Shire Council acknowledges that the proposed development provides a number of “valuable design contributions to enhancing the Ballina Town Centre”. In their submission, they list the following:

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

Ballina Shire Council resolved at its Ordinary Meeting held on 26 October 2006 that:

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

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

Council go on to express their desire that the proposed development “be modified to address and comply with the precinct specific controls that apply to the Riverside West Precinct and Western Entrance Precinct in Part 3 of the Chapter” as well as Part 4 – General Design and Development Controls.

Response: The building heights and setbacks comply with the Department of Planning Design Guidelines Drawing – Maximum Heights and Site Coverage Plan dated 17 March 2006 issued by the Department for the site. These were developed in consultation with Ballina Shire Council. The Proponents had regard to the Draft DCP as evidenced in characteristics of the EA Submission even though the Draft DCP was on exhibition late in the design of the proposal. Council adopted the Combined DCP on 21 August 2006 after the EA was completed and the DCP became effective from 1 October 2006. Ultimately this proposed development had to address the Design Guidelines that were issued by the Department of Planning for the site.

The precinct specific controls that apply to the Riverside West Precinct and Western Entrance Precinct in Part 3 of Chapter 2 differ from the Department of Planning Design Guidelines Drawing – Maximum Heights and Site Coverage Plan particularly in relation to the setbacks and height of the building allowable on the River / Kerr Street corner (although it appears that Ballina Shire Council was contemplating seven storeys for the Western Entrance Precinct as the Draft Combined DCP contained a diagram showing seven storeys) and the height limit in the middle of the site. Nowhere in the precinct specific controls is a setback from the river frontage stipulated. Moreover, the building separations stipulated in the Combined DCP are over-ridden by SEPP 65.

The precinct specific controls require that the Norfolk Island Pines be retained. These trees are not native to the area and are more suited to a large parkland setting.

The precinct specific controls also require that all ground level uses be active. This requirement ignores the negative commercial realities of having shop fronts buried within a development where

they are not highly visible. The proposed uses on the site have been considered from this commercial exposure aspect.

As previously discussed in this report, sound decisions were made in relation to uses, building heights, setbacks, scale, bulk, site permeability, building separations and impact on the surroundings. To comply with the precinct specific controls would mean an eroding of the “valuable design contributions” stated above. Specifically, re-allocating the accommodation upon the site to fit within the Ballina Council DCP constraints would result in a development that has reduced site permeability and a reduced public foreshore with a greater visual impact upon River Street.

Civil Design and Infrastructure

Following are responses to Ballina Shire Council Engineer’s preliminary comments.

Intersection Upgrade

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission – Traffic and Carparking in **Attachment 3**.

Parking

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission – Traffic and Carparking in **Attachment 3**.

Riverbank Stability

Response: Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 2. Response –Ballina Council in **Attachment 4**.

Stormwater

Response: Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 2. Response –Ballina Council in **Attachment 4**.

Flooding

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

Response: Floor levels comply with the requirements of the Ballina Combined DCP for Minimum Ground and Floor Levels (based on Council’s adopted flood levels) “Sites must be filled to 1.8 metres AHD” and “Minimum ground floor level is 2.1 metres AHD”. The basement carpark ramps comply with *Chapter 2, Part 4, clause 4.5 - Flood protection and building access of the Combined DCP*, namely;

Sub-basement or basement carparking areas must be flood proofed using structural (not mechanical means) to a minimum level of 1.8m AHD.

Both basement access ramps have a section of ramp at RL 1.8 AHD before descending into the basement. The basement fire stairs ascend to a level at or above RL: 1.8 AHD before egressing.

Staging

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

Response: The technical documentation supports the proposed development as a whole. A comprehensive Construction Management Plan will form part of the Application for a Construction Certificate which will address the construction staging.

The proposal clearly shows that staging and the detail staging will be submitted as part of the Construction Certificate outlining construction staging.

Public Infrastructure

Response: Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 2. Response –Ballina Council in **Attachment 4**.

Landscape Treatment of the Public Foreshore Open Space

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

Response: The following has been prepared by Context Landscape Pty Ltd.

The program for the open space for the river frontage has been generated from a range of requirements. The notion that the landscape of the areas to the landside of the 6m promenade is acting buffer to the development is rejected. The design functionality and aspirations, which underpin the open space response, are numerous and include:

- enriching the river edge experience by providing a complimentary landscape treatment to adjoining open grassy park areas along the river
- treating the space as a nodal element which marks a high quality designation i.e. the restaurant / café
- understand that the space will have a key role as a linking element which facilitates pedestrian movement along the riverfront to adjoining open spaces
- marking the role of the space as a threshold which creates a paved entry / exit / orientation space in the pedestrian journey along the riverfront
- acknowledging that river front open space should have a variety of spatial and landscape qualities to enrich the range of riverfront settings for people to enjoy
- that the landscape treatment should be able to compliment the scale of the riverside setting and not be fragmented into a range of small parcels or uses
- reinforcing the natural grade fall towards the river by providing low gentle mounds to 300mm high to allow people to sit and lie on turf to the landside of the promenade and focus towards the river
- facilitating interaction with the river at the river edge itself by locating seating and other furniture including lighting at those zones of activity where people wish to be i.e. as close as possible to the edge of the water

- creating a landscape setting of its place incorporating indigenous plantings and a local material palette
- ensuring good site lines are maintained at ground level and from apartments overlooking the open space to ensure Crime Prevention Through Environmental Design is upheld

The open space proposals for the development will enrich the riverfront experience by providing a landscape dominant setting of the highest quality whilst setting a new public domain provision for Ballina.

Noise

Refer to **Attachment 5** for responses to Ballina Shire Council's request for further clarification and information in relation to the Environmental Noise Impact Assessment dated 10 July 2006 by Carter Rytenskild Group.

Contamination

Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 2. Response –Ballina Council in **Attachment 4**.

Acid Sulphate Soils (ASS)

Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 2. Response –Ballina Council in **Attachment 4**.

Dewatering

Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 2. Response –Ballina Council in **Attachment 4**.

B: Crown Lands Division – NSW Department of Lands Letter to Department of Planning dated 30 October 2006.

This letter makes the following ascertainment:

The Department provide owner's consent to lodgement of the Development Application on the 4 August this year. That consent was provided without prejudice to allow full consideration of the project under the Environmental Planning and Assessment Act 1979.

However, the application as lodged is not as consented to by the Department. The application that the Department provided owner's consent to lodgement had a maximum height of the buildings on the foreshore at five (5) stories. The application now provides for the maximum height of the foreshore buildings at seven (7) stories.

The Department does not support the lodgement of an amended Development Application that includes additional height of the foreshore buildings being sought without prior consent of the Department.

Response: The issues raised within this submission are factually incorrect. The proposed development submission sent to the Department of Lands on 17 July 2006 seeking approval to lodge the Environmental Assessment contains the same proposed development as made in the submission to the Department of Planning. Refer to **Attachment 7** for a copy of the letter to the

Department of Lands seeking approval with two sample drawings of the submission clearly showing the foreshore buildings B and F at five storeys high. Several telephone messages have been left with the Department of Lands to clarify the above information without response.

C: Department of Environment and Conservation Letter to Department of Planning dated 11 October 2006.

This letter supports the proposal "in its current form subject to the implementation of measures outlined in the Statement of Commitments". It also indicates that a section 95 certificate in accordance with the *Threatened Species Conservation Act 1995* has been issued to the DEC's Parks and Wildlife Division (PWD) for relocation of the osprey nesting pole which will be relocated from the site by early December 2006 "and therefore this issue should not impact on the proposed development".

Response: The DEC's comments are noted and we make no further response.

D: Department of Primary Industries Letter to Department of Planning dated 29 September 2006.

This letter states that the proposal "raises no mining, agriculture or forestry issues".

The Fisheries Management Division within the Department of Primary Industries has responsibility for managing fish and fish habitat throughout NSW, and accordingly focuses on access and amenity along the Richmond River associated with the proposal.

DPI also has a strong interest in ensuring that the facility is designed, constructed and managed in a manner that minimises impacts on aquatic habitats.

Cognisant of these matters NSW DPI has no objection to the proposal contingent upon appropriate and effective use of sediment and erosions control and silt curtains during the construction to avoid plumes of sediment in the estuary, particularly when the revetment wall is constructed.

Response: The DPI's comments are noted. A Comprehensive Construction Management Plan addressing sediment and erosion control measures will form part of the application for a Construction Certificate.

E: Regional Development Committee Letter to Department of Planning dated 3 November 2006.

This letter raises a number of road safety and traffic management issues following the committee meeting on 20 October 2006 at Coffs Harbour City Council Chambers.

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission – Traffic and Carparking in **Attachment 3**.

F: Department of Natural Resources Letter to Department of Planning dated 21 November 2006.

This letter comments on the following aspects of the proposed development;

- Acid Sulphate Soil (ASS) Management
- Groundwater
- Rivers and Foreshores Improvement Act 1948

Response: Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 3. Response – Department of Natural Resources in **Attachment 4**.

3. RESPONSE TO DEPARTMENT OF PLANNING LETTER DATED 5.12.06.

ATTACHMENT 1: Department of Planning Comments for MP 050009 Ballina Gateway Project

KEY ISSUES

1. Building Height

- The proposal exceeds the prescribed maximum building height of 16 metres as specified in the Ballina Local Environmental Plan (LEP). The height restriction of 16 metres has been in place since the introduction of the Ballina LEP in 1987 and has been consistently applied without exception during this time. The 16m height limit is clearly supported by the Ballina community and Ballina Shire Council as demonstrated by the recent release of the new *Ballina Shire Combined Development Control Plan*. Buildings that exceed this limit on the site are not appropriate for the desired future character of Ballina.

Response: The building heights comply with the Department of Planning Design Guidelines Drawing – Maximum Heights and Site Coverage Plan dated 17 March 2006 issued by the Department for the site. These were developed in consultation with Ballina Shire Council.

One of the key issues informing the buildings heights is establishing the appropriate future character of Ballina. The *Ballina Local Environmental Plan (BLEP)* is now 20 years old and has resulted in a number of buildings that do not achieve best outcomes for the locality. Ballina is targetted as a new regional centre in the Draft Far North Coast Regional Strategy. Under the Coastal Design Guidelines for NSW, the desired future character for coastal cities embraces urban consolidation to prevent coastal ribbon development stating that *taller buildings are best located closer to the city centre, and generally buildings in city centres are up to seven storeys*.

The *Ballina Shire Combined Development Control Plan* makes several references to the desired future character of Ballina.

Vision Statement:

Ballina Town Centre is a vibrant and prosperous mixed-use centre situated on the Richmond River. It is the traditional civic heart within Ballina Shire and serves a co-dominant role in the Shire's commercial hierarchy. The Town Centre exhibits strong connections to its river setting and is undergoing a transition to a sustainable coastal city centre.

Desired Future Character for Riverside West Precinct:

A human scale is retained along the River Street frontage, however buildings of a greater scale are situated within sites. A mix of higher and lower scale buildings create an appropriate interface with the riverfront and a unique riverfront park which includes the War Memorial Park and new foreshore public open space.

Desired Future Character for Western Entrance Precinct:

The western entrance precinct provides a sense of arrival to the Town Centre with the built form addressing the highly prominent Kerr and River Street corner. Buildings are designed to give definition to this corner.

The proposed development responds to all of these desired future characteristics and reinforces the practise of urban consolidation and sustainability.

We also note that the *Ballina Shire Combined DCP* could not endorse a greater height limit than 16 metres as this control is in the *BLEP*.

- Buildings within close proximity to the foreshore should not result in significant overshadowing of public open space or the Richmond River. The buildings result in significant overshadowing of the Richmond River and public foreshore areas prior to 3.00pm midwinter.

Response: The proposed development will result in some overshadowing of the Richmond River and the adjacent public foreshore space, however it is considered that, given the site orientation with the river to the south of the site, any proposed development would result in some overshadowing of the river and river bank during winter. The massing and setback of the foreshore buildings ensure that no continuous shadow is cast over the river frontage. This is evident in the shadow diagrams submitted as part of the EA. The winter shadows show that at least 50% of the river foreshore will receive sun during the day. As previously discussed, the foreshore walk will receive full sun from 15 September to 27 March between 9am and 3pm.

We note that previous developments approved and constructed further east of the subject site on the river frontage, namely the Ramada and Pelican Moorings buildings do continuously overshadow the land directly adjacent to the river. They are only setback from the river 8 metres and 2.7 metres respectively. The proposed development is currently setback 14 metres from the river frontage and the 5 storey residential building facades are setback 20 metres from the river frontage. This results in a far superior amenity to the river foreshore.

The proposed development will not remove (or cause any significant impact to) waterways, wetland or other features of importance to fisheries. Correspondence to this effect (from NSW Fisheries) is provided in Appendix 5 of the Place Environmental Ecological Assessment Report contained within the EA Submission. Moreover, the proposed development will not overshadow a sand bar (located approximately 450 metres southeast of the site) which is of known importance to migratory waders in the lower reaches of the Richmond River.

The proposed public domain along the river frontage will create an attractive public space, not withstanding that some overshadowing will occur.

- The Department has concerns regarding the precedent that will be set by 7 storey buildings on this site. This is emphasised by the final statement in the Architectural Design Statement that states:

"The development...will create a benchmark for future development there [in Ballina]".

Response: The emphasis of 'benchmark' relates to the quality of development, the open space, the setbacks, activation of foreshore, main street activation and the quality of the urban design response.

A seven storey building will not set a precedent for future developments in Ballina. It is only possible to have the seven storey buildings as part of this particular site, as the site is a unique site in the CBD, of considerable size and depth with waterfront access. The seven storey buildings form part of a composition of buildings addressing the importance of the 'gateway' location. Apart from the hotel building which marks the corner of the Kerr and Rivers streets and signals the

western gateway the Ballina CBD, the other seven storey building is in the centre of the site surrounded by other lower scale buildings reducing the impact of this building upon River Street and the Richmond River. The size of the amalgamated site allows for a composition of buildings supporting urban consolidation and delivering a substantial setback from the river frontage to create a foreshore space that hasn't yet been achieved elsewhere in Ballina.

- Lower scale development (Building C) on River Street fails to provide a strong street edge definition that would seem appropriate for this "gateway" location.

Response: This lower scale 3 storey development was seen as a positive attribute of the design by the Ballina Shire Council. It satisfies both Council's desire for 'human scale' development along River Street while still providing a strong street edge. The "gateway" aspect of the design is defined by Building A located on the corner of Kerr and River Streets. Ballina Shire Council also acknowledges this difference between the type of development to line River Street and the 'gateway' portion of the site by splitting the site into two precincts, the Riverside West Precinct and the Western Entrance Precinct.

Desired Future Character for Riverside West Precinct - Ballina Combined DCP:

A human scale is retained along the River Street frontage, however buildings of a greater scale are situated within sites. A mix of higher and lower scale buildings create an appropriate interface with the riverfront and a unique riverfront park which includes the War Memorial Park and new foreshore public open space.

Desired Future Character for Western Entrance Precinct - Ballina Combined DCP:

The western entrance precinct provides a sense of arrival to the Town Centre with the built form addressing the highly prominent Kerr and River Street corner. Buildings are designed to give definition to this corner.

The proposed development responds to these statements appropriately.

- The Architectural Design Statement specifies 4 design objectives. The third objective relates to integration of the proposal with streetscapes and landscapes. The 7 storey building on the corner of Kerr and River Street (Building A) does not integrate with the existing streetscapes and landscapes of the existing low density (2 storey) residential development to the west of the site.

Response: This is a CBD location which provides for future growth and urbanisation of Ballina. The proposal reinforces the 'main street' character of Ballina exemplified in the form of Building C. Building A gives definition to the prominent corner creating a sense of arrival at the Town Centre. The *Ballina Shire Combined DCP* acknowledges that the character of the development site is different to the existing low density residential development to the west of the site and clearly states that the development should 'provide a sense of arrival'.

The landscape design reinforces the main street by actually providing street trees, and extends the landscape of the memorial open space area, providing connectivity to the foreshore that is not currently available.

The existing streetscapes and landscape to the west of the development site are of a neighbourhood character, and are not intended to be integrated with the CBD area.

2. Built Form / Urban Design

- The Department has concerns about the substantial length and bulk of Building D.
- The building is up to 70 metres long. Building D will read as a very large building when viewed obliquely from River Street (from the east) and when viewed from the foreshore (refer Drawing No. Z-9005A). The emphasis on horizontal articulation increases the apparent bulk of the building.
- The building is up to 21 metres glass to glass and overall 26.5 metres deep (including balconies), which exceeds SEPP65 requirements. The depth of the building should be reduced to provide better amenity and overall a less bulky building. Consistency with the Department's "Maximum Height and Site Coverage Plan" does not constitute sufficient justification for non-compliance with SEPP65. The envelopes on "The Plan" were indicative and did not purport to comply with SEPP65.
- Refer to comments above regarding height.

Response: Building D is not more lengthy or bulky than other existing waterfront development. Moreover, it is located in the centre of a composition of buildings. The Ramada Riverside Apartments for instance, is 72 metres long and fronts directly onto Fawcett Park, so the full impact of the building is readily evident. The impact of Building D to the streetscape is minimized by Building C. The overall bulk to the river front is reduced by buildings B, F and G.

Refer to images on Page 10.

Whilst Building D is 70 m, it is cutback and articulated at the east end to visually reduce the impact of the overall length, plus a setback at the top two floors reduces the overall bulk of the building.

It is noted that Building D exceeds the building depth guidelines in SEPP 65. It is possible to reduce the depth of the building from Ground level to Level 4 to comply with the guidelines. The result will be smaller apartments. The effect on the perceived bulk of the building will be reduced.

Refer to previous comments responding to height.

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- Council's DCP encourages public open space that accommodates active and passive recreation along the foreshore as well as active uses (preferably active frontages) as the interface between the private and public domain. The proposal does not allow for any active frontages along the Richmond River foreshore other than the café. Consideration should be given to an active frontage on the south side of Building D.

Response: The single storey café is a significant activation element for the foreshore. It will have its own identity accentuated by its location between the existing slipways.

Retail opportunities at the ground level of Building D were investigated as one of the options during the EA development but were found not to be viable and were also seen as a distraction from main street retail strip along River Street.

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- The Department is concerned about the proposed location of the two loading zones with regard to noise and safety for adjacent residents and pedestrians. Loading zones should not be located adjacent to sensitive receivers such as the residential area in Kerr Street and Camoola Avenue.

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission – Traffic and Carparking in **Attachment 3**.

Street loading zones are typical in Ballina CBD where they have minimal impact upon open space and the public domain. Street loading zones can be managed when they are located adjacent to sensitive receivers such as the residential development so that utilisation of the loading zone is limited to certain hours of the day.

3. Permeability

- The DGRs specified that the development must provide meaningful pedestrian (residential & public) and visual linkages to the river. The proposal currently features 3 north-south through site links, none of which provide direct visual linkages to the Richmond River waterfront or slipways. Clear, direct and unimpeded connections between River Street and the Richmond River should be provided.

Response: Clear, direct and unimpeded connections between River Street and the Richmond River are provided. The main public access between River Street and the river is along the east boundary. This is a 6m wide clear thoroughfare, providing uninterrupted views and access to the river. This access complies with the requirement of the *Ballina Shire Combined DCP* for mid block access between Kerr Street and Grant Street.

Other linkages are primarily for the residents and hotel patrons, for access to apartments, the pool and amenities building, the café and waterfront. These linkages are also accessible by the public (except for the secured residential courtyard between Buildings C and D).

There is a clear uninterrupted access along the foreshore.

The design also allows for east /west access in the middle of the site providing an opportunity in the future to connect directly from Kerr Street to the Memorial Park which also creates benefits for the residents from Camoola Avenue to access the park.

4. State Environmental Planning Policy No. 65 Compliance

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

- The SEPP65 analysis does not include an assessment against street, side and rear setback controls. Further analysis is required. Justification for any non-compliance is required. Consistency with the Department's "Maximum Height and Site Coverage Plan" does not constitute sufficient justification for non-compliance with the controls. The envelopes on "The Plan" were indicative and did not purport to comply with SEPP65.

Response: Here we include excerpts from SEPP 65 regarding the guidelines for setbacks:

Street Setbacks

"Street setbacks establish the front building line. Controls over street setbacks create the proportions of the street and can contribute to the public domain by enhancing streetscape character and the continuity of street facades. Street setbacks can also be used to enhance the setting for the building. They provide for landscaped areas, entries to ground floor apartments and deep soil zones.

Objectives:

- *To establish the desired spatial proportions of the street and define the street edge.*
- *To create a clear threshold by providing a transition between public and private space.*
- *To assist in achieving visual privacy to apartments from the street.*
- *To create good quality entry spaces to lobbies, foyers or individual dwelling entrances.*
- *To allow an outlook to and surveillance of the street.*
- *To allow for street landscape character.*

Designing the controls:

- *Use different setback controls to differentiate between urban and suburban character areas. Setbacks typically vary from none in city centres to 10 metres on suburban streets.*
- *Establish a dimension to match existing development or step back from special buildings or to retain significant trees*
- *Use a 'build to' line in urban areas where a consistent street edge needs to be reinforced*
 - *Minimise overshadowing of the street and/or other buildings.*
 - *In conjunction with height controls, consider secondary upper level setbacks to reinforce the desired scale of the buildings on the street.*

Checklist:

- *Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.*
- *Relate setbacks to the area's street hierarchy.*
- *Identify the quality, type and use of gardens and landscaped areas facing the street.*
- *Test street setbacks with building envelopes and street sections.*
- *Test controls for their impact on the scale, proportion and shape of the building facades."*

"Side and rear setbacks are important tools to ensure that the building height and distance of the building from its boundaries maintain the amenity of neighbouring sites and within the new development. Setbacks vary according to the building context and type, and will apply more to suburban than urban contexts.

Side and rear setbacks can be used to create useable land, which contributes to the amenity of the side and rear of the buildings through landscape design.

Objectives:

Side Setbacks:

- *To minimise the impact of development on light, air, sun, privacy, views and outlook for neighbouring properties, including future buildings.*
- *To retain or create a rhythm or pattern of development that positively defines the streetscape so that space is not just what is left over around the building form.*

Rear Setbacks:

- *To maintain deep soil zones to maximise natural site drainage and protect the water table.*
- *To maximise the opportunity to retain and reinforce mature vegetation.*
- *To optimise the use of land at the rear and surveillance of the street at the front.*
- *To maximise building separation to provide visual and acoustic privacy.*

Designing the Controls:

- Establish primary and secondary setback lines.
- Design side and rear setbacks in conjunction with building separation, open space and deep soil zone controls.
- Where the desired character is for a continuous street frontage, zero side setbacks are appropriate.

Checklist:

Relate side setbacks to existing streetscape patterns.

Test side and rear setback with building separation, open space and deep soil zones requirements.

Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space."

The Street Setbacks comply with the SEPP 65 guidelines and the *Ballina Shire Combined DCP*. The buildings are built to property line to maintain 'main street' character and reinforce its CBD location.

The Side Setback complies with the SEPP 65 guidelines and the *Ballina Shire Combined DCP*. The 6 metre setback is provided primarily for public access to the river front and helps to achieve the requirements for deep soil zones and improving privacy between the development buildings and any future development to the east. There is no rear setback as there is no rear to the site.

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- It is noted that the separation distance between level 5 of Building D and Building F is stated as being non-compliant with SEPP65 separation distances. However, Level 5 of Building F, according to Drawing No. Z-1105A, only shows the roof of this building. It would appear that the non-compliance exists for all floors from the Ground Floor to Level 4 inclusive (refer Drawing No.s Z-1100 – Z-1104A). Further clarification of this matter is required.

Response: The non compliance of separation relates to the 5th floor only of building F (Level 4), otherwise the building separation complies. Options for solving the separation issue are discussed in the EA report. The proposed design solution is seen as providing the best public benefit without compromising the apartment layout or amenity.

ATTACHMENT 2: Department of Planning Comments for MP 050009 Ballina Gateway Project

FURTHER INFORMATION REQUIRED

1. Development Control

North Coast Regional Environmental Plan (REP)

- It is noted that the EA includes an assessment against the relevant provisions of the North Coast REP. The assessment is inadequate. Further assessment as outlined below is required:
- The assessment against Clause 15 (Development Control – wetlands or fishery habitats) does not address matters relating to water quality and quantity (Clause 15(a) and 15(b)).

Response: The following has been prepared by Place Environmental.

Clause 15(a) From a habitat management perspective it should be noted that the development will incorporate a range of contemporary stormwater management features which will significantly

improve the quality of water discharged from the Site (noting the mixed commercial industrial nature of the existing use), and attenuate the volume of water discharged during peak flows. Litter and gross pollutant traps will be installed to minimise the transfer of sediment and waste from the Site. Significantly, these traps will intercept inorganic material such as shopping bags, which are a significant threat (via ingestion) to marine mammals.

Clause 15(b) With reference to the ecological assessment report, the proposed development will not remove (or cause any significant impact to) waterways, wetland or other features of importance to fisheries. Correspondence to this effect (from NSW Fisheries) is provided in Appendix 5 of the Place Environmental Ecological Assessment Report contained within the EA Submission.

- The assessment against Clause 32B does not include adequate justification for non-compliance with the overshadowing provision of the REP.

Response: This response has been prepared by Newton Denny Chapelle.

The following points are raised in support for the proposed justification for non-compliance with Clause 32B.

The subject land is orientated in a north-south manner thereby reducing opportunities to negate overshadowing of the proposed public open space. Compliance could possibly be achieved with a single storey construction form setback some 6m from the public open space boundary.

- The Department of Planning has established a precedent with respect to an acceptable level of overshadowing within the assessment of the Ramada Hotel (DA 234-5-2003). The following extract is obtained from the assessment report prepared by the Department of Planning.

The proposed development will result in some overshadowing of the crown land at the end of Martin Street in mid winter after approximately 1pm and after approximately 2pm from March to September. The crown land will therefore have access to sun up to, 1 pm in midwinter and 2pm from March to September.

The shadows that will result from the proposed development will be primarily over the riverfront in the morning and over the Martin Street road reserve and adjacent crown land in the afternoon. These shadows are most significant in mid winter with summer and equinox shadows being primarily contained to the site or affecting adjacent properties for short periods either in the morning (west) or afternoon (east). Adjacent properties will therefore get appropriate sunlight outside these times.

The crown land at the end of Martin Street is designated as public open space under the LEP however it has not been embellished and is currently vacant land covered in mixed grasses. Whilst at the present time the land does not provide for active open space uses it does provide access to the riverfront.

Whilst it is noted that the proposed development will result in some overshadowing of the public open space at the end of Martin Street this is not considered significant given that it will only occur after 4pm in Midwinter and after 2pm from March to September. Westerly sun would therefore be blocked by the development after these times. Sunlight will however continue to be available to this land for the remainder of the day. This is considered

acceptable given that any significant development of the subject land would result in some shadow impacts.

- The primary area of overshadowing is found on land not previously available to the public as open space. To this end, the greater benefit with the proposal is the opening of the river frontage to the public in a manner significantly greater than what both Ballina Shire Council and the Department of Planning have previously required.

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

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

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

- The built form will not provide a contiguous shadow upon the foreshore open space, thereby providing public open space free of overshadowing in a manner consistent with the provisions within Clause 32.

-
- The review does not include an assessment against Clause 43 (Development Control – residential development).

Response: This response has been prepared by Newton Denny Chapelle.

Clause 43 - Residential development: This clause sets out a range of considerations in relation to residential development. The consent authority cannot grant consent to residential development unless:

(a) it is satisfied that the density of the dwellings has been maximised without adversely affecting the environmental features of the land

As outlined within Section 4.1.3.1 of the EAR, the development accords with the density provisions contained within both the former DCP 1 applicable at the time of lodgement and the then Draft Combined DCP.

DCP Policy Statement No.1	Development Standard
Density	<ul style="list-style-type: none"> On merit subject to building height and car parking which the proposal is compliant.
Landscaped areas	<ul style="list-style-type: none"> 1,000m² + 50m² per unit for next 10 units over first 10 units & 30m² per unit thereafter. Balcony may contribute up to 25m² of landscaped area. Planting to contribute for each unit - 1 large tree (6m height), 4 medium trees (4-6m), 8 shrubs (1-4m). First 10 units = 1,000m² Second 10 units = 500m² (10 x 50m²) Remaining 64 units = 1,920m² (64 x 30m²) Total = 3,420m² Provided = > 3,420 m²
Private Open Space (for ground floor units)	<p>50m² per unit & may be provided in more than 1 location with a minimum area of 40m² and minimum dimension of 4m.</p> <ul style="list-style-type: none"> Ground Floor units 11 Required open space 50m² Total Area Required = 550m² Provided = > 1,006 m²

The density of the proposed development is substantially less than the maximum allowable under the DCP controls further to the maximum GFA as expressed within the Director General Environmental Assessment Guidelines. Given the environment of the site and its surrounds, there is an obvious need to ensure that the adjacent foreshore area is not detrimentally impacted upon, and for this reason the lower density proposed is considered to be an appropriate response to the unique qualities of the site.

(b) it is satisfied that the proposed road widths are not excessive for the function of the road

No public roads are proposed as part of the development.

(c) *it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met*

Not applicable.

(d) *it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles*

The proposed development utilises the existing road network, and public transport services are available in this area. Reference is made to the Traffic Impact Assessment within Appendix 5 of the EAR in respect to the capacity of the road network and prescribed upgrading works.

(e) *it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion plans*

The site is generally flat, and therefore conventional erosion and sedimentation controls will be successful in protecting local water quality.

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

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

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

- Clause 81 (Development Control – development adjacent to the ocean or a waterway) is generally concerned with the provision of sufficient open space which is both accessible and open to the public within the vicinity of the proposed development and that buildings be erected as part of the development will not detract from the amenity of the waterway.

Response: Clause 81: Development control—development adjacent to the ocean or a waterway.

(1) The council shall not consent to a development application for development on land within 100 metres of the ocean or any substantial waterway unless it is satisfied that:

(a) there is a sufficient foreshore open which is accessible and open to the public within the vicinity of the proposed development,

The proposed development delivers accessible public open space to the foreshore that is not currently available. The development achieves 14 metres of public open space comprising 6 metres of pathway and the balance as landscaped gardens facilitating passive and active recreation opportunities. The foreshore residential buildings are set back another 6 metres achieving an overall setback of 20 metres. The retention of the slipways and the configuration of the foreshore buildings creates a large 'courtyard' space with the waterfront café at the centre. This creates an exceptional sense of openness and space and allows sun to public foreshore even in winter. This is not achieved elsewhere, where the waterfront developments continually overshadow the public foreshore in winter and dominate the waterfront as the buildings are perched close to the river's edge.

The proposed development delivers 2,063 square metres of public space which equates to 18.25% of the site.

(b) buildings to be erected as part of the development will not detract from the amenity of the waterway, and

It is the quality of the foreshore access that is of paramount importance. The proposed development delivers high quality public foreshore access that has not been achieved with the other recent foreshore developments further east along the waterfront.

The size and depth of the amalgamated site allows for a composition of buildings supporting urban consolidation and delivering a substantial setback from the river frontage to create a vibrant foreshore space. The seven storey buildings form part of a composition of buildings addressing the importance of the 'gateway' location. Apart from the hotel building which marks the corner of the Kerr and Rivers streets and signals the western gateway the Ballina CBD, the other seven storey building is in the centre of the site surrounded by other lower scale buildings reducing the impact of this building upon River Street and the Richmond River.

-
- There is no assessment to demonstrate that the buildings do not detract from the amenity of the waterway. In particular further assessment of the impacts of overshadowing on the Richmond River and foreshore open space.

Response: As previously stated, any proposed development along the south side of River Street would result in some overshadowing of the river and river bank during winter. The massing and setback of the foreshore buildings ensure that no continuous shadow is cast over the river frontage.

The proposed development will not remove (or cause any significant impact to) waterways, wetland or other features of importance to fisheries. Correspondence to this effect (from NSW Fisheries) is provided in Appendix 5 of the Place Environmental Ecological Assessment Report contained within the EA Submission.

The proposed public domain along the river frontage will create an attractive public space, notwithstanding that some overshadowing will occur.

NSW Coastal Design Guidelines

- *The EA does not provide and adequate consideration of the relevant provisions of the NSW Coastal Policy. Further consideration of the Policy is required. In particular, reference should be made to the desired future character of coastal cities and the relevant design principles for coastal settlement.*

Response: This response has been prepared by Newton Denny Chapelle.

Ballina is considered to be a Coastal City within the as nominated within the Coastal Design Guidelines for NSW. The Guidelines provide the following principles applicable to the development proposal.

DESIRED FUTURE CHARACTER

Coastal cities grow and accommodate a larger working, residential and retirement population whilst maintaining the coastal virtues that make the place sought after. Coastal cities plan for urban opportunities whilst not creating continuous linear development along the coast. Coastal cities optimise the efficient use of land, services and infrastructure to minimise impacts on the surrounding environment. As coastal cities develop they reduce the pressure for expansion in more sensitive locations.

Response: The design of the development has had regard to the context of both the subject land together with the desired outcomes for Ballina as nominated within the Ballina Combined DCP. The proposal is considered to provide for the efficient use of the land with regard to the density (below that prescribed in the DGEARS) and provision of essential services.

The development of the higher density residential and tourist accommodation will ultimately reduce the pressures of urban growth on more sensitive locations outside the central business district of Ballina.

Reference is also made to the Draft Far North Coast Regional Strategy (DFNCRS) which encompasses the Ballina Local Government Area. The DFNCRS provides the following components which reinforce the design elements of the development and its location within Ballina.

Allocate 35% of future housing to the three regional centres— Tweed Heads, Lismore and Ballina—and reinforce their role as job and service centres.

BALLINA

As a major regional centre it will be supported by new land releases in Lennox Head and Cumbalum. Employment, retail and tourism are important functions of the centre.

More people will be living in and adjacent to centres, close to jobs, shops, services, and leisure and recreational facilities. It is planned that the transport network be improved, particularly in urban centres, and increased and varied employment opportunities available.

Tweed Heads and Lismore are the two current regional centres for the Region. Ballina will develop as the third regional centre recognizing the importance of its airport and its role as a river and coastal lifestyle centre. They will be reinforced as the major service and population centres containing 35% of the Region's additional housing. Higher density living will be encouraged around town centres and areas of major employment.

OUTCOMES

- New development will include a range of well designed housing, within easy access to services and facilities, preferably in walking distance. This will result in better places to live and attractive, adaptable and self-reliant settlements that foster a strong sense of community.
- A network of open space within and between settlements will cater for recreation, nature conservation and social interaction.
- Conservation of the environmental heritage of the Region will be promoted, including historic townscapes and places of heritage significance.

ACTIONS

- Councils should prepare desired character statements for their localities and include provisions through a development control plan to ensure that new development enhances the desired character, as will be detailed in the Settlement Planning Guidelines.
- New buildings should be designed to maximize adaptability to meet changing demographic needs and alternative future uses.
- New development should be designed to respond to the subtropical climate of the Region through best practice energy efficient design, landscaping and materials.
- New development should be designed to reflect and enhance the natural, cultural, visual and built character and values of the local and regional landscape.
- New and changing urban areas should provide access to natural features, such as coastal foreshore and riparian land in a manner that is consistent with the maintenance of ecological values.

Relationship to the environment

a. The relationship of a city to the coast is improved by:

- planning to minimise expansion of city edges extending, connecting and improving the open-space network and the public domain throughout the whole city for conservation, recreation, access and water management.

Response: The development is located within the western fringe of the Commercial area for Ballina. To this end, no extension to the city edges are either proposed or required.

The design for the Ballina Gateway provides for the planned extension of the foreshore public open space network. The design of the foreshore area improves the permeability of the site, whilst focussing on the Richmond River.

Visual sensitivity

a. The visual character of cities is protected and consists of :

- views of public reserves and conservation areas
- views and vistas from and to the coast, rivers and other water bodies and coastal vegetation
- views and vistas of headlands, escarpments and vistas of the surrounding scenic rural and natural lands.

Response: The visual character of Ballina will be enhanced by the proposed development. It provides access to the river foreshore that is not currently available. It creates a mid-block link from River Street to the river. It reinforces links to the existing memorial park and sets up the potential for future links to the other green spaces already established along the foreshore.

b. Views from public places are retained and reinstated, where they have been lost through inappropriately located development. The visual quality of the settlement is designed as part of an overall desired future outcome or vision.

Response: The current built form screens views from River Street to the foreshore. Furthermore, access is restricted to the foreshore upon the development site given currently private land extends from River Street to the Richmond River.

Edges to the water and natural areas

b. Access to and along the coast and the foreshore is optimized and designed to allow cultural and social opportunities.

Response: As per our previous comment, the development has planned the inclusion of public open space for the full length of the site, thereby opening private land for public access in perpetuity.

Buildings

- a. New development avoids urban sprawl and ribbon development.
- c. Higher density development reinforces the city centre.
- e. Industrial, commercial and retail areas are located and integrated with the transport network and housing.
- f. Development builds upon the original historic street pattern.
- g. Within the city building types may include: residential flats; mixed-use commercial; retail and residential; commercial office or retail buildings; heritage buildings and townhouses.

Response: As detailed throughout this report, the development responds to all these items. The proposed development reinforces the city centre by with higher density than the surrounding suburban development, helping to alleviate urban sprawl. The development is mixed use, close to transport and builds upon the historic building patterns by limiting the development footprint upon the ground and creating through site links and pedestrian ways.

Heights

- a. Locations close to the foreshore or sites visible from beaches and important public areas are not appropriate for tall buildings.
- b. Taller buildings are best located closer to the city centre.
- c. **Generally buildings in city centres are up to seven storeys.**
- d. Generally buildings in suburban centres are up to three storeys.
- e. Generally buildings close to foreshore edges are up to three storeys.
- f. Heights are subject to place-specific urban design. New development is appropriate to the predominant form and scale of surrounding development (either present or future), surrounding landforms and the visual setting of the settlement. Buildings avoid overshadowing of public open spaces, the foreshore and beaches in city centres before 3pm midwinter and 6.30pm Summer Daylight Saving Time. Elsewhere buildings avoid overshadowing of public open spaces, the foreshore and beaches before 4pm midwinter and 7pm Summer Daylight Saving Time.

Response: As detailed throughout this report, the development responds to all these items appropriately. There are no tall buildings proposed directly on the foreshore as evident elsewhere in Ballina. The seven storey buildings perform two functions, one marking a prominent gateway to the city centre and two providing higher density buildings within the middle of the site where the

impact on the neighbouring precincts is reduced. The five storey foreshore buildings are setback 20 metres from the foreshore and are not perched on the edge. As previously discussed, the massing and setback of the foreshore buildings ensure that no continuous shadow is cast over the river frontage. This is evident in the shadow diagrams submitted as part of the EA. The winter shadows show that at least 50% of the river foreshore will receive sun during the day. The public foreshore walk will receive full sun from 15 September to 27 March between the hours of 9am to 3pm.

2. Stormwater Management

- The Department requests more detail regarding the kind of treatment measures that will be employed on the site. The department also requests details showing that the drainage system planning and design will cater for major and minor storm events in accordance with Ballina Shire Council's DCP Chapter 13 – Stormwater Mangement), and further detail regarding control of peak discharge flow rates and maintenance of these rates at pre-development levels.

Response: Refer to Ardill Payne & Partners Response to Agency Comments and Public Submission – 3. Response – Department of Planning in **Attachment 4**.

- The size of all rainwater tanks must be stated on the plans to ensure compliance with the BASIX Certificate provided in Appendix 8 of the EA.

Response: Comment noted. The tanks sizes will be shown on the Basement 1 floor plan in accordance with EMF Griffiths BASIX certification submitted as part of the EA.

3. Environmental Noise Impact Assessment (ENIA)

- The Department requests clarification and further justification of a number of acoustic issues arising from the Environmental Noise Impact Assessment (ENIA) undertaken by Carter Rytenskild Group.

Response: Refer to **Attachment 5** for responses to requests for further clarification and information in relation to the Environmental Noise Impact Assessment dated 10 July 2006 by Carter Rytenskild Group.

4. Flooding

- Ballina Shire Council's *Policy Statement No. 11 Flood Levels* outlines the minimum fill levels for allotments within the flood prone areas of the shire on which the buildings are proposed to be erected and the minimum floor levels of those buildings. A minimum fill level of 1.8 metres AHD is required for the site.
- It is noted that the Architectural Design Statement states that the difference in existing ground levels will be dealt with by either locally filling the natural ground level to meet 1.8 metres AHD or installing ramps at a maximum gradient of 1:14 to make the transition between the existing level of River Street (generally below 1.8 m AHD). It is not clear where the ramps will be located and how these will protect the site from flooding during a 1 in 100 year flood event. The Department's preference is for the site to be filled to 1.8 metres AHD.

Response: The site fill levels and internal ground floor levels comply with the requirements of the Ballina Shire Combined DCP and *Policy Statement No. 11 Flood Levels* for Minimum Ground and

Floor Levels (based on Council's adopted flood levels) "Sites must be filled to 1.8 metres AHD" and "Minimum ground floor level is 2.1 metres AHD".

The ramps referred to in the Architectural Design Statement are shown on the Ground Floor Plan. Kerr Street footpath already achieves levels at 1.8 m AHD or above. The River Street footpath, however falls across the front of the site from 1.8 m AHD to 1.64 m AHD. In accordance with *Policy Statement No. 11 Flood Levels* ramps are utilised within the site boundary to make the transition between River Street and the proposed development ground plane which is at 1.8 m AHD and 2.55 m AHD as shown on the Ground Floor Plan. The ramps comply with disabled access requirements and occur in the public open space between the buildings starting at the River Street boundary. The raised ground levels protect the site from flooding, the ramps serve as the transition between the levels and provide a structural means of containing the flood waters to River Street.

It should be noted that the habitable ground floor levels are all at RL 2.1 m AHD and above. Again the transition between the existing River Street footpath and the internal floor level is traversed by steps and ramps as shown on the Ground Floor Plan. These will contain any flooding to the shop entries only while still facilitating disabled access.

Incorporating several ramps from River Street both in the public open space and at each retail entry provides better access and amenity without the perceived barrier of a raised footpath for the length of River Street which limits points of access and visual connectivity to the active frontages.

The basement carpark ramps comply with *Chapter 2, Part 4, clause 4.5 - Flood protection and building access of the Combined DCP*, namely;

Sub-basement or basement carparking areas must be flood proofed using structural (not mechanical means) to a minimum level of 1.8m AHD.

Both basement access ramps have a section of ramp at RL 1.8 AHD before descending into the basement. The basement fire stairs ascend to a level at or above RL: 1.8 AHD before egressing.

5. Privacy

- It is noted that the 7 storey hotel building is separated from the residential buildings and oriented north-south along its axis to avoid directly overlooking the residences. However the location of the hotel building on the corner of Kerr and River Streets will mean the patrons of the hotel will be overlooking the residents on the Pacific Highway, Kerr Street and Camoola Avenue imposing a sense of reduction in privacy for the existing residents in these local areas. How will this be managed?

Response: The hotel building is separated from the closest residences by Kerr Street, a distance of approximately 30 metres, so the hotel does not directly overlook existing private open space. The existing residences along Camoola Avenue and the Pacific Highway are located on an east-west axis and therefore the hotel does not overlook a series of rear yards but instead the orientation of the dwellings serve to obscure much of the private open space.

The hotel façade has a series of layers which serve to protect the privacy of both the existing residences and the hotel occupants. Most notably, the louvred glass system fixed to the external edge of the projecting balcony slabs acts as a two-way privacy screen.

The proposed street trees will help to ameliorate privacy issues. The street trees (Golden Penda trees) reach a height of 5-7 metres at maturity with a canopy spread of 3 - 5 metres diameter.

6. Car Parking / Access

- The Department requests clarification and further justification of a number of car parking and vehicle access issues arising from the Traffic Impact Assessment undertaken by Newton Denny Chapelle.

Response: Refer to Newton Denny Chapelle Response to Public and Government Agency Submission – Traffic and Carparking in **Attachment 3**.

7. Crown Land

- Further clarification of the ownership of Lot 10 DP 244352. This land came into existence under Crown Plan Reclaimed Land registered with the registrar General as special purchase in April 1973. Under the *Crown Lands Act 1989*, the Minister may include in a contract of sale of Crown land, or impose in connection with the grant of an application to purchase land that is the subject of a holding within the meaning of the *Crown Lands (Continued Tenures) Act 1989*, such conditions as the Minister determines including, but without being limited to:
 - (a) a condition for or with respect to the erection of a building on the land by the purchaser within a specified period,
 - (b) a condition for or with respect to an option or right for the Minister to repurchase the land on behalf of the Crown, or
 - (c) both the conditions referred to in paragraphs (a) and (b).

Response: Lot 10 DP 244352 is under 'Fee Simple' title and owned by Wantana Pty Ltd. There is no limitation on time within which to carry out development on the lot. The land may be resumed by the Minister (as for any freehold title) by notification in the government gazette and upon payment of an equitable compensation.

8. Flora and Fauna

- It is noted that the two Norfolk Island Pines will be removed from the site. Are these being relocated or destroyed?

Response: These trees are being removed. Indigenous tree species will be planted in the new proposed landscaped areas as stipulated in the landscape drawings and statement by Context as submitted with the EA.

9. Waste Management

- The Ballina Town Centre DCP requires waste and recycling facilities to be provided at a rate of 120 litres of waste capacity per dwelling (i.e. total of 240 litres per dwelling). The Mack Group report proposes only one 240 litre bin for residential waste at the rate of 1 bin per three residential apartments and only one 50 litre bin for recyclable residential waste per two residential apartments. No justification has been given for this proposed reduction in waste capacity.
- It is noted that all residential waste will be collected by council trucks from the kerb. Will all waste be collected from the loading bay in Kerr Street? The Department is concerned that this collection area is located in close proximity to existing residences in Kerr Street and is also located adjacent to the east-west pedestrian link through the site, which poses amenity and noise issues. Council's DCP requires loading bays and garbage

collection areas in mixed use developments to be located away from sensitive receivers such as residential development.

Response: Refer to The Mack Group Response to the Department of Planning Letter dated 5 December 2006 – Waste Management in **Attachment 8**.

10. Economic Assessment

- Table 9 of the Economic Impact Assessment makes reference to Sans Souci, Hurstville and Dolls Point. Please confirm that the figures used in this table reflect the local conditions of Ballina and its retail centres.

Response: Hill HPD confirm that Footnote 2 at the bottom of Table 9 of the Hill PDA "Economic Impact Assessment" report is in error and it should have been written as follows:

2. Calculated as a percentage of total turnover of the new specialties. Each apportionment is calculated by dividing the floor area of total specialties by the distance from the Subject Site.

11. External Materials and Finishes

- It is noted that the ground floor retail components consist predominantly of glazed shopfronts. The residential entrance lobbies are also glazed and protected by cantilevered metal awnings. The use of glazing commended; however, it appears from Drawing No. Z9002-A that the glazing has not been broken up into sections to avoid large expanses of glass. Shopfronts should be articulated as separate units, as per Council's Combined DCP requirements.

Response: The glazing will be articulated by framing members and solid infill panels to delineate between the tenancies. The various shop entries will be identified by specialist signage.

- As glazing is also being used for residential entrance lobbies, how will the entrances to shops be distinguished from one another? Entrances should be designed such that they are a clearly identifiable element of the building in the street.

Response: The residential lobbies will be identified by framed entry doors, signage and specialist lighting combined with strong feature wall colours within the lobbies evident through the glazing.

- How have the roof top plant rooms been integrated into the building?

Response: Careful consideration was given to the massing of the roof plant rooms. The plant rooms have been consolidated with the fire stairs and lift overruns and finished in the same materials. These fire stairs are often expressed in the facades and wrap over the top of the building forming strong vertical elements in the facades.

- How will the substation be integrated into the building design?

Response: The substation is a kiosk style substation and is located to satisfy the requirements of the BCA and Energy Supply company for fire safety and access. It have been located in a garden bed where it is not highly visible and partially obscured by a terrace to the southern end of Building E and the landscaping.

- Awning widths appear narrow (less than 1500mm). Are these similar in width to the existing awnings in River Street?

Response: The awnings are 1350mm wide so as not to interfere with the proposed street trees. Elsewhere on River Street where there are existing awnings, there are no street trees.

Refer to photos on page 7.

12. Open Space Contributions

- It is noted that the calculations for the open space contributions under the Draft Open Space Contributions Plan (June 2006) use an occupancy rate of 70% for the proposed tourist accommodation, which comprises 90 guest rooms. No justification has been given as to why the reduced occupancy rate of 70% has been used in this instance.

Response: This occupancy rate is commensurate with the rate used for the carparking generation for the hotel rooms. In this regard we have already stated that the rate used for carparking is in fact 75% not 70%. If the Department of Planning wishes to utilise the Ballina s.94 Contribution Plan, then an occupancy rate of 1 per hotel room should be used.

13. Retail

- What is the number/size of retail tenancies on River Street? How does this relate to existing of desired pattern of retail development?

Response: The existing sizes of retail retail tenancies on River Street range from 45 – 100 square metres with a few larger shops (advice from Elders Real Estate, Ballina). The retail areas shown under Building C and E can be broken into tenancies of approximately 100 square metres by placing intertenancy walls on the building grid.

CONCLUSION

We submit that the proposed development complies with the Department of Planning Design Guidelines that evolved as part of the due process through a series of meetings and telephone discussion with stakeholders. The development site represents a unique opportunity for regeneration and renewal for Ballina. The proposal results in a far superior development which delivers;

- A 14 metre wide public foreshore open space corridor along the riverfront,
- Pedestrian links from River and Kerr Streets to the Richmond River,
- Retention of the slipways
- Siting of a single story waterfront café to enhance enjoyment of the foreshore,
- Residential buildings setback 20m from the river, and
- A three storey presentation to River Street of Building C.

The development will revitalise the site and precinct, contribute to the growth, culture and identity of Ballina and integrate well-designed open space providing access to the river foreshore.

Vanessa Dudman
Architect's Registration No. 6039

ATTACHMENT 1:

- d. Letter from the Department of Planning dated 11 November 2006 containing the public submissions and submissions from other government departments to be addressed.
- e. Letter from the Department of Natural Resources dated 21 November 2006 containing submissions to be addressed.
- f. Letter from the Department of Planning dated 5 December 2006 containing issues to be addressed.

ATTACHMENT 2:

Newton Denny Chapelle
Response to Public and Government Agency Submission.

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ATTACHMENT 3:

Newton Denny Chapelle
Response to Public and Government Agency Submission - Traffic and
Carparking.

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ATTACHMENT 4:

Ardill Payne & Partners
Agency Comments and Public Submission

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ATTACHMENT 5:

Carter Rytenskild Group
Gateway Ballina Response to Submissions – Acoustic Issues

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ATTACHMENT 6:

Heggies Pty Ltd
Response to Summary of Submissions by Dept. of Planning – Wind
Related Issues

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ATTACHMENT 7:

Letter to Department of Lands seeking approval to lodge the
Environmental Assessment
Level 5 Floor Plan
Cross Section

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ATTACHMENT 8:

The Mack Group Pty Ltd
Response to Dept. of Planning letter dated 5 December 2006 – Waste
Management Related Issues

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ATTACHMENT 9:

Revised Statement of Commitments
(Revisions are shown in *italics*)

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