



Ref: #660/2011
11th September 2020

Melati Lye
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Urban Planning & Development
Central Coast Council;
P.O. Box 20
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Dear Melati,

Planning Proposal 106/2019
#43-49 The Esplanade at Ettalong Beach
SUPPORTING INFORMATION - URBAN DESIGN ASSESSMENT

I refer to your letter dated the 26th August 2019 and our subsequent discussions regarding the additional information requested by Council. The following additional information is provided:-

Dot Point #4 – Flooding Assessment

It is noted that the subject land are NOT affected by the 1% AEP flood event as shown in *Figure 1* being an extract from Council's GIS mapping. However, the site is affected by the Probable Maximum Flood (PMF) which is denoted Precinct 1 in deep purple colour.

The Probable Maximum Flood (PMF) is the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation, and where applicable, snow melt, coupled with the worst flood producing catchment conditions. Generally, it is not physically or economically possible to provide complete protection against this event. The PMF defines the extent of flood prone land, that is, the floodplain. The extent, nature and potential consequences of flooding associated with a range of events rarer than the flood used for designing mitigation works and controlling development, up to and including the PMF event should be addressed in a floodplain risk management study.

Section 9.1 – Directions by the Minister (cf previous s 117) applies to the subject lands. Council's attention is drawn to Section 9.1 – Directions (Direction 4.3 – Flood Prone Land).

The **objectives** of the Direction are:-

- (i) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005; and
- (ii) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

This direction applies to all relevant planning authorities that are responsible for flood prone land within their LGA including Central Coast Council and applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

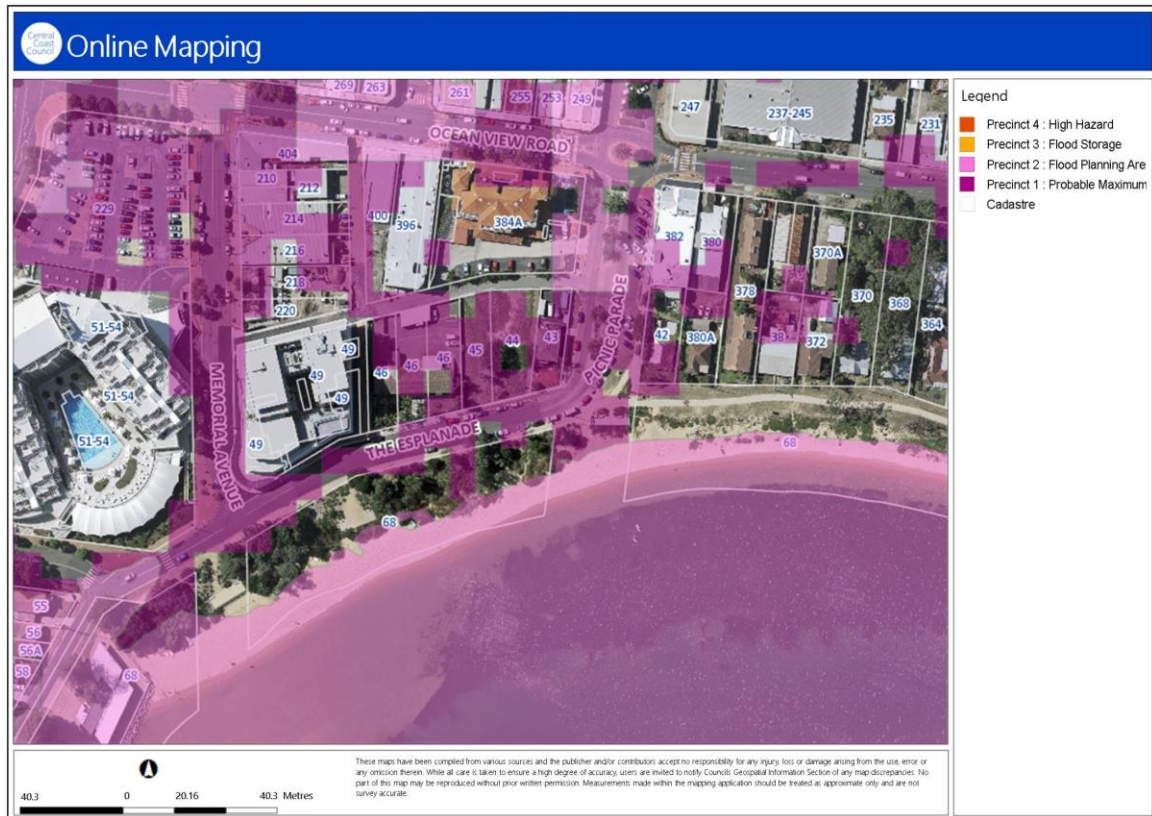


Figure 1
Plan Extract from Central Coast Council's GIS Mapping System showing flood precincts
 (image courtesy of Central Coast Council)

In this instance, the proposal does not seek to create, remove or alter the zone. The zone remains B2 - Local Centre. However, the proposal does seek to amend specific planning provisions such as height and floor space ratio.

What a relevant planning authority must do if this direction applies

The following comments are made in relation to what the authority must do if this direction applies:-

Sub-clause (4) A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).

In this instance, the subject land is not encoded as being affected by the 1% AEP as shown in **Figure 2** being an extract from Council's GIS mapping.

The land has reduced levels to AHD in excess of RL4m which is well above the 1% AEP Flood Level of RL2.45m AHD. Therefore, sub-clause (4) does not apply.

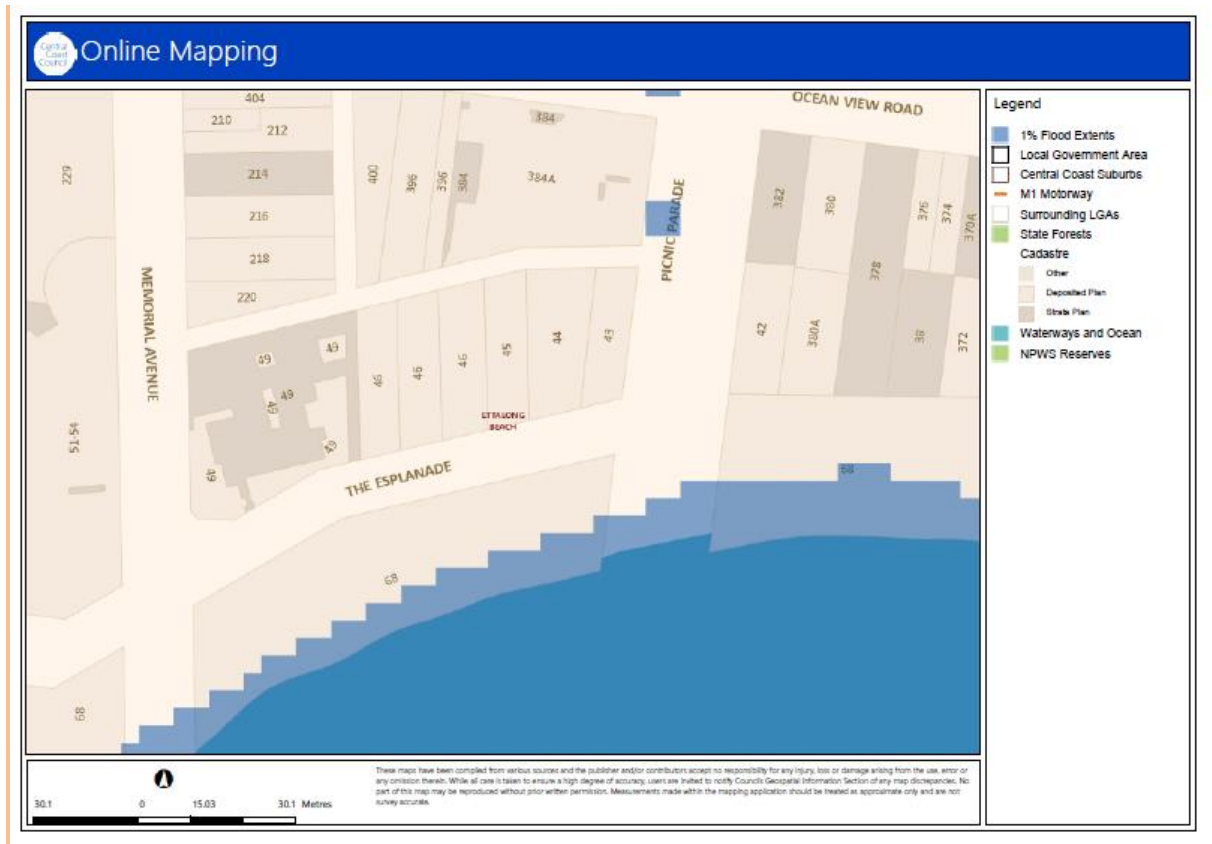


Figure 2
Plan Extract from Central Coast Council's GIS Mapping System showing the extent of the 1% AEP Flood Event
 (image courtesy of Central Coast Council)

Sub-clause (5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.

The Planning Proposal does not seek to change the landuse/zone. The proposal simply seeks to amend specific planning provisions such as height and floor space ratio. Therefore, sub-clause (5) does not apply.

Sub-clause (6) A planning proposal must not contain provisions that apply to the flood planning areas which:

- (a) permit development in floodway areas;*
- (b) permit development that will result in significant flood impacts to other properties;*
- (c) permit a significant increase in the development of that land;*
- (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services; or*

(e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.

In this instance, the Planning Proposal is not within a Flood Planning Area so therefore:-

- (i) does not involve development within floodway areas;
- (ii) will not result in significant flood impacts to other properties;
- (iii) will increase development of that land but is not within a Flood Planning Area;
- (iv) will not result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services; or
- (v) does not seek to permit development to be carried out without development consent

Therefore, sub-clause (6) does not apply.

(7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

In this instance, the Planning Proposal does not seek to impose flood related development controls. Therefore, sub-clause (7) does not apply.

(8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

In this instance, the Planning Proposal does not seek to determine a flood planning level. Therefore, sub-clause (8) does not apply.

Consistency

A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:-

- (i) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
- (ii) the provisions of the planning proposal that are inconsistent are of minor significance.

In this instance, as the subject lands are not within a Flood Planning Area. Therefore, the Planning Proposal is consistent with the Direction.

Dot Point 6 – Urban Design Assessment

The former Gosford City Council’s Peninsula Urban Directions Strategy (PUDS) was adopted by Council on 11th April 2006. The Strategy was designed, at the time, to identify new and practical approaches to allow additional housing and housing choices within land use zones whilst offering improved levels of social equity, environmental sustainability and economic efficiency.

It is noted that the Strategy had no formal status either a Development Control Plan or Council policy direction document although it is acknowledged that the strategy informed many of the outcomes of the current Gosford Local Environmental Plan 2014 including those planning controls that inform development in the Ettalong Beach town centre.

The PUDS report was divided into five sections:-

- (i) Section One – Overview;
- (ii) Section Two – Growth Capacity of the Peninsula;
- (iii) Section Three – Growth Scenarios;
- (iv) Section Four – Consultants Recommendations for Growth Strategy; and
- (v) Section 5 - Notes

Council’s attention is drawn to Section Four (Section E) of the PUDS report under the heading “Town Centres and Business Areas” where the revitalisation of the Peninsula’s three town centres was provided as a key recommendation. To achieve this goal the following outcomes were proposed:-

- (i) Revise the existing land use plan to permit commercially viable mixed-use redevelopment in the town centre that achieves high standards of urban design quality and residential amenity.

This was to include:-

- deleting the current FSR controls in favour of a height and envelope controls;
 - encourage averaging of height controls;
 - limit water front development to three storey;
 - in Ettalong Beach, allow up to five storeys with potential for an additional storey based on public benefits such as dedication of land; and
 - on the Ettalong Beach Club site allow an average of six storeys.
- (ii) Amend the existing land use plan to improve the integration of strategic planning, development control and impact management within the town centres;
 - (iii) Revise the existing land use plan to permit commercially-viable mixed-use redevelopment of the established neighbourhood centre at the corner of Ocean Beach Road and Lone Pine Avenue, Umina;
 - (iv) Prepare new DCP’s for the three town centres and for the Lone Pine centre to ensure the highest possible levels of public and private amenity, maximising retail and pedestrian activity at street level together with benefits for the Peninsula’s community.

This was to be:-

- founded on envelope and setback controls that maintain four hours of sunlight to existing north facing footpaths and residential properties;
 - supported by urban design based controls that maximise visible activity along public facades and provide new public open spaces where high levels of pedestrian activity are likely to occur;
 - incorporating built-form controls that minimise scale and bulk of new buildings, as well as encouraging diversity of building forms and supporting an outdoor lifestyle consistent with a coastal setting;
 - include amenity and environmental planning controls consistent with SEPP 65; and
 - specify incentives and rewards for the provision of public benefits such as public car parking, community facilities or viable public open space.
- (v) Maintain the business and employment generating potential of existing industrial and local business zones; and
- (vi) Consider opportunities for business and employment activities on currently vacant lands

It should be noted that development within the foreshore precinct is already heavily influenced by the existing seven (7) built form of the Atlantis development (see **Figure 3**) on the south west corner of Memorial Avenue and The Esplanade (a part of the Planning Proposal) and the nine (9) storey Ettalong Beach Diggers/Mantra Resort (see **Figure 4**) on the south east corner of Memorial Avenue and The Esplanade.



Figure 4
Photograph showing existing Atlantis development



Figure 5

Photograph showing existing Ettalong Beach Club/Mantra development

In relation to the existing Atlantis mixed use development, the approved built form generally complies with the PUDS recommendations. PUDS proposed a maximum three (3) storey podium for water front development with the proposed building providing a two storey podium with a four storey element reinforcing the important gateway corner of The Esplanade and Memorial Avenue. The PUDS further recommended a maximum building height of five (5) storeys with potential for an additional storey for the provision of public benefits such as land dedication. The existing building has a maximum height of seven (7) storeys with the dedication of land along the eastern boundary providing a new pedestrian laneway on the site linking with the existing laneway network to the north to Ocean View Road. In this case the additional height was justified in relation to the existing built form context of the Ettalong Town Centre and absence of any adverse environmental impacts as a result of the additional height.

The proposed development and amendments to the height and FSR controls for the subject site seeks to build on the existing approved architectural form and supports the PUDS objectives for Ettalong Beach by creating additional commercially viable mixed-use redevelopment in the town centre that achieves high standards of urban design quality and residential amenity (see appended design concept plans prepared by Howard Leslie & Associates).

To achieve this aim it is recognised that whilst the current GLEP planning controls for the site limit height to three (3) storeys, in the current day context they are not necessarily applicable and a more urban design based approach to design outcomes (as envisaged by PUDS) may have been a more effective approach to achieving high quality outcomes. The premise for the three (3) storey height limit for beachfront properties was to:-

- (i) minimise overshadowing over The Esplanade and the reserve area; and
- (ii) gradate building height along the foreshore with greater height (maximum 5 storeys) behind (to the north)

The three (3) storey height limit has largely deterred development of the subject lands (ie: Atlantis was approved under the former Part 3A controls and consent granted by the NSW State Government) as it has been deemed financially unfeasible to develop under the current limitations.

It is contended that the built form of any future proposed mixed use building would generally comply with the PUDS recommendations. The appended design concept plans show:-

- (i) basement level parking with rear lane access with a six (6) metre setback from The Esplanade and three (3) metre setbacks for the side and rear boundaries;
- (ii) extensive external pedestrian and landscape reticulation zones;
- (iii) ground level commercial space; and
- (iv) four (4) levels of residential with Level 5 setback

Whilst PUDS proposed a maximum three storey podium for water front development, the proposed building concept provides for a commercial podium level and four (4) storeys of residential with substantial building setbacks.

The proposal, with the benefit of the proposed 17 metre height and 2 to 1 FSR controls, can still achieve the outcomes envisaged in the PUDS in that:-

- (i) overshadowing over The Esplanade and the reserve area is such that adequate solar access is still provided to these areas. The reserve area and beach are largely unaffected until 3:00pm on the 21st June. Solar access outcomes further improve during the summer period; and
- (ii) the concept design can still achieve significant setbacks and articulation such that building heights can meet the desired future character outcomes for the Ettalong Beach village precinct

In this case, the additional height and FSR is justified in relation to the existing built form context of the Ettalong Town Centre and absence of any adverse environmental impacts as a result of the additional building height.

Yours faithfully



Matthew Wales
Director
Wales & Associates Pty Limited