

DATE OF DETERMINATION	Wednesday, 4 September 2019
PANEL MEMBERS	Jason Perica (Chair), Susan Budd, Cr. Kyle MacGregor and Cr. Chris Burke
APOLOGIES	Kara Krason
DECLARATIONS OF INTEREST	Michael Leavey - Michael providing consultancy services to Gosford Council at time of lodgment

Public meeting held at Central Coast Council – Gosford Office – 49 Mann Street, Gosford on 4 September 2019, opened at 2:30pm and closed at 4:38pm.

MATTER DETERMINED

2016HCC017 – Central Coast Council – DA49534/2016 at LOT: 1 DP: 436706, Lot: 26 SEC: 6 DP: 1591, Lot: B DP: 357731 No. 9 Bent Street GOSFORD, 7 Bent Street GOSFORD, 11 Bent Street GOSFORD – INTEGRATED Residential Flat Building Including 101 Units & 3 Levels of Basement Parking & the Demolition of Existing Structures on Site (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was 3:1 in favour of refusal, in support was Cr. Chris Burke.

REASONS FOR THE DECISION

1. The panel was not satisfied the written request from the applicant, made under cl 4.6 (3) of the Gosford Local Environmental Plan 2014 (GLEP 2014) demonstrated that compliance with Clause 4.3 of GLEP 2014 is unreasonable or unnecessary in the circumstances of this case, nor that there are sufficient environmental planning grounds to justify contravening the development standard. Many of the reasons given related to generic considerations, as opposed to the site-specific and contextual considerations around the site.
2. The proposal is inconsistent with the objectives relating to Building Height in Clause 4.3 of GLEP 2014, including objectives (b) and (d):
(b) to permit building heights that encourage high quality urban form,
(d) to nominate heights that will provide an appropriate transition in built form and land use intensity





The building form and height is excessive for the site and area, exacerbated by the elevation of the site relative to the surrounds, and its prominent elevated position, surrounded by trees. The height transitions with the surrounding area is abrupt, and this is likely to remain the case given the significant land slope, surrounding planning controls, subdivision patterns and strata title buildings. The applicant's argument about the wider height context to the CBD and being lower than buildings in the CBD core was not an appropriate point of reference, and not the intent of the height controls for the site and area, which is on the fringe of the CBD.

3. The proposal is inconsistent with the principles of State Environmental Planning Policy 65 (Design Quality for Residential Apartment Development), particularly Principle 1: Context and neighbourhood character, Principle 2: Built form and scale, Principle 5: Landscape, Principle 6: Amenity and Principle 9: Aesthetics. The proposal is also inconsistent with key guidelines in the associated Apartment Design Guide related to building separation/setbacks, sunlight access and cross ventilation. The building had a compromised amenity outcome, internally and externally. The design also borrowed much of its amenity from adjoining private land, with many of the units having sole orientation to adjoining private land. This exacerbated the need to provide good building separation, to consider future building relationships.
4. The proposal was not an appropriate response for the site. The site characteristics such as the land slope, location near the top of a ridge and longer axis to the west required a sensitive and well-considered proposal. The building would be high, large and dominant. These factors also did not favour the variation to the height standard.
5. The height and scale of the building will be made more visually abrupt within the surrounding area by the proposed tree removal. The landscaped setting of the site would be compromised, to the detriment of the visual qualities of the site and surrounds. While there is some benefit in providing a truck turning area for the street within the road reserve, the extent of tree removal is more than required for this outcome, and results in a compromised landscape outcome, further diminished by the scale and impact of the proposed building. Further, the requirements of an Asset Protection Zone to the east of the site are such that the future ability for tree planting was also reduced and compromised.
6. The proposal does not achieve design excellence and is unacceptable when considered against the requirements of Clause 8.5 of GLEP 2014 (as applicable due to savings provisions). In particular, the proposal lacks a unified design aesthetic, is contextually inappropriate having regard to its location and surrounding built form (Clause 8.5 3 (a)) and results in a compromised built form and landscaped outcome for the site.
7. There is some ambiguity regarding the legal ability to determine the application due to a lack of owner's consent from the Council, noting the works involve more than ancillary roadworks, but instead relying on bushfire protection and management measures over the adjoining Council land to the east. However, this was not a determinative matter and the panel would refuse the application even if there is legal ability to determine the application.
8. For the reasons above and noting concerns raised within submissions, granting consent would not be in the public interest.

Cr. Chris Burke disagreed with the majority decision, instead agreeing with the Council staff recommendation and reasons within the Council staff report for approval of the development.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel had regard to various views raised opposing the development and agreed the proposal should be refused for the reasons given above.

PANEL MEMBERS	
 Jason Perica (Chair)	 Susan Budd
 Cr. Chris Burke	 Cr. Kyle MacGregor

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016HCC017 – Central Coast Council – DA49534/2016
2	PROPOSED DEVELOPMENT	Residential Flat Building including 101 units and 3 levels of basement parking and the demolition of existing structures on site (Integrated Development)
3	STREET ADDRESS	LOT: 1 DP: 436706, Lot: 26 SEC: 6 DP: 1591, Lot: B DP: 357731, No. 9 Bent Street GOSFORD, No. 7 Bent Street GOSFORD, No. 11 Bent Street GOSFORD
4	APPLICANT/OWNER	Albany Investments Aust Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value over \$20M (DA lodged before 1 March 2019)
6	RELEVANT MANDATORY CONSIDERATIONS	<ol style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Environmental Planning & Assessment Act 1979 (EP&A Act) Local Government Act 1993 (LG Act) Roads Act 1993 (Roads Act) Rural Fires Act 1997 & Planning for Bushfire Protection State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) State Environmental Planning Policy (Coast Management) 2018 (SEPP Coastal Management) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX) Central Coast Regional Plan 2036 Gosford Local Environmental Plan 2014 (GLEP 2014) Apartment Design Guide (ADG) Draft environmental planning instruments: Draft Central Coast Local Environmental Plan 2018 (CCLEP) Development control plans: Gosford Development Control Plan 2013 (GDCP 2013) Provisions of the Environmental Planning and Assessment Regulation 2000 The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Submissions made in accordance with the Environmental Planning and Assessment Act 1979 or regulations

		8. The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 26 July 2019 • Clause 4.6 Exceptions to Development Standards (Building Height) • Written submissions during public exhibition: 9 • Written submissions received after public exhibition: 1 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support – Nil ○ In objection – Rose Chad, Ian Kerr and Helen Matthews ○ Council assessment officer – Erin Murphy ○ On behalf of the applicant – Ian Stewart and Shea Cullen
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: Wednesday, 4 September 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Jason Perica (Chair), Susan Budd, Cr. Kyle MacGregor ○ <u>Council assessment staff</u>: Erin Murphy • Briefing: Thursday, 28 June 2018 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Jason Perica (Chair), Cr. Kyle MacGregor and Cr. Chris Burke ○ <u>Council assessment staff</u>: Robert Eyre, Emily Goodworth, Lyn Littlefield, Jane Doyle and Jaime Loader • Final briefing to discuss council's recommendation, Wednesday, 4 September 2019, 2:00pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Jason Perica (Chair), Susan Budd, Cr. Kyle MacGregor and Cr. Chris Burke ○ <u>Council assessment staff</u>: Erin Murphy, Ailsa Prendergast and John Noakes
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report (deferred commencement)