

# Notice of Decision

## Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

<b>Application type</b>	Development Application
<b>Application number and project name</b>	DA 21/14808
<b>Applicant</b>	Brisbane Water (NSW) Legacy
<b>Consent Authority</b>	Minister for Planning

### Decision

The Director, Regional Assessments under delegation from the Minister for Planning has, under s.4.16 of the *Environmental Planning and Assessment Act 1979* (**the Act**) granted consent to the development application subject to the recommended conditions.

A copy of the development consent and Department's assessment report is available at <https://pp.planningportal.nsw.gov.au/daex/under-consideration/legacy-seniors-village-redevelopment-51-59-masons-parade-point-frederick>.

### Date of decision

6 October 2022

### Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- all information submitted to the Department during the assessment of the development application;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for approving the development are as follows:

- the project is permissible with development consent under the *State Environmental Planning Policy (Gosford City Centre) 2018* (now consolidated within *State Environmental Planning Policy (Precincts- Regional) 2021*) and *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2014*
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards. Residential amenity, flooding and evacuation, demolition and subdivision impacts have been addressed through conditions referenced in Attachment 1;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent (where applicable); and
- weighing all relevant considerations, the project is in the public interest.

## • Attachment 1 – Consideration of Community Views

The Department exhibited the Development Application for the project, including the Statement of Environmental Effects from 17 November to 14 December 2021 (28 days) and received nine submissions from the public (two objections and seven in support) and comments from Central Coast Council, TfNSW and Natural Resources Access Regulator.

The key issues considered in the Department's Assessment Report and by the decision maker include building design and residential amenity (including height, solar access, overshadowing and view loss), flooding and evacuation and subdivision. Other issues are addressed in detail in the Department's Assessment Report. Key issues raised by the community (including in submissions) and considered by the decision maker include site suitability, overshadowing, view loss, flooding, traffic, site isolation, waste and stormwater.

<i>Issue</i>	<i>Consideration</i>
<b>Site Suitability</b> <ul style="list-style-type: none"> <li>The proposal is not compatible with the scenic character of the area</li> <li>The height is not suitable</li> <li>The frontage to Masons Parade is harsh and should be softer</li> </ul>	<p><b>Assessment</b></p> <ul style="list-style-type: none"> <li>The development is permissible under the Gosford SEPP (now consolidated within <i>State Environmental Planning Policy (Precincts – Regional) 2021</i>) and the <i>State Environmental Planning Policy (Housing for Seniors of People with a Disability) 2004</i> (Seniors SEPP)</li> <li>The proposal seeks a variation to the height under Clause 8.4 of the Gosford SEPP. The site is able to be varied under this clause as the development will have a street frontage of at least 36 m and a design review panel has reviewed the development.</li> <li>The Department is satisfied that the variation to height is acceptable as the proposal will not significantly impact on surrounding properties in regard to overshadowing, site isolation or visual impacts.</li> <li>The City of Gosford Design Advisory Panel (CoGDAP) has reviewed the proposal and determined the proposal to be an appropriate design for the site and its constraints.</li> <li>A minimum front setback of 0m on ground level is proposed and a brick podium (street wall) of 7m in height is proposed in accordance with the required 0m at ground level and 6-14m for street wall height.</li> </ul> <p><b>Conditions/Response</b></p> <ul style="list-style-type: none"> <li>No conditions are required.</li> </ul>
<b>Overshadowing</b> <ul style="list-style-type: none"> <li>Concerns regarding the overshadowing of Proposed Lot 2</li> </ul>	<p><b>Assessment</b></p> <ul style="list-style-type: none"> <li>The Applicant provided a solar access study for Proposed Lot 2 demonstrating that solar access can be achieved by a compliant development on the lot.</li> <li>73% of units within a likely hypothetical development on Proposed Lot 2 can achieve a minimum 3 hours of solar access on June 21 as a consequence of the proposed development, exceeding the required 70%.</li> <li>The hypothetical communal open space within Proposed Lot 2 will exceed the required 2 hours minimum of solar access</li> </ul> <p><b>Conditions/Response</b></p> <ul style="list-style-type: none"> <li>No conditions are required.</li> </ul>
<b>View Loss</b> <ul style="list-style-type: none"> <li>Concerns regarding the impact of the scale of development on surrounding properties to the east</li> </ul>	<p><b>Assessment</b></p> <ul style="list-style-type: none"> <li>The Applicant provided a View Sharing Analysis to assess views from surrounding development toward Brisbane Water, particularly from the east of the site).</li> <li>The area to the east of the site is predominately single and double storey residential development which has obscured views toward Brisbane Water due to vegetation, landscaping and the existing development on the site.</li> <li>The surrounding development most likely to be impacted by the proposed development is the three-storey building to the east of the site with current partial views of Brisbane Water (158 Albany Street, Point Fredrick). This building is approximately 280m from the waterfront. The 3 storey building will retain partial views of Brisbane Water.</li> </ul>

	<p><i>Conditions/Response</i></p> <ul style="list-style-type: none"> <li>No conditions are required.</li> </ul>
<p>Flooding</p> <ul style="list-style-type: none"> <li>The site is subject to flooding</li> <li>A minimum floor level will apply</li> </ul>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>The Applicant provided a Stormwater Management Plan and a Flood Impact Assessment Memorandum which included an assessment of flooding constraints of the site.</li> <li>With a flood level of approximately 2.0m AHD in the channel, the finished floor level for the redevelopment is 2.2m above the 1% AEP floor level in this location and therefore the minor increase of 20mm adjacent to the proposed buildings is not expected to create a significant adverse impact to this property.</li> <li>The Flood Impact Assessment Memorandum outlines that the proposed redevelopment will reduce the flooding depths on surrounding properties.</li> </ul> <p><i>Conditions/Response</i></p> <ul style="list-style-type: none"> <li>The submission of detailed plans to the satisfaction of the Certifier prior to the issue of the first Construction Certificate identifying that the minimum floor level is in accordance with Council's Flood Certificate for the site.</li> <li>The resubmission and implementation of the Flood Emergency Response Plan.</li> <li>The preparation and implementation of flood warning and notification procedures for construction workers and evacuation and refuge protocols prior to the commencement of construction.</li> </ul>
<p>Traffic</p> <ul style="list-style-type: none"> <li>A CTMP will be required prior to the issue of a Construction Certificate</li> <li>The proposal will create street congestion</li> </ul>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>A Construction Traffic Management Plan will be prepared for the project which will consider parking demands.</li> <li>The development will generate 114 trips per day. The current development likely already contributes 50 trips per day, therefore the redevelopment will contribute an increase of less than 70 trips per day, with only 22 in the evening peak. The RTA Guide also indicates that trips associated with seniors living developments do not generally coincide with the AM peak hour.</li> <li>The Department considers this increase will have minimal impact on the road network surrounding the site.</li> </ul> <p><i>Conditions/Response</i></p> <ul style="list-style-type: none"> <li>A Construction Traffic Management Plan is required to be prepared prior to the issue of a Construction Certificate.</li> </ul>
<p>Site Isolation</p> <ul style="list-style-type: none"> <li>The proposal will isolate the lots adjoining the site</li> </ul>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>The Applicant provided Feasibility Studies for both Lot 7 and Residual Lot 2.</li> <li>The Feasibility Studies demonstrate compliant hypothetical development on both lots that can achieve compliant solar access to units and communal open space, as well as supply compliant open space and parking provisions.</li> <li>The Feasibility Studies also demonstrated that the proposed development would not unreasonably affect the development potential of Lot of the residual lot (Lot 2).</li> </ul> <p><i>Conditions/Response</i></p> <ul style="list-style-type: none"> <li>No conditions are required.</li> </ul>

<p>Waste Storage and Servicing</p> <ul style="list-style-type: none"> <li>• Driveway width and pavement strength should be designed to comply with Council's Waste requirements within the DCP</li> <li>• Waste Storage may be visible from the road</li> </ul>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>• The Applicant provided details of the proposed materials and elevations of the waste storage room and maintenance shed with dark materials designed to disappear within the landscape.</li> <li>• The Department is satisfied that the waste storage room and maintenance shed will not adversely impact occupants and has been designed to be integrated within the landscape.</li> <li>• The Applicant has provided the dimensions for proposed waste collection vehicles and outlined that compliance with Council's DCP waste requirements and liability can be included within conditions of consent.</li> </ul> <p><i>Conditions/Response</i></p> <ul style="list-style-type: none"> <li>• An Operational Waste Management Plan is required to be prepared and implemented.</li> </ul>
<p>Stormwater</p> <ul style="list-style-type: none"> <li>• Discharged stormwater should not exceed the capacity of the Central Coast Highway stormwater drainage system</li> </ul>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>• The Applicant provided a Concept Stormwater Management Plan which confirms that the development will not have any detrimental impacts to the peak flow rates of stormwater runoff reaching the Central Coast Highway.</li> </ul> <p><i>Conditions/Response</i></p> <ul style="list-style-type: none"> <li>• A condition is included to ensure the stormwater design will be designed to not exceed the capacity of the Central Coast Highway drainage system.</li> </ul>