

ENVIRONMENTAL CONCERNS

The proposal does not meet the criteria set out in the Shoalhaven development control plan (2014), Chapter N19 Precinct 4.

Protection of ecological systems:

- The DCP (Chapter N19 Precinct 4) states that there should be “*Protection of ecological systems*”. As most of the area will be cleared it cannot be argued that the ecological system is being protected. Figure 9 of Chapter N19 shows trees to be retained within Precinct 4. It would appear that there should be at least 16 trees retained. The proposed development proposes to retain only 6.
- The development will be on the endangered ecological community (EEC) (BC Act) - Bangalay Sand forest. Preservation of this should be a high priority in the development application. However, it is proposed it all be cleared apart from 6 hollow bearing trees. There are areas of the site that could be left in natural condition rather than be landscaped as gardens e.g. SW corner of site.
- The developer wishes to enter into a Voluntary Planning Agreement (VPA) to develop Moona street – this will provide the development with an additional 12 parking spaces on Council land. This will result in approximately an additional 1400m² of the EEC being affected and loss of some very large mature trees. SCC should not agree to the developer getting private benefit from public land and the resulting increased clearing of the EEC. SCC should not allow clearing of an EEC for development on land it manages.
- Once the development is built all the remaining trees on site will be able to be cleared under the SCC 45 degree tree rule
- There is a lack of clarity around which trees are being retained.
- The community has a right to expect that trees not on the developer’s land will not be harmed
- Two threatened species were recorded -Powerful Owl and Eastern Bentwing-bat. Biosis concluded that there were no suitable nesting hollows for Powerful Owls, however a SCC assessment was that there were suitable hollows.
- Section 8.2.2 of the NSW BAM (2017) states that “Efforts to avoid and minimise impacts through locating the project must be documented and justified in the BDAR or BCAR”. The Biosis BDR states that the effort to minimise impacts is “retain six hollow-bearing trees”. This is hardly an “effort”. The fact that 16 trees are identified to be retained in the DCP Chapter 9, Precinct 4, is not mentioned.
- The Plants used in landscaping are exotics and mostly non local natives. There is a risk to the National Park of weeds and this also does not contribute to preserving the EEC.

Protection of the aquatic ecosystem of Moona Moona creek

- Moona Moona Creek is classified by DPI as *TYPE 1 – Highly Sensitive Key Fish Habitat and CLASS 1 – Major Fish Habitat*. *CLASS 1 habitats are marine or estuarine waterway or permanently flowing or flooded freshwater waterway (e.g. river or major creek), habitat of a threatened or protected fish species or ‘critical habitat’.*
- According to the Directory of Important Wetlands of Australia (DIWA), Moona Moona Creek to the south and west of the subject land has been mapped as an important estuarine wetland which may support suitable habitat for migratory waders. This wetland is also mapped on the Australian Wetlands (2006) layer
- Adherence to Coastal management SEPP:
 - Coastal wetlands – Biosis report claims that coastal wetlands will be unaffected by the development however the SW corner is mapped as coastal wetland, where there may be construction, but will certainly be a constructed garden with a deck etc.
 - Coastal environment – Biosis report claims no effect as there will be “No impact to native vegetation in higher condition within the broader study area”. This is clearly incorrect as there will be a large impact on native vegetation, “all cleared except 6 hollow bearing trees”
- None of the development reports specifically identify where the Acid Sulfate contaminated dewatering water will be discharged to.
- The stormwater management system will not stop stormwater entering Moona Monna creek. The treatment guidelines mean that 55% of the Total Nitrogen and 35% of the Total Phosphorous will be allowed to remain in the stormwater.

Protection of cultural heritage

- There are three registered aboriginal heritage sites (AHIMS). One of which is in the back garden of Aquamist. It is hard to believe that the Aboriginal cultural heritage site will just conveniently end at the fenceline of Aquamist and not continue into the proposed development. Especially as this was a large shell midden.
- The Aboriginal heritage assessment report does not mention the numerous scar trees in and around the site
- The Jerrinja Local Aboriginal land Council submission to council says:
 - “No Aboriginal people (including us as the LALC with the statutory responsibility to protect and promote culture) were consulted or involved”
 - “The site is close to many known (and AHIMS recorded) sites in both Huskisson and Vincentia and cannot be viewed in isolation from the broader cultural landscape.”
 - “The Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW used for the assessment is primarily concerned with providing a defence against legal liability for destruction of any objects. That is a vastly different perspective than taking an affirmative approach which actively seeks to explore the potential for cultural heritage impact.”

- “these factors combine to make it impossible to have confidence in the finding that there is no cultural heritage impact — in fact we find this conclusion deeply offensive.”
- “We request, in the strongest terms possible, that Council either determines this DA by refusal, or grants a conditional approval which mandates a more thorough Aboriginal Cultural Heritage Assessment.”

The recent Black duck corroboree (Jan 2020) was held on Moona Moona creek and the Seachange festival of lights indicate that there is much indigenous and non-indigenous cultural heritage to the area and the development should not affect this.

Bulk, scale, height

LEP

The proposed development exceeds the maximum height of 13m – by up to 2.2m (Clause 4.6 application).

The proposed development exceeds the Floor Space Ratio of 0.8:1– the applicant is asking for 0.817:1

The exceedance in height and floor plan mean that the bulk of the building is significantly more than the LEP and DCP allow.

Design guide (part of DCP)

All the B4 precincts in Huskisson are to comply with the accompanying Design Guide. **The development does not avoid the ‘undesirable building form’ defined as a series of horizontal and identical plates (even if stepped).** See Figure 1 and 2

This building can be seen as **“unsympathetic to a residential area and a coastal town character.”** P. 3 Design Guide as it is:

- Too high
- Does not appear as a series of linked buildings
- It is not embedded in the forest, rather it imposes upon the forest

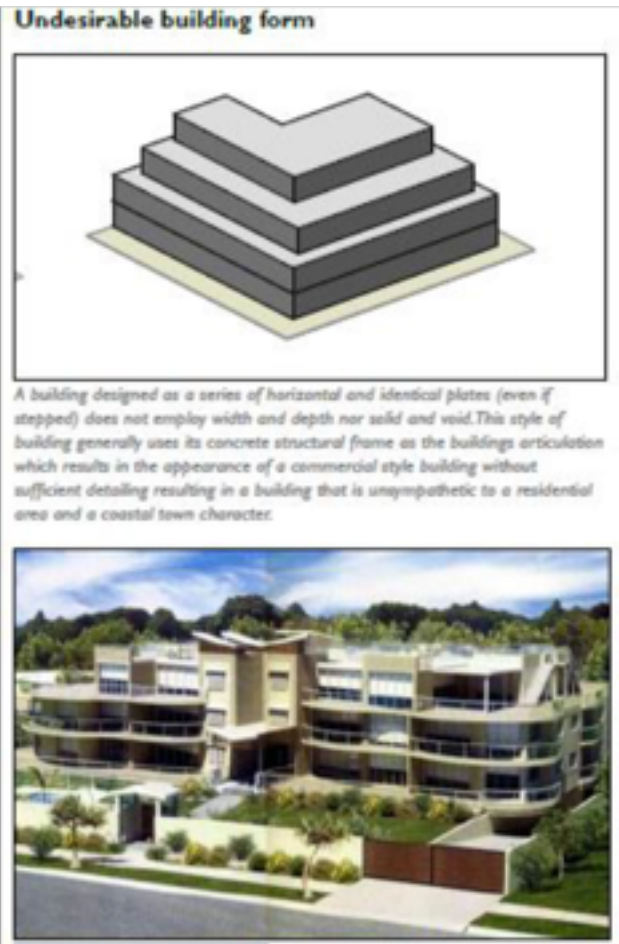


Figure 1: example from SCC Design guide linked to Mixed Development DCP



Figure 2: proposed development demonstrating a series of horizontal and identical plates regarded as 'undesirable building form' in the design guide.

Development Control Plan

i. Encourage design excellence in coastal urban design and architecture to contribute to a beautiful coastal settlement.

Design Excellence is a term used in Environmental Planning Instruments (EPIs) to refer to the design quality of a building or project and describes an expectation that a project will achieve a level of design quality that is above and beyond the usual. It also describes a variety of requirements and processes that are intended to support this. The description of Design Excellence is broadly consistent across planning legislation where it is often summarised as **'the highest standard of architectural, urban and landscape design.'** Design Excellence descriptions vary in their detail but include **references to context, accessibility, public domain, streetscape, massing and sustainability.** <https://www.governmentarchitect.nsw.gov.au/resources/ga/media/files/ga/guidelines/draft-design-excellence-competition-guidelines-2018-05.pdf>

See points above re design excellence.

Key points:

1. The building design in the images provided by the developer is moderated and framed by mature trees without these trees the visual impact would be commercial.
2. The developers are expecting that trees on public land will occlude the visual disturbance of the hotel and apartments on Burrill St and Moona St but have not planned for screening on the development block.

ii. Ensure that the key characteristics of the existing urban structure that give the area its unique character are not lost through future development.

The unique key characteristics of the existing urban structure which give the area its unique character are:

- Proximity to bush screened creek and bay – views are screened by bush giving a sense of 'unspoilt'
- Low scale development (Aquamist being an anomaly) but across the road is zoned R2
- Grass and sand leading to the creek and the bay



Figure 3: bulk and scale of new development far greater than that of existing building.

Key points:

The proposed development, which is at tree top height does not exhibit any of the characteristics of this unique site, specifically:

- It is not of a low scale
- The bulk and scale of this proposal dwarfs the only neighbouring building (Aquamist).
- Removes all the bushland bar some hollow bearing trees, removing the 'natural' character of the area

iii. Ensure that the urban design principles of each precinct are taken into consideration for all future development to maintain appropriate future streetscapes and built forms.

Reinforce the boundary of the Huskisson locality.

The boundary of the Huskisson locality is defined by Moona Moona Creek and doesn't need to be visually reinforced. Similarly the forest, which contributes much to Huskisson's character clearly demarcates the western boundary of Huskisson's built environment at this point.

Reinforce the southern entry into Huskisson.

The boundary of the Huskisson locality is defined by Moona Moona Creek at this point – doesn't need to be reinforced.

Reinforcement of the precinct as a place for enjoyment of the foreshore.

Currently the 'precinct' is enjoyed for its contribution to place as a natural connection between Moona Moona Creek and the park on the western side of the road.

This development proposal lacks detail in describing what 'enjoyment' will be available here – other than scenic views to the bay and creek for those who can afford the rooms. There is no detail if there will be retail, cafes, restaurants, bars etc. open to the public or residents.

Retention of the visual dominance of nature and bushland.

The visual dominance of nature and bushland will only exist because this is what currently borders the block that they want to build on – all bush except for an uncertain number of hollow bearing trees will be removed. The screening of the 4 storey development occurs with public trees – not retention of existing trees on site. If this development is built there will be no 'visual dominance of nature and bushland' when looking westward.

Retention of the informal character of streets and landscaping as the dominant streetscape theme.

The bulk, height and scale of the proposed development significantly removes the 'informal character of the street'. There is a small amount of landscaping on the western and northern edges, and internally but nothing of substantial height to contribute to street character on their land on the eastern or north eastern edges.

This development materially transforms the informal character of the streetscape to institutional and devoid of character.

Creation of building forms that match the beauty and uniqueness of the place.

The Design Guide, page 1 specifically describes 'undesirable building form' as a series of horizontal and identical plates (even if stepped), unfortunately the proposed development is a series of horizontal and identical plates as mentioned previously.

KEY POINTS:

1. It does not match the beauty and uniqueness of the place
2. It does not follow the colours of the place,
3. It does not try to avoid block form which is in total contrast to natural shape,
4. It is a building that could just as easily be built in Penrith, Albury ... there is nothing informal, coastal or sympathetic / respectful to the creek and bushland it locates itself in – and yet these are the attractions of the location!

iv. Support Huskisson as a coastal town, encouraging desirable built forms for housing and tourist accommodation.

The majority of hotel rooms are booked out most weekends in Huskisson. That doesn't mean this is the best site for a hotel with a probable large scale build. There are other B4 zones in Huskisson.

For most of the year the majority of houses for short term accommodation and units are vacant. A small minority of units are purchased to live in and do not contribute to a diversity of housing accessibility in Huskisson. It is only over the peak periods that these forms of accommodation are fully booked.

In addition, to the newly complete apartments that are other apartments (~165) yet to come on the market in Nowra St, and others that have approval and yet to be built – Duncan St, Beach St, Fegen St, Burrill St., Hawke St., Morton St. There is a glut of accommodation in Huskisson.

Land use Objectives specific to Precinct 4

Ensure land use of Precinct 4 is consistent with the urban design principles for the precinct.

KEY POINT:

- Design does not adhere to design principles.

Building Height 9.4

Acceptable solutions A1.1 states the building must comply with the maximum height of 13m, and that the maximum building form is 2 storeys with a 3rd level recessed from the front of the building.

KEY POINT:

- This proposed 4 storey building, without recess for the 4th level, is grossly outside this requirement.

Setbacks and alignments 9.5

Where a building includes a 3rd level it shall have a maximum footprint of 70% of the level below – in this proposal the third level is equal the second.

The 3rd level must be setback a minimum of 4m where facing a public street (Burrill and Moona) – in this proposal this does not occur.

Response to SEPP 65

Principle 1: Context and neighbourhood character

The response does not address this principle adequately regarding the neighbourhood character, or the character created by the natural and built features of this area – including the streetscape and neighbourhood.

The proposal will impose huge commercial, block shaped buildings at the gateway to Huskisson – instead of entering Huskisson from a relatively bare street in Vincentia to tree-lined on one side and water vista to the other before reaching you will cross the bridge and the view will be dominated by a 4 storey building on the left.

Principle 2: Built form and scale

The proposed development will impose two four storey blocks on the entrance of Huskisson. Only one of these buildings has the top floor set back, otherwise they match what the SCC 'Design guide' calls 'undesirable building form' – a series of horizontal and identical plates, resulting in a commercial style building. The principle asks that the views and vistas from the public domain be considered. The response does not acknowledge that the development will significantly change the existing character, especially the views and vistas from the public walking path, and from Moona Moona Creek which is a popular public space.

Principle 5: Landscape

The principle requires that the development is a positive image and contextual fit, 'contributing to the landscape character of the streetscape and neighbourhood'. The development, relies upon visual screening from Moona Moona creek occur through existing trees planted on public land. There is no guarantee of these continuing to survive. The newly planted landscaping trees they propose appear to be in the road reserve.

Principle 9: aesthetics

The design does not follow the expectations of the Design Guide that accompanies the DCP Chapter N19. It matches what the design guide calls 'undesirable building form' – a series of horizontal and identical plates, resulting in a commercial style building.

Employment and tourism

Could the developer confirm the number of permanent, part-time and casual local jobs that will be created? The community frequently sees outside companies undertake construction in the area.

Whilst there is a need for more hotel rooms in the Shoalhaven:

- The hotel doesn't have to be built on this location, and doesn't have to be built in Huskisson;
- There is not a need for more apartments – already Huskisson has empty apartments, and numerous other apartment developments approved. There are already approximately 165 apartments either recently built, DA approved or DA in submission.

Tourists visit the area for its 'unspoilt' nature, the "Unspoilt Shoalhaven". Our planning should endeavour to maintain this character.