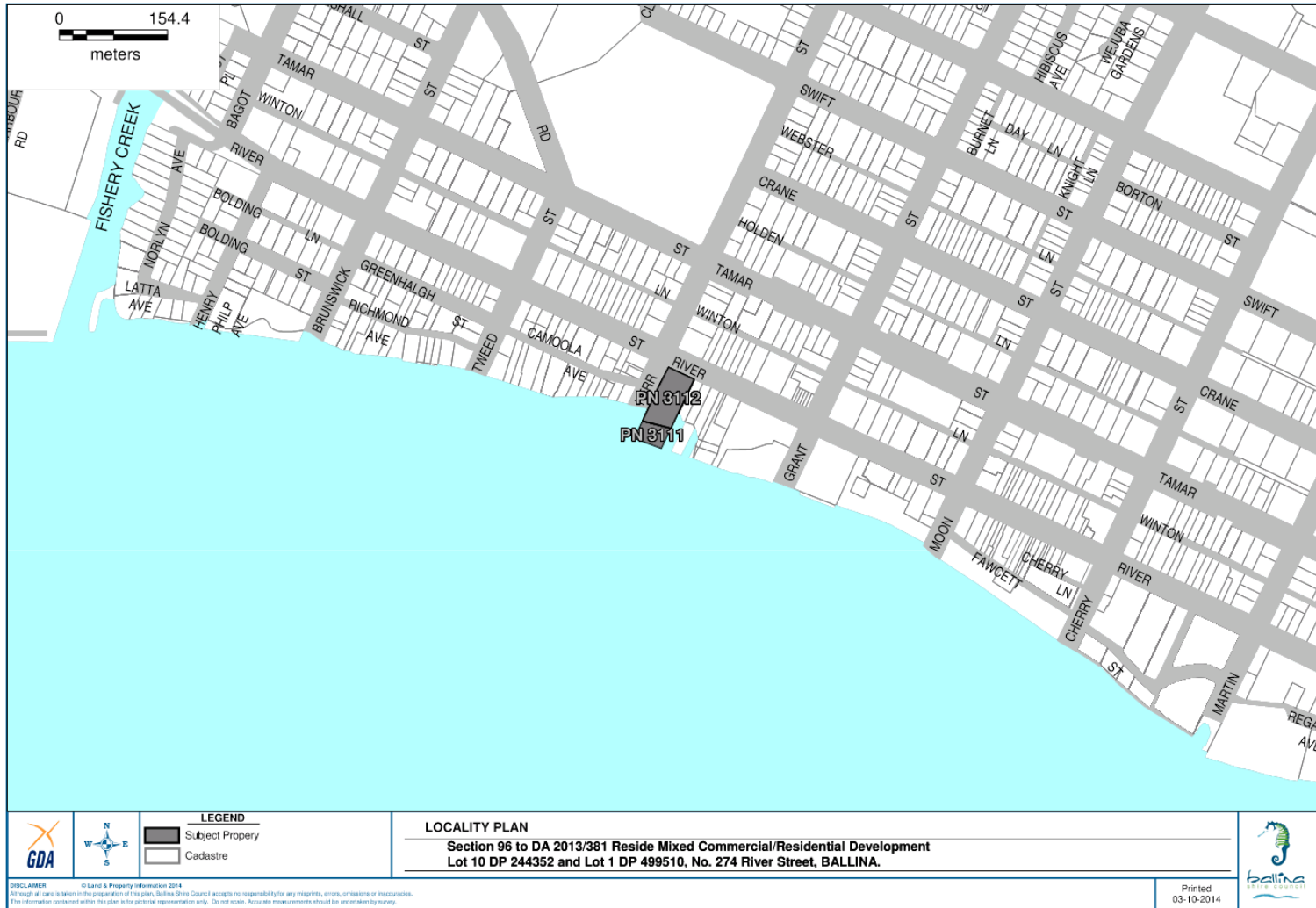
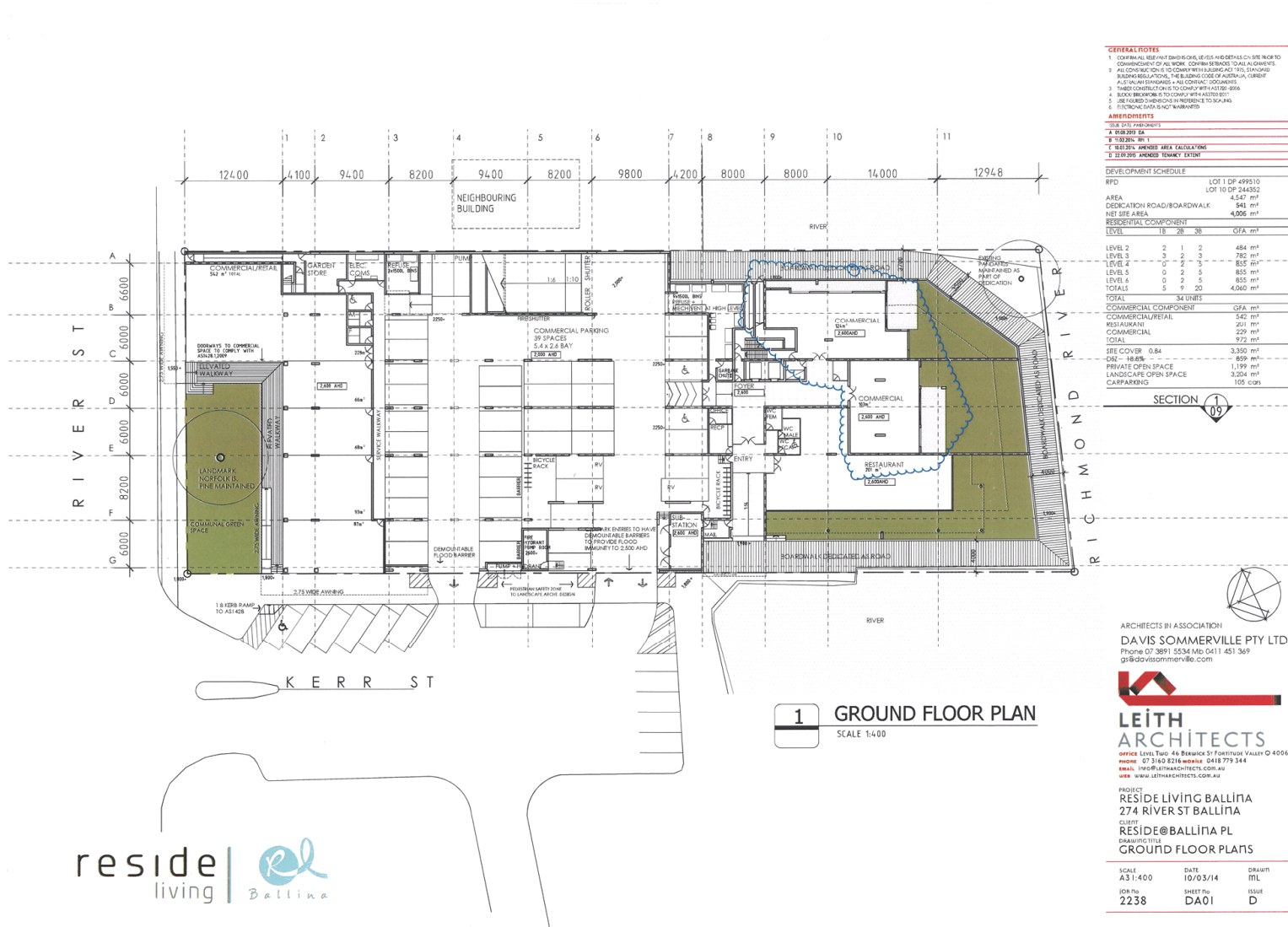


8.1 DA 2013/381 - Section 96 - Reside Living Development.DOC



8.1 DA 2013/381 - Section 96 - Reside Living Development.DOC



**GENERAL NOTES**

1. CONFIRM ALL RELEVANT DIMENSIONS, LEVELS AND DETAILS ON SITE BEFORE COMMENCEMENT OF ALL WORK. CONFIRM BIDDING TOTALS AND VARIATIONS.
2. ALL CONSTRUCTION IS TO COMPLY WITH AUSTRALIAN ACT 1911 STANDARDS.
3. REFER TO ALL APPLICABLE RELEVANT CODES OF PRACTICE, CURRENT AUSTRALIAN STANDARDS + ALL CONTRACT DOCUMENTS.
4. THERE IS NO PROVISION TO COMPLY WITH THE 2004 BSA.
5. SLOPE PROVISION IS TO COMPLY WITH AUSTRALIAN STANDARDS.
6. SEE RELATED SUBMISSIONS IN REFERENCE TO SOAKING.
7. ELECTRONIC DATA IS NOT WARRANTED.

**AMENDMENTS**

| NO | DATE     | DESCRIPTION |
|----|----------|-------------|
| A  | 01/03/14 | AS SHOWN    |
| B  | 02/03/14 | AS SHOWN    |
| C  | 03/03/14 | AS SHOWN    |
| D  | 04/03/14 | AS SHOWN    |

**DEVELOPMENT SCHEDULE**

| NO | DESCRIPTION               | AREA (m <sup>2</sup> ) |
|----|---------------------------|------------------------|
| 1  | LOT 1 DP 499510           | 4,547                  |
| 2  | LOT 2 DP 244352           | 541                    |
| 3  | DEDICATION ROAD/BOARDWALK | 4,006                  |
| 4  | NET SITE AREA             | 9,094                  |

**RESIDENTIAL COMPONENT**

| LEVEL   | 1B | 2B | 3B | GFA (m <sup>2</sup> ) |
|---------|----|----|----|-----------------------|
| LEVEL 2 | 2  | 1  | 2  | 484                   |
| LEVEL 3 | 3  | 2  | 3  | 782                   |
| LEVEL 4 | 1  | 2  | 3  | 855                   |
| LEVEL 5 | 0  | 2  | 5  | 855                   |
| LEVEL 6 | 0  | 2  | 5  | 855                   |
| TOTALS  | 5  | 9  | 20 | 4,060                 |

**TOTAL 34 UNITS**

**COMMERCIAL COMPONENT**

| DESCRIPTION            | GFA (m <sup>2</sup> ) |
|------------------------|-----------------------|
| COMMERCIAL/RESIDENTIAL | 542                   |
| RESTAURANT             | 201                   |
| COMMERCIAL             | 229                   |
| TOTAL                  | 972                   |

**OTHER DATA**

|                      |                      |
|----------------------|----------------------|
| SITE COVER 0.84      | 3,350 m <sup>2</sup> |
| DEVELOPABLE AREA     | 859 m <sup>2</sup>   |
| PRIVATE OPEN SPACE   | 1,199 m <sup>2</sup> |
| LANDSCAPE OPEN SPACE | 3,204 m <sup>2</sup> |
| CAMPFIRE             | 105 cars             |

**1 GROUND FLOOR PLAN**  
SCALE 1:400

ARCHITECTS IN ASSOCIATION  
DAVIS SOMMERVILLE PTY LTD  
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PROJECT  
RESIDE LIVING BALLINA  
274 RIVER ST BALLINA  
CLIENT  
RESIDE@BALLINA.PL  
DRAWING TITLE  
GROUND FLOOR PLANS

| SCALE    | DATE     | DRAWN |
|----------|----------|-------|
| A3 1:400 | 10/03/14 | ML    |
| JOB No   | SHEET No | ISSUE |
| 2238     | DA01     | D     |





abn: 56 291 496 553  
3/69 Centennial Circuit, Byron Bay, NSW, 2481  
PO Box 538, Lennox Head, NSW, 2478  
Telephone: 1300 66 00 87

6<sup>th</sup> December 2015  
Our reference: 1372-435

The General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Att: Naomi McCarthy

Dear Sir,

**RE: Section 96 Application to Modify Development Consent 2013/381, 274 River Street, Ballina**

Thank you for your letter dated the 16<sup>th</sup> of November 2015 received by our office on the 24<sup>th</sup> of November 2015. Your acceptance of the amendment to the commercial tenancy facing the Richmond River is appreciated. No issue is raised by our client relating to the alteration of the description of the project as you have set out on the first page of your letter.

Council's reticence to meaningfully change consent Condition 124 is of serious concern to our client. As you will be aware from our application, the delay inbuilt into the development consent by Condition 124 with respect to the registration of a Strata Plan is 2-3 months. This delay occurs at the peak of project debt.

Our client is of the view that the reasons for not supporting an amendment to Condition 124 given by Council's Civil Services Group are very weak and has asked us to comment as follows.

1. The developer does not renege from the need to undertake the necessary geotechnical work. The terms suggested in the proposed modification ensure that work is approved by Council (including the removal of the existing jetty and any contamination investigation work) before any dedication occurs. Council is in 100% control of the works approval and plan registration mechanisms.
2. The assumption that in the event that the coastal foreshore strip was dedicated to Council before works were completed would somehow make Council liable for the completion of such works is fatuous in our clients' opinion. Our client would like to assure Council that there is absolutely no intention to dedicate very valuable waterfront land to Council, free of cost, if it is in any way likely that the project will not proceed. Even if it did not proceed for some extraordinary reason, such a situation simply cannot transfer any liability for Council to complete works the subject of a private Development Application approval.
3. In the ordinary way, Council will be exempted from any public liability associated with foreshore site works during construction in the same way that it is exempted when proponents erect hoardings over public road spaces for construction works.
4. The modification proposed by PLANNERS NORTH makes it absolutely clear as to when works must be completed. Put simply, our client is of the opinion that it is impossible for there to be any confusion as to who will be responsible for these works.
5. The suggestion that construction works on the adjoining site may result in damage to the retaining wall should be of no consequence whatsoever to Council. Our client asks us to remind Council that pursuant to the modification to consent Condition 124 as proposed, the proponent will not be able to strata subdivide the development until such works have been completed to the full satisfaction of Council. Pursuant to these provisions, Council cannot, in any way, be required to somehow "negotiate liability for damage" or any other such factor.

As you will discern from the above, our client regards the reasons for disadvantage to Council as spurious and is firmly of the opinion that there is minimal likelihood of Council being burdened with any additional risk. Given this our client respectfully requests that the matter of modification of Condition 124 be submitted to Council for its formal consideration.

1372-435

Thank you for the opportunity to make this further submission to you. Should Council require any additional information in which to clarify any matter raised by this response, please feel free to contact the writer at any time.

Yours faithfully,  
**PLANNERS NORTH**

A handwritten signature in black ink, appearing to read 'Stephen Connelly', is written over a diagonal line that extends from the bottom left towards the top right.

**Stephen Connelly FPIA CPP**  
PARTNERSHIP PRINCIPAL  
(m) 0419 237 982  
(e) [steve@plannersnorth.com.au](mailto:steve@plannersnorth.com.au)





abn: 56 291 496 553  
3/69 Centennial Circuit, Byron Bay, NSW, 2481  
PO Box 538, Lennox Head, NSW, 2478  
Telephone: 1300 66 00 87

17 December 2015  
Our reference: 1372-462

The General Manager  
Ballina Shire council  
PO Box 450  
BALLINA NSW 2478

Attention: Naomi M'Carthy

Dear Sir,

**RE: Section 96 Application to modify Development Consent 2013/381, 274 River Street Ballina.**

We refer to the email sent by your Ms Naomi M'Carthy to the writer on the 11 December 2015. This letter is to confirm that our client wishes the proposed amendment to be submitted to the next available meeting of Council.

The email requested further details in relation to the impact of Condition 124 in relation to managing project debt.

As Council will be aware, under the current condition, only when all work is completed (including all the Reside building works, the landscaping works, all foreshore works and all the development fee payments made) then two discrete plans of subdivision must be processed before any sales can settle. Firstly a conventional Torrens Title subdivision is required to dedicate the foreshore land free of cost to Council and only after that plan is registered can a Strata subdivision over the Reside development begin to be processed at the Land Title Office (LTO). Our estimate of the processing time of these plans is set out below. Please note that the timing utilised in the below sequence is "best case" assuming no difficulties in terms of any of the processing elements.

**Subdivision Plan**

|                      |          |
|----------------------|----------|
| Council processing   | 4 weeks; |
| Mortgagee processing | 2 weeks; |
| LTO processing       | 4 weeks; |
| Titles issue         | 1 week;  |
| Subtotal             | 11 weeks |

**Strata Plan processing**

|                      |          |
|----------------------|----------|
| Council Processing   | 4 weeks; |
| Mortgagee processing | 2 weeks; |
| LTO processing       | 4 weeks; |
| Titles issue         | 1 week   |
| Subtotal             | 11 weeks |

**Total** 22 weeks

1372-462 (1)

Thus, under the present requirement of Condition 124 it will be a minimum of 22 weeks after the finalisation of all the construction before the settlement of any sales relevant to the project can occur.

Our modification to Condition 124 merely seeks to undertake the land subdivision early whilst general construction is occurring. Our requested re-drafting of the condition ensures that all work (i.e. the Reside building works, the landscaping works, all foreshore works and all the development fee payments), is completed to the full satisfaction of the Council, before the Strata Plan be registered. By completing foreshore dedication subdivision early, a Torrens tile lot is available for strata plan processing immediately upon the construction works being completed. The timing in those circumstances is:

|                        |                 |
|------------------------|-----------------|
| Strata Plan processing | 4 weeks         |
| Mortgagee processing   | 2 weeks;        |
| LTO processing         | 4 weeks;        |
| Strata Registration    | 1 week          |
| <b>Total</b>           | <b>11 weeks</b> |

As illustrated above, changing the timetable for dedication of the waterfront land will save the project 11 weeks. We understand that Council's engineers have proposed a situation where land dedication could occur at the time of the issue of the Interim Occupation Certificate. In our respectful submission this concession is of no value. A competent Certifier will process the Strata Plans at the stage of Interim Occupation Certificate. This concession has no regard to the 11 week hiatus required for the lodgement of the land dedication subdivision plan.

We trust that Council will see that, with no additional risk, Council is in a position to afford the developer an 11 week reduction in the time required for plan registration. As Council will appreciate, an 11 week time penalty is a draconian situation for the proponent when the project is at peak debt.

Should you require any additional information in which to clarify any matter raised by this advice, please feel free to contact the writer at any time.

Yours faithfully,

**PLANNERS NORTH**



**Stephen Connelly FPIA CPP**  
PARTNERSHIP PRINCIPAL  
(m) 0419 237 982  
(e) [steve@plannersnorth.com.au](mailto:steve@plannersnorth.com.au)

