

**Proposed Residential Flat Building
Lots A & B in DP312912
#53 – 55 Donnison Street at West Gosford**

**Development Report and Statement of Environmental
Effects in accordance with the
State Environmental Planning Policy (Gosford City
Centre) 2018**

**VLZ Constructions Pty Limited and Australian Luxury Living
Pty Limited**

January 2022

Job Ref: 073-2019

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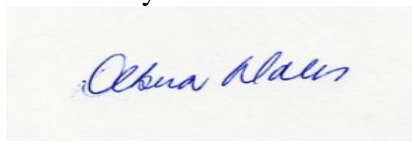



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for Proposed Residential Development

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	Pre-development Application Meeting Minutes	
	Noise Impact Assessment prepared by Spectrum Acoustics	
	SEPP65 Apartment Design Guide Checklist prepared by ELK Design (Project Architects)	
	Design Excellence Statement prepared by ELK Design (Project Architects)	
	Survey Report prepared by Clarke Dowdle & Associates (Consulting Surveyors)	
	Bushfire Assessment Report prepared by MJD Environmental	
	Landscape Plan prepared by Conzept Landscape Design	
	Stormwater Concept Design prepared by Burgess Arnott & Grava Pty Limited (Consulting Engineers)	
	ABSA BASIX Certificate and Thermal Performance Certificate prepared by SLR Consulting Pty Limited	
	Disability Access Report prepared by Lindsay Perry Access	
	Assessment of Traffic and Parking Implications prepared by Transport & Traffic Planning Associates	
	Site Waste Management Plan prepared by Wales & Associates Pty Limited	
	Sedimentation & Erosion Control Plan prepared by Burgess Arnott & Grava Pty Limited (Consulting Engineers)	
	Preliminary Geotechnical Assessment & Preliminary Site Investigation of Contamination prepared by Douglas & Partners	
	QS Report prepared by Construction Consultants	
	Visual Impact Assessment	
	Arboricultural Impact Assessment prepared by Michael Shaw Consulting Arborist	
	Concept Sewermain Relocation Plan prepared by Wallace Design Group	

LIST OF ABBREVIATIONS AND GLOSSARY	
Abbreviation	Meaning
AEP	Annual Exceedance Probability
AS	Australian Standard
CC	Construction Certificate
CCC	Central Coast Council
CCTV	Closed Circuit Television
CPTED	Crime Prevention Through Environmental Design
Council	Central Coast Council
cumecs	Cubic metres per second
dB	Decibel, which is 10 times the logarithm (base 10) of the ratio of a given sound pressure to a reference pressure; used as a unit of sound
dB(A)	Frequency weighting filter used to measure 'A-weighted' sound pressure levels, which conforms approximately to the human ear response, as our hearing is less sensitive at extremely low and very high frequencies
DCP	Development Control Plan
DECCW	Department of Environment, Climate Change and Water NSW
DPIE	Department of Planning Infrastructure & Environment
EPBC	Environment Protection and Biodiversity Conservation Act 1999
EP&A Act	Environmental Planning & Assessment Act
ESD	Ecologically Sustainable Development
Emission	The release of material into the surroundings (ie: gas, noise and water)
EP&A Act	Environmental Planning and Assessment Act 1979
GDCP	Gosford Development Control Plan 2013
GFA	Gross Floor Area
GLEP	Gosford Local Environmental Plan 2014
GPT	Gross Pollutant Trap
INP	Industrial Noise Policy
LEP	Local Environmental Plan
m ²	Square metre
m ³	Cubic metre
PBP	Planning for Bush Fire Protection 2019
PP	Planning Proposal
PSI	Preliminary Site Investigation
REF	Review of Environmental Factors
ROW	Right-of-way
RMS	Roads and Maritime Service (now TfNSW)
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SREP	State Regional Environmental Policy
TfNSW	Transport for NSW
WA	Wales & Associates Pty Limited
WMP	Waste Management Plan

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DEVELOPMENT REPORT AND STATEMENT OF ENVIRONMENTAL EFFECTS

in accordance with

STATE ENVIRONMENTAL PLANNING POLICY (GOSFORD CITY CENTRE) 2018

Date of Report: 18th January 2022

Applicant: VLZ Constructions Pty Limited and Australian Luxury Living Pty Limited
C/- **WALES & ASSOCIATES**
P.O. Box 150
Ettalong Beach 2257

Client: VLZ Constructions Pty Limited and Australian Luxury Living Pty Limited
C/- **WALES & ASSOCIATES**
P.O. Box 150
Ettalong Beach 2257

Location: **Lots A & B in DP312912**
#53-55 Donnison Street
West Gosford

Site Area: 1,165m²

Subject of Report: **Proposed Residential Development**

Current Zoning: Zone R1 – *General Residential* under the State Environmental Plan (Gosford City Centre) 2018 (see **Figure 1**)

Relevant Planning Controls:

- (i) New South Wales Government (1979) Environmental Planning & Assessment Act (as amended);
- (ii) New South Wales (Australia) Local Government Amendment (Ecologically Sustainable Development) Act 1997;
- (iii) State Environmental Planning Policy (Gosford City Centre) 2018;
- (iv) State Environmental Planning Policy No. 65 – Design Quality;
- (v) State Environmental Planning Policy (Coastal Management) 2018;
- (vi) State Environmental Planning Policy (BASIX);
- (vii) Gosford Local Environmental Plan 2014;
- (viii) Draft State Environmental Plan (Design and Place);
- (ix) State Environmental Planning Policy (Resilience and Hazards) 2021;
- (x) Gosford City Centre Development Control Plan 2018;
- (xi) Planning for Bush Fire Protection 2019; and
- (xii) Department of Planning Apartment Design Guide

EXECUTIVE SUMMARY

This Statement of Environmental Effects has been prepared by Wales & Associates Pty Limited (WA) on behalf of VLZ Constructions Pty Limited and Australian Luxury Living Pty Limited in relation to the proposed twenty-six (26) unit residential building as shown on the attached **Architectural Plans** prepared by *ELK Architects*.

It describes the site, its environs, the development and provides an assessment of the proposal in terms of the matters for consideration under Section 4.15 – *Evaluation* of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979). It should be read in conjunction with the supporting information and documents appended to this report including:-

- (i) Architectural plans prepared by ELK Architects;
- (ii) Site Detail Survey prepared by Clarke Dowdle & Associates;
- (iii) Pre-development Application Meeting Minutes;
- (iv) Noise Impact Assessment prepared by Spectrum Acoustics;
- (v) SEPP65 Report prepared by ELK Architects;
- (vi) Design Excellence Statement prepared by ELK Design (Project Architects);
- (vii) Bushfire Assessment Report prepared by MJD Environmental;
- (viii) Landscape Plan prepared by Conzept Landscape Design;
- (ix) Stormwater Concept Design prepared by Burgess Arnott & Grava Pty Limited (Consulting Engineers);
- (x) ABSA BASIX Certificate and Thermal Performance Certificate prepared by SLR Consulting Pty Limited;
- (xi) Disability Access Report prepared by Lindsay Perry Access;
- (xii) Assessment of Traffic and Parking Implications prepared by Transport & Traffic Planning Associates (TTPA);
- (xiii) Site Waste Management Plan prepared by Wales & Associates Pty Limited;
- (xiv) Sedimentation & Erosion Control Plan prepared by Burgess Arnott & Grava Pty Limited (Consulting Engineers);
- (xv) Preliminary Geotechnical Assessment & Preliminary Site ;
- (xvi) Investigation of Contamination prepared by Douglas & Partners;
- (xvii) QS Report prepared by Construction Consultants;
- (xviii) Visual Impact Assessment prepared by Dr. Phillip Pollard;
- (xix) Arboricultural Impact Assessment prepared by Michael Shaw Consulting Arborist;
- (xx) Concept Sewermain Relocation Plan prepared by Wallace Design Group

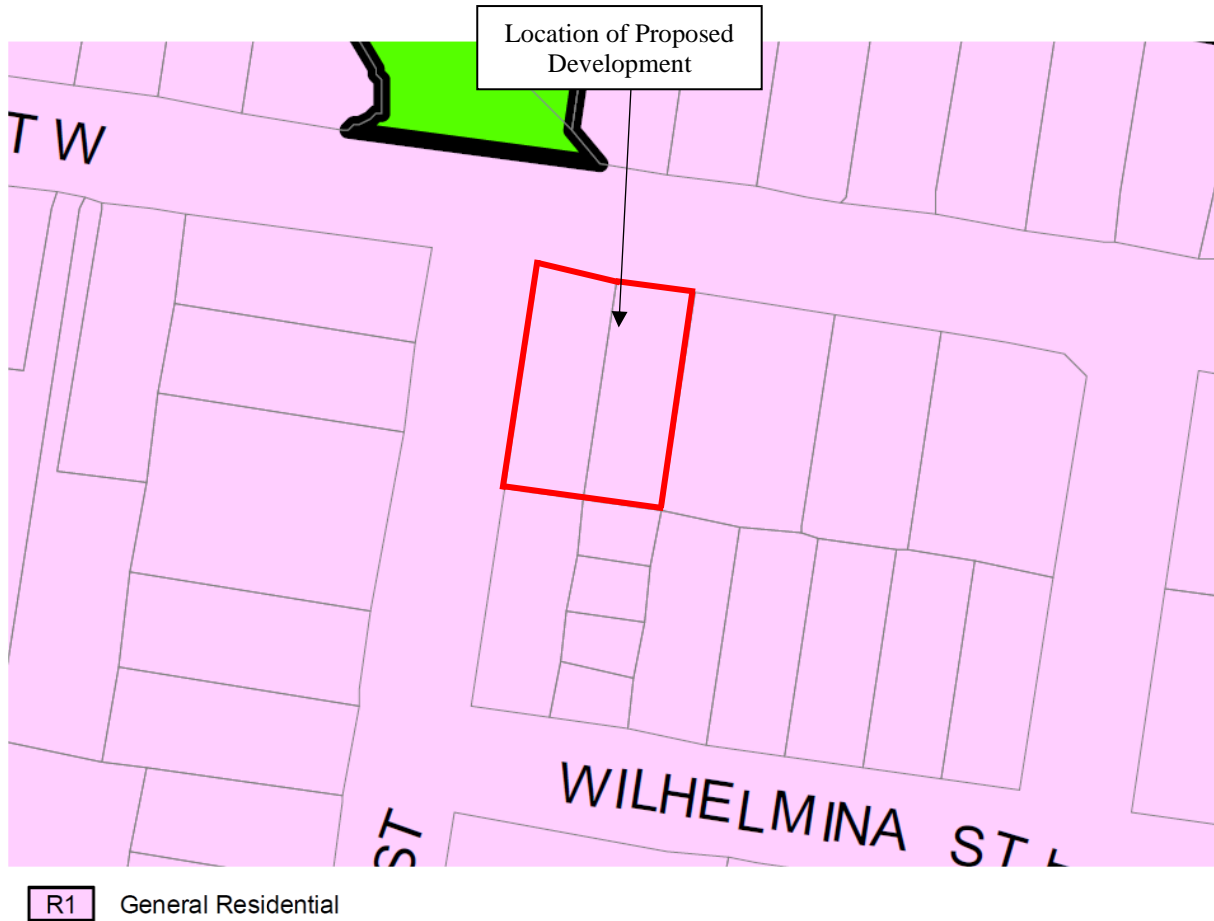


Figure 1
Extract from the SEPP (Gosford City Centre) 2018 Land Zoning Map LZN_001
(courtesy of Central Coast Council through NSW Legislation portal)

1.0 THE PROPOSAL

1.1 General

The following report is for the proposed residential development as shown on the attached **Architectural Plans** prepared by **ELK Design** (Project Architects). There is a total of twenty six (26) residential apartments within the development which have been designed to maximise areas of private open space, capitalise on solar access and to generally articulate the development pattern.

The site is occupied by the existing single storey rendered dwelling with tile roof. (see **Figure 2 – Aerial Photograph** and **Figure 3 – Site Photograph**). The site has a land area of 1,165m².



Figure 2
Aerial Map
(image courtesy of Central Coast Council – Online Mapping)



Figure 3
Photograph showing existing residential dwelling
(image courtesy of Google Earth Pro)

1.2 Staging

The development will be undertaken in one (1) single stage.

1.3 Pre-Development Application Advice

A pre-development application meeting was held with the NSW Department of Planning Industry & Environment on the 28th April 2020. The Minutes of the Meeting are attached to this Statement. The following matters were discussed:-

- (i) statutory and strategic provisions;
- (ii) Clause 4.6 provisions (variations to height and floor space ratio);
- (iii) Design Excellence;
- (iv) built form and urban design;
- (v) height and FSR variations (departure from State Environmental Planning Policy (Gosford City Centre) 2018);
- (vi) setback controls under the Gosford City Centre Development Control Plan 2018;
- (vii) site coverage under Gosford City Centre Development Control Plan 2018;
- (viii) articulation of building facades;
- (ix) public domain and landscaping;
- (x) Visual Impact Assessment;
- (xi) environmental and residential amenity;
- (xii) traffic and accessibility assessment;

- (xiii) bushfire assessment;
- (xiv) BASIX Assessment;
- (xv) heritage impacts;
- (xvi) socio-economic impacts;
- (xvii) public benefit and contributions;
- (xviii) construction and noise vibration;
- (xix) biodiversity and coastal management;
- (xx) geotechnical impacts;
- (xxi) availability and impact on public utilities;
- (xxii) stormwater and water cycle management requirements; and
- (xxiii) easements, restrictions, staging and site suitability

Each of these matters (where appropriate) are addressed in the following Statement of Environmental Effects and accompanying documents.

2.0 COMPLIANCE WITH PLANNING CONTROLS

2.1 State Environmental Planning Policy (Gosford City Centre) 2018

The proposed development is governed by the State Environmental Plan (Gosford City Centre) 2018.

The State Environmental Planning Policy (Gosford City Centre) 2018 came into effect on the 12th October 2018. The subject site is currently zoned Zone R1 – *General Residential*. The **aims of this Policy** are as follows:-

- (i) to promote the economic and social revitalisation of Gosford City Centre;
- (ii) to strengthen the regional position of Gosford City Centre as a multi-functional and innovative centre for commerce, education, health care, culture and the arts, while creating a highly liveable urban space with design excellence in all elements of its built and natural environments;
- (iii) to protect and enhance the vitality, identity and diversity of Gosford City Centre;
- (iv) to promote employment, residential, recreational and tourism opportunities in Gosford City Centre;
- (v) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Gosford City Centre achieves sustainable social, economic and environmental outcomes;
- (vi) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Gosford City Centre for the benefit of present and future generations;
- (vii) to help create a mixed-use place, with activity during the day and throughout the evening, so that Gosford City Centre is safe, attractive and efficient for, and inclusive of, its local population and visitors alike;
- (viii) to preserve and enhance solar access to key public open spaces;
- (ix) to provide direct, convenient and safe pedestrian links between Gosford City Centre and the Gosford waterfront; and
- (x) to ensure that development exhibits design excellence to deliver the highest standard of architectural and urban design in Gosford City Centre.

The proposed development **meets the objectives** of the zone in that:-

- (i) it contributes to the economic and social revitalisation of Gosford City Centre through the provision of high-quality residential floor space;
- (ii) it strengthens the regional position of Gosford City Centre through the provision of highly liveable urban space with design excellence;
- (iii) the proposal both protects and enhances the vitality, identity and diversity of Gosford City Centre;
- (iv) the development promotes employment and residential opportunities in Gosford City Centre;
- (v) through the design process, the proposal encourages responsible management, development and conservation of natural and man-made resources and to ensure that Gosford City Centre achieves sustainable social, economic and environmental outcomes;
- (vi) with a high-quality mix of residential floor space, the proposal helps to create a unique residential place, with activity during the day and throughout the evening, so that Gosford City Centre is safe, attractive, and efficient for, and inclusive of, its local population and visitors alike;
- (vii) through the design process, the development preserves and enhances solar access to key public open spaces; and
- (viii) through the design process, the proposal ensures that development exhibits design excellence to deliver the highest standard of architectural and urban design in Gosford City Centre

Each of the relevant development standards contained within State Environmental Planning Policy (Gosford City Centre) 2018 is dealt with, where appropriate, within the body of this report.

2.1.1 Floor Space Ratio

Clause 4.4 – Floor Space Ratio of State Environmental Planning Policy (Gosford City Centre) 2018 applies to the site.

The subject lands are designated T1 and currently have a maximum floor space ratio of 2:1 under State Environmental Planning Policy (Gosford City Centre) 2018 as shown in **Figure 4**.

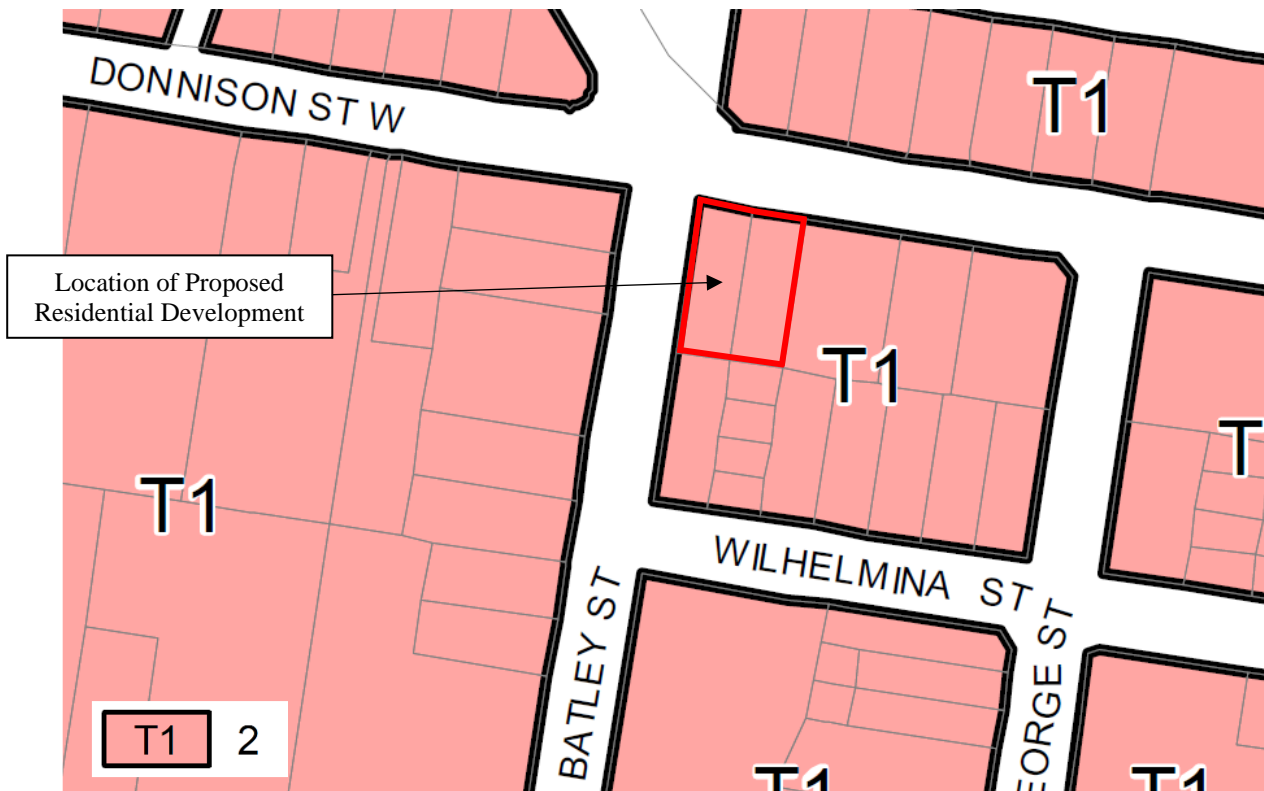


Figure 4
Extract from the SEPP (Gosford City Centre) 2018 Floor Space Ratio Map FSR_001
(courtesy of Central Coast Council through the NSW Legislation portal)

The objectives of this clause are as follows:-

- (i) to establish standards for the maximum development density and intensity of land use;
- (ii) to control building density and bulk in relation to site area to achieve the desired future character for different locations;
- (iii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain;
- (iv) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation;
- (v) to provide an appropriate correlation between the size of a site and the extent of any development on that site;
- (vi) to facilitate design excellence by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design;
- (vii) to ensure that the floor space ratio of buildings on land in Zone R1 General Residential reflects Council's desired building envelope; and
- (viii) to encourage lot amalgamation and new development forms in Zone R1 General Residential with car parking below ground level.

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#). It should be noted that Clauses 4.6, 8.4 and 8.13 provide exceptions to the maximum floor space ratio shown for the relevant land on the [Floor Space Ratio Map](#) in certain circumstances.

In this instance, Clause 8.13 – Floor Space Ratio in Zone R1 applies:-

8.13 Floor space ratio in Zone R1

- (1) *This clause applies to land in Zone R1 General Residential.*
- (2) *Despite clause 4.4, the maximum floor space ratio for a building that has a street frontage of at least 24 metres is—*
 - (a) *if the building is on a site area of at least 1,000 square metres, but less than 1,500 square metres—*
 - (i) *if the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) is at least 2.25:1—2:1, or*
 - (ii) *if the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) is at least 2:1, but less than 2.25:1—1.5:1, or*
 - (iii) *in any other case—3:1, or*

Therefore, the applicable floor space ratio is 1.5:1 as the site has a street frontage >24 metres and site area >1,000m² but <1,500m² with a FSR shown for the land on the [Floor Space Ratio Map](#) is at least 2:1, but less than 2.25:1.

The subject site has an area of 1,165m² and a gross floor area of 2,505m² resulting in a floor space ratio of **2.15:1**. The proposed development therefore **does not comply** with Clause 8.13 – Floor space ratio in Zone R1.

A variation is sought to the maximum floor space ratio of 1.5:1 (viz: variation 43.3%) based on:-

- (i) the design merit and key location of the proposed development;
- (ii) the imperative to further lift the design standard of the western end of the Gosford City Centre; and
- (iii) to offset the loss of views due to previous bonus provisions applied to adjoining development sites (viz: the GLEP was amended in April 2015 via Amendment 12 to extend the 30% bonus height and floor space provisions under Clause 8.9. The incentive provision (Clause 8.9) ceased to apply 12 months after the gazettal of Amendment 12 [1 April 2016])

The following Clause 4.6 variation is provided in support of the variation.

Preamble

The Land and Environment Court of New South Wales has, in recent judgements, rejected numerous appeals on the basis that the written requests to vary development standards did not meet the necessary requirements outlined in clause 4.6(3) of the Standard Instrument. The Court has also highlighted the correct approach for consent authorities when dealing with a written request under clause 4.6 of the Standard Instrument.

These recent decisions show that the consequences of failing to address the prescribed elements of clause 4.6(3) of the Standard Instrument can be fatal to a development application.

As the Court has recently noted in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, the consent authority must first consider whether a Cl.4.6 Request has adequately addressed the matters required to be addressed in clause 4.6(3) of the Standard Instrument. If the consent authority is not satisfied that these matters have not been adequately addressed, the consent authority simply does not have the power to grant consent.

Fortunately, Senior Commissioner Dixon has provided applicants with clear guidance regarding how a Cl. 4.6 Request should be structured. In *Brigham v Canterbury–Bankstown Council [2018]*,^[2] the Senior Commissioner emphasised that a Cl. 4.6 Request should have the following features:-

- (i) it should address each element of clause 4.6(3) in the order that it is read. This checklist approach helps to avoid legal error and ensure that all relevant subclauses are referred to in the written document;
- (ii) it must make specific reference to the particular subclause being addressed, rather than using a general topic heading;
- (iii) it should not paraphrase but rather, use the precise wording from the relevant clause when addressing particular considerations in respect of the development; and
- (iv) it should be direct and to the point. The request should not include discussions of irrelevant matters such as the historical case law or comments by a commissioner or judge.

Introduction

As the proposed building exceeds the maximum floor space ratio, a variation request under Clause 4.6 – Exemption to Development Standard under the State Environmental Planning Policy (Gosford City Centre) 2018 in relation to the 1.5:1 floor space ratio standard and the departure from this standard where a floor space ratio of 2.15:1 is proposed. This represents a departure of 43.3%.

As required by this clause, a written request for an exception to the required maximum floor space ratio is made as part of the Statement of Environmental Effects which accompanies the development application.

It is noted that Council acknowledges potential support for exceptions to the development standards to be varied pursuant to Clause 4.6. Consequently, the provisions of the clause and specifically sub-clause (4) need to be met.

Clause 4.6

Clause 4.6 – Exceptions to development standards under the Gosford Local Environmental Plan 2014 states:-

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that;*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

Development Standard to be Varied

It is proposed to vary the standard set out under Clause 4.4 – Floor Space Ratio and Clause 8.13 – Floor Space Ratio in Zone R1 of the State Environmental Planning Policy (Gosford City Centre) 2018 which deals with those issues relating to the maximum permissible floor space ratio for buildings.

In the absence of objectives under Clause 8.13, the objectives under Clause 4.4 are referred to.

Extent of the Variation to the Development Standard

The proposal seeks a floor space ratio of 2.15:1 which is higher than the maximum permissible floor space ratio under Clause 8.13 of the State Environmental Planning Policy (Gosford City Centre) 2018. The extent of the variation to the floor space ratio controls is shown on the attached architectural plans and is justified due to:-

- (i) the design merit of the building;
- (ii) its relationship to the adjoining and surrounding built form which is largely a result of the previous height and FSR bonus provisions under the earlier Gosford Local Environmental Plan planning provisions;
- (iii) its relationship to the future streetscape;
- (iv) and the overall bulk and scale of the building.

Objectives of the Standard

The **objectives** of Clause 4.4 of the State Environmental Planning Policy (Gosford City Centre) 2018 are as follows:-

- (i) to establish standards for the maximum development density and intensity of land use;
- (ii) to control building density and bulk in relation to site area in order to achieve the desired future character for different locations;
- (iii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain;
- (iv) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation;
- (v) to provide an appropriate correlation between the size of a site and the extent of any development on that site;
- (vi) to facilitate design excellence by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design;
- (vii) to ensure that the floor space ratio of buildings on land in Zone R1 – *General Residential* reflects Council’s desired building envelope; and
- (viii) to encourage lot amalgamation and new development forms in Zone R1 – *General Residential* with car parking below ground level

The **objectives** of Zone R1 – *General Residential* under the State Environmental Planning Policy (Gosford City Centre) 2018 are:-

- (i) to provide for the housing needs of the community;
- (ii) to provide for a variety of housing types and densities;
- (iii) to enable other land uses that provide facilities or services to meet the day to day needs of residents;
- (iv) to ensure that development is compatible with the desired future character of the zone;
- (v) to promote best practice in the design of multi dwelling housing and other similar types of development; and
- (vi) to ensure that non-residential uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for multi dwelling housing or other similar types of development.

Assessment

Under the State Environmental Planning Policy (Gosford City Centre) 2018, the the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#) subject to the exceptions under Clause 8.13.

The building designer for the project, **ELK Architects**, has designed the proposed residential flat building in such a manner as to:-

- (i) produce a high-quality residential development that provides a high level of articulation and effective and efficient residential floor space;
- (ii) optimize the development outcomes for the site whilst being mindful of bulk and scale;

- (iii) establish a high-quality streetscape that recognises the future expectations for the West Gosford residential precinct;
- (iv) further lift the architectural standard of the eastern end of the residential precinct and offset the poor built quality of the existing building stock on the northern side of Donnison Street (see **Figure 5**) and those to the east (see **Figure 6**); and
- (v) improve yields and development viability in line with both Council's and the public expectations for the precinct



Figure 5
Photograph showing old residential stock on the northern side of Donnison Street
(image courtesy of Google Earth Pro)



Figure 6
Photograph showing existing old residential housing stock on the northern side of
Donnison Street
(image courtesy of Google Earth Pro)

Consequently, a variation is sought to the Floor Space Ratio development standard under the provisions set out in Clause 4.6 – Exceptions to development standards of the State Environmental Planning Policy (Gosford City Centre) 2018.

The **objectives** of this clause are as follows:-

- (i) to provide an appropriate degree of flexibility in applying certain development standards to particular development; and
- (ii) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The floor space ratio variation is reasonable when considered within the context of the overall streetscape with highly visible frontages to both Donnison Street and Batley Street and the intent of both the Gosford Local Environmental Plan 2014 and the State Environmental Planning Policy (Gosford City Centre) 2018. The building is seven (7) storeys with two (2) basement level car parking levels and integrates satisfactorily within both the future existing and future residential context (see **Figure 7**).

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Figure 7
Streetscape Analysis from Batley Street
(image courtesy of ELK Architects)

In relation to the *Underlying Objectives of the Standard of Clause 4.4 – Floor Space Ratio*, the proposed development and the variation to the Floor Space Ratio standard meets the underlying objectives by:-

- (i) recognising the standards for the maximum development density and intensity of land use in the precinct but anticipating the future needs of the West Gosford residential precinct through high quality building design that offsets and improves on the current built form;
- (ii) recognising the need to control building density and bulk in relation to site area to achieve the desired future character for different locations. This objective should be considered against the previous planning incentives under the old Gosford LEP provisions (viz: the GLEP was amended in April 2015 via Amendment 12 to extend the 30% bonus height and floor space provisions under Clause 8.9. The incentive provision (Clause 8.9) ceased to apply 12 months after the gazettal of Amendment 12 [1st April 2016]) whereby adjoining buildings were approved with both greater height and FSR than is proposed with this application (ie: #2 Wilhelmina Street with an FSR of 2.9:1 using both the previous 30% bonus and Clause 4.6 variation). The proposed building design maintains a commensurate building envelope to that which would be achieved by meeting the previous planning standard (ie; bonus provisions) whilst seeking to further lift the design standards of the precinct and setting new standards for future buildings;
- (iii) minimising any adverse environmental effects on the use or enjoyment of adjoining properties and the public domain through good building design that meets the requirements of SEPP65 (see attached **SEPP65 Assessment** prepared by **ELK Architects**);

- (iv) providing an appropriate correlation between the size of a site and the extent of any development on that site through good urban design and building articulation and being mindful of adjoining built form; and
- (v) facilitating design excellence by ensuring the extent of the proposed floor space in the building envelope leaves generous space for the articulation and modulation of design

In relation to Section 5(a)(i)(ii) – *Objects* of the Environmental Planning & Assessment Act, the variation to the development standard will not hinder the obtainment of the objectives.

Under Section 5(a)(i)(ii), the objects of this Act are:-

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land*

The variation to the Floor Space Ratio requirement will not hinder the proper management and development of the West Gosford residential catchment which is undergoing major transitional changes from single and two storey detached residences to high density residential flat buildings. The proposal will in fact improve the social and economic welfare of the local community and create a better environment by substantially improving the livability and amenity of the locality by activating both the Donnison Street and Batley Street frontages and the provision of good quality accommodation space that encourages people to live close to the Gosford City Centre as well as in the surrounding urban catchment.

The proposal further improves the architectural standard of the locality and compliments the existing adjoining development and future development in the precinct. The variation to the Floor Space Ratio requirement will not hinder the promotion and co-ordination of the orderly and economic use and the development of the land.

In fact, the proposal ensures the highest and best use of the subject site by formalizing the trend to higher density accommodation utilising the natural features of the land and activating both street frontages.

(i) Clause 4.6(3)(a) – *Unreasonable and Unnecessary*

In relation to the question as to whether compliance with the development standard unreasonable or unnecessary in the circumstances (Clause 4.6 Sub-clause (3)(a)), it is the applicants view that strict compliance with the Floor Space Ratio development standard is unreasonable in this case as the proposed variation simply seeks to:-

- (i) offset the loss of views and amenity because of previous approvals including DA/48120/2015 at #2 Wilhelmina Street, immediately to the south of the site. This approval, which benefits from the previous city centre bonus provisions in 2015, represents an FSR of 2.9:1 (ie: 2:1 + 30% bonus = 2.6:1 + Clause 4.6 variation = 2.9:1 = 11.5% variation above the 30% bonus).

- This has resulted in a building of greater height and FSR to that which is allowable under the SEPP (Gosford City Centre);
- (ii) improve on existing poor built form along the northern side of Donnison Street through higher design standards and architectural design;
 - (iii) maximise the site outcomes and financial viability of the site; and
 - (iv) improve the residential standard of the precinct without any significant impact on the adjoining properties or the streetscape when considered along side the emerging built form including #14 Batley Street, #10 Batley Street, #2 Wilhelmina Street, #8 St George Street and #72 Donnison Street (see **Figure 8**)



Figure 8
Precinct Plan
(courtesy of ELK Architects)

It also proposes a high quality residential interface with the both the Donnison Street and Batley Street road frontages in line with the emerging and existing built form. It will ensure a more viable development and higher standard of residential yield compared to that which would otherwise be provided should strict adherence to the LEP standard be applied and in line with previously approved development under the former Gosford City Centre bonus provision arrangements as shown in **Table 1**. The proposal is an efficient use of the land which delivers social, economic and environmental benefits to the local community.

Table 1
Previous Approvals

Address	Development Application Number	Permissible FSR and Height	Approved FSR and Height
#2 Wilhelmina Street	DA/48120/2015	FSR 2:1 + 30% bonus = 2.6:1 Height 18 metres + 30% bonus = 23.4 metres	FSR 2.9:1 Height = 23.4 metres
#10 Batley Street	DA/38440/2010	FSR 2:1 + 30% bonus = 2.6:1 Height 18 metres + 30% = 23.4 metres	FSR 1.63:1 Height = 14.665 metres
#14 Batley Street	DA/46043/2014	FSR 2:1 Height = 18 metres	FSR 2.289:1 Height = 30.7 metres
#8 St George Street	DA/48516/2016	FSR 2:1 + 30% bonus = 2.6:1 Height 18 metres + 30% bonus = 23.4 metres	FSR 2.9:1 Height = 23.4 metres
#72 Donnison Street	DA/49552/2016	FSR 2:1 + 30% bonus = 2.6:1 Height 18 metres + 30% bonus = 23.4 metres	FSR 2.6:1 Height = 26.2 metres

The variation will not adversely affect the amenity of the immediate locality or compromise the objectives of Clause 4.4 of the State Environmental Planning Policy (Gosford City Centre) 2018 or Section 5(a)(i)(ii) of the EP&A Act.

In relation to this clause, it is considered that the objection to the Floor Space Ratio standard is well founded and that based on the details provided above, strict adherence to the development standard would appear to be unreasonable and unnecessary in the circumstances of this development application. Therefore, Council's favourable consideration of the application under the provisions of Clause 4.6(3)(a) is sought.

(ii) Clause 4.6(3)(b) – *Environmental Planning Grounds*

With regards to the question as to whether there are sufficient environmental planning grounds to justify contravening the development standard, it should be noted that the subject site has specific circumstances in relation to its prominent location and surrounding design standards. Many of the adjoining residential development (approved under previous bonus provision arrangements for both building height and FSR) which has triggered the specific design response and variation to the maximum FSR.

The site is located on the prominent entry corner of Donnison Street and Batley Street (see **Figure 9**). The precinct is currently dominated by an eclectic mix of older style single story residential buildings on the northern side of Donnison Street and more recent residential flat buildings along Batley Street and Wilhelmina Street (see **Figure 10**).

The more recent residential developments have been constructed over the last six (6) years utilising the former Gosford City Centre bonus provisions for both FSR and maximum building height (viz: the Gosford LEP 2014 was amended in April 2015 via Amendment 12 to extend the 30% bonus height and floor space provisions under Clause 8.9. The incentive provision (Clause 8.9) ceased to apply 12 months after the gazettal of Amendment 12 [1st April 2016]). Reference is made to **Table 1**.



Figure 9
Looking north east from Batley Street
(image courtesy of Wales & Associates Pty Limited)



Figure 10
Photograph looking south along Batley Street showing recent multi-storey residential development
(image courtesy of Google Earth Pro)

Council's attention is drawn to DA/48120/2015 at #2 Wilhelmina Street which has the greatest impact on the subject lands with an FSR of 2.9:1 using both the previous 30% bonus provisions and Clause 4.6 variation – 11.5%). The additional floor space is reflected in the maximum building height which made full use of the 30% height bonus above the prescribed 18 metres under the GLEP 2014.

The additional FSR and building height is in response to the negative impacts of the adjoining building particularly in relation to view sharing and view loss. This addressed in detail under Section 2.1.2 – Maximum Height.

The proposed development has been designed with seven (7) residential levels and two (2) basement levels for car parking with articulated facades to produce a high level of street activation along both frontages (see **Figure 11** and **Figure 12**) and provide views to the upper units. The design response to the existing streetscape conditions and viability of the high-quality design and modest residential unit yield (ie: 26 residential apartments) has necessitated the proposed increase in FSR beyond the current maximum of 1:5.

By allowing the variation to the floor space ratio results in a more efficient and orderly use of the land and offsets the negative impacts produce by the previous 2015 bonus provisions in the Gosford LEP 2014.

The proposal produces a better outcome than would otherwise be the case if strict adherence to the standard were observed. In relation to this clause, it is considered that the objection to the Floor Space Ratio standard is well founded.



1
- RENDERED PERSPECTIVE ALONG BATLEY STREET

Figure 11
Streetscape Analysis – Batley Street frontage
(image courtesy of ELK Architects)



1
- RENDERED PERSPECTIVE BATLEY STREET FACADE

Figure 12
Rendered Perspective – Batley Street
(image courtesy of ELK Architects)

(iii) Clause 4.6(4)(a)(ii) – Public Interest

In relation to the question as to whether the proposed development would be in the public interest, it is considered that the proposal is consistent with both the objectives of the standard and for development within the zone.

In relation to Clause 4.4 – Floor Space Ratio of the State Environmental Planning Policy (Gosford City Centre) 2018, this standard deals with those issues relating to the maximum permissible floor space ratio.

In relation to the *Underlying Objectives of the Standard* of Clause 4.4 – Floor Space Ratio, the proposed development and the variation to the Floor Space Ratio standard meets the underlying objectives by:-

- (i) recognising the standards for the maximum development density and intensity of land use in the precinct but acknowledging the impacts on the subject site from adjoining development approved under the Gosford LEP bonus provisions in 2015.
- (ii) anticipating the future needs of the eastern end of the West Gosford residential precinct through high quality building design that further improves on the current built form;
- (iii) recognising the need to control building density and bulk in relation to site area to achieve the desired future character for different locations. The proposed building design maintains a similar building envelope (ie: in terms of FSR and building height) to that of adjoining development (see **Table 1** and **Figure 8**) whilst seeking to lift the design standards along Donnison Street and setting new standards for future buildings;
- (iv) minimising any adverse environmental effects on the use or enjoyment of adjoining properties and the public domain through good building design that meets the requirements of SEPP 65 (see attached **SEPP65 Assessment** prepared by **ELK Architects**);
- (v) providing an appropriate correlation between the size of a site and the extent of any development on that site through good urban design and building articulation; and
- (vi) facilitating design excellence by ensuring the extent of the proposed floor space in the building envelope leaves generous space for the articulation and modulation of design

With regard to the objectives for development within the zone, the subject site is currently zoned Zone R1 – *General Residential* under the State Environmental Planning Policy (Gosford City Centre) 2018.

The proposed development and the variation to the Floor Space Ratio standard **meets the objectives** of the zone in that:-

- (i) it contributes to the economic and social revitalisation of Gosford City Centre through the provision of high-quality residential floor space;
- (ii) it strengthens the regional position of Gosford City Centre through the provision of highly liveable urban space with design excellence;
- (iii) the proposal both protects and enhances the vitality, identity and diversity of Gosford City Centre;

- (iv) the development promotes employment and residential opportunities in Gosford City Centre;
- (v) through the design process, the proposal encourages responsible management, development and conservation of natural and man-made resources and to ensure that Gosford City Centre achieves sustainable social, economic and environmental outcomes;
- (vi) with a high-quality mix of residential floor space, the proposal helps to create a unique residential place, with activity during the day and throughout the evening, so that Gosford City Centre is safe, attractive, and efficient for, and inclusive of, its local population and visitors alike;
- (vii) through the design process, the development preserves and enhances solar access to key public open spaces; and
- (viii) through the design process, the proposal ensures that development exhibits design excellence to deliver the highest standard of architectural and urban design in Gosford City Centre

Therefore, it is considered that the proposal satisfies the public interest test as it is generally consistent with both the objectives of the standard and for development within the zone. In relation to this clause, it is considered that the objection to the Floor Space Ratio standard is well founded.

Conclusion

Based on the above assessment, the attached architectural plans and supporting documents, it is considered that the proposed residential development will deliver a better planning outcome than one that strictly complies with the current 1.5:1 floor space ratio for the following reasons:-

- (i) strict compliance would be unresponsive to the impacts and unintended consequences (ie: view loss) of adjoining approvals which enjoy the benefit of the previous 30% bonus provisions and in some cases, further increased under Clause 4.6 of the GLEP;
- (ii) strict compliance would not be responsive to the intent of the Gosford Local Environmental Plan 2014 objectives;
- (iii) strict compliance would not be responsive to the intent of the urban design controls contained within the Gosford Development Control Plan 2013 for the West Gosford precinct;
- (iv) strict compliance would not facilitate a satisfactory urban design outcome in response to the existing poor quality urban form on the northern side of Donnison Street;
- (v) strict compliance would restrict building height and subsequent floor space outcomes to the extent that the alternative would be an underutilisation of the site in an area within the West Gosford residential precinct that seeks higher height and density outcomes; and
- (vi) strict compliance would not fully meet the desired future character of the precinct

It is considered that the objection to the Floor Space Ratio standard is well founded and that based on the details provided above, strict adherence to the development standard would appear to be unreasonable and unnecessary in the circumstances of this development application. Therefore, Council's favourable consideration of the application under the provisions of Clause 4.6 is sought.

2.1.2 *Maximum Height*

Clause 4.3 – Building Heights under State Environmental Planning Policy (Gosford City Centre) 2018 applies to the site.

The subject lands are designated P and currently have a maximum height of 18m under the State Environmental Planning Policy (Gosford City Centre) 2018 as shown in **Figure 13**.

The **objectives** of this clause are as follows:-

- (i) to establish maximum height limits for buildings;
- (ii) to permit building heights that encourage high quality urban form;
- (iii) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight;
- (iv) to nominate heights that will provide an appropriate transition in built form and land use intensity;
- (v) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area; and
- (vi) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features

The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#). It should be noted that Clauses 4.6, 5.6, 8.2 and 8.4 provide exceptions to the maximum height shown for the relevant land on the [Height of Buildings Map](#) in certain circumstances.

The height of the proposed building is shown on the attached **Architectural Plans** prepared by **ELK Design**. The building has an overall height 21.50 metres and therefore **does not comply** with Clause 4.3 of the State Environmental Plan (Gosford City Centre) 2018 which prescribes a maximum building height of 18 metres. This represents a departure from the standard of 37%.

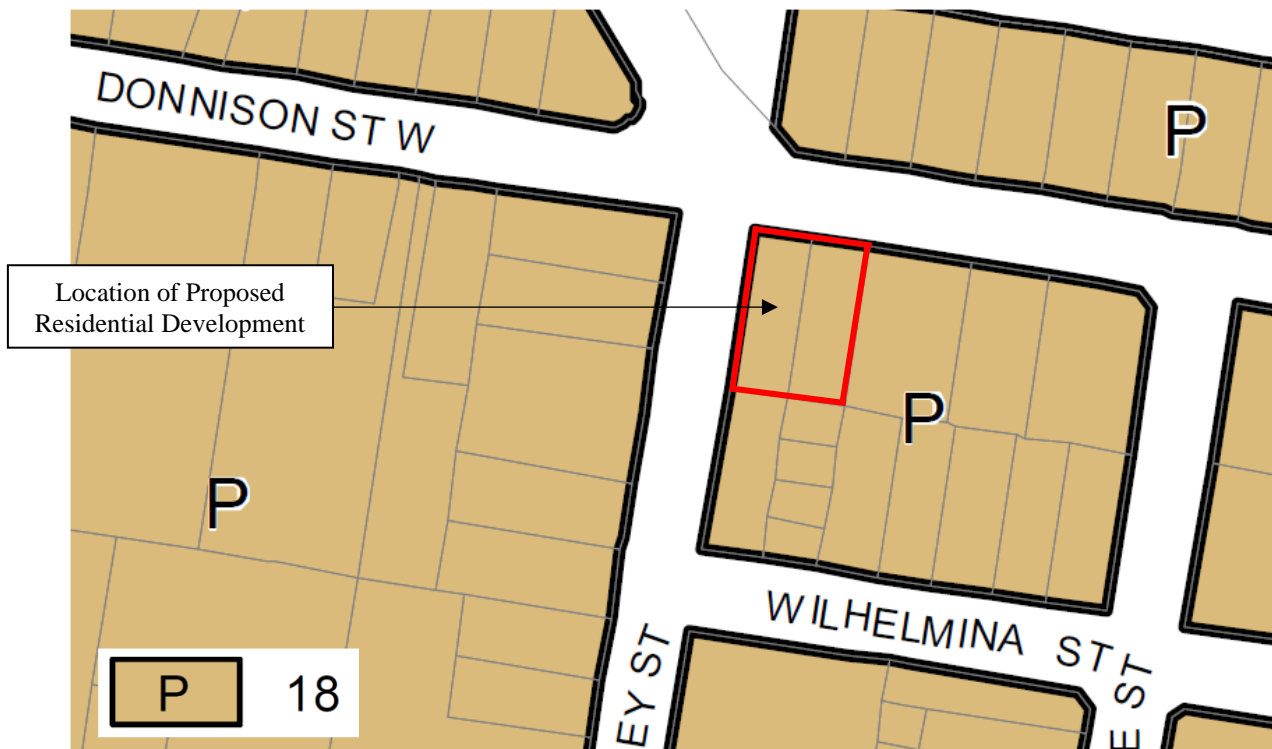


Figure 13
Extract from the SEPP (Gosford City Centre) 2018 Floor Space Ratio Map HOB_001
(courtesy of Central Coast Council through the NSW Legislation portal)

A variation is sought to the maximum building height of 18 metres (viz: 21.5 metres = variation 37%) based on:-

- (iv) the design merit and key location of the proposed development;
- (v) the imperative to further lift the design standard of the western end of the Gosford City Centre; and
- (vi) to offset the loss of views and amenity due to previous bonus provisions applied to adjoining development sites (viz: the GLEP was amended in April 2015 via Amendment 12 to extend the 30% bonus height and floor space provisions under Clause 8.9. The incentive provision (Clause 8.9) ceased to apply 12 months after the gazettal of Amendment 12 [1st April 2016])

The following Clause 4.6 variation is provided in support of the variation.

Preamble

The Land and Environment Court of New South Wales has, in recent judgements, rejected numerous appeals on the basis that the written requests to vary development standards did not meet the necessary requirements outlined in clause 4.6(3) of the Standard Instrument. The Court has also highlighted the correct approach for consent authorities when dealing with a written request under clause 4.6 of the Standard Instrument.

These recent decisions show that the consequences of failing to address the prescribed elements of clause 4.6(3) of the Standard Instrument can be fatal to a development application.

As the Court has recently noted in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, the consent authority must first consider whether a Cl.4.6 Request has adequately addressed the matters required to be addressed in clause 4.6(3) of the Standard Instrument. If the consent authority is not satisfied that these matters have not been adequately addressed, the consent authority simply does not have the power to grant consent.

Fortunately, Senior Commissioner Dixon has provided applicants with clear guidance regarding how a Cl. 4.6 Request should be structured. In *Brigham v Canterbury–Bankstown Council [2018]*,^[2] the Senior Commissioner emphasised that a Cl. 4.6 Request should have the following features:-

- (v) it should address each element of clause 4.6(3) in the order that it is read. This checklist approach helps to avoid legal error and ensure that all relevant subclauses are referred to in the written document;
- (vi) it must make specific reference to the particular subclause being addressed, rather than using a general topic heading;
- (vii) it should not paraphrase but rather, use the precise wording from the relevant clause when addressing particular considerations in respect of the development; and
- (viii) it should be direct and to the point. The request should not include discussions of irrelevant matters such as the historical case law or comments by a commissioner or judge.

Introduction

As the proposed building exceeds the maximum building height, a variation request under Clause 4.6 – Exemption to Development Standard under the State Environmental Planning Policy (Gosford City Centre) 2018 in relation to the 18 metre building height standard and the departure from this standard where a maximum building height of 21.5 metres is proposed. This represents a departure of 37%.

As required by this clause, a written request for an exception to the required maximum building height is made as part of the Statement of Environmental Effects which accompanies the development application.

It is noted that Council acknowledges potential support for exceptions to the development standards to be varied pursuant to Clause 4.6. Consequently, the provisions of the clause and specifically sub-clause (4) need to be met.

Clause 4.6

Clause 4.6 – Exceptions to development standards under the Gosford Local Environmental Plan 2014 states:-

4.6 Exceptions to development standards

(1) *The objectives of this clause are as follows:*

- (c) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (d) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (c) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (d) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that;*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
 - (d) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (e) *the public benefit of maintaining the development standard, and*
 - (f) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

Development Standard to be Varied

It is proposed to vary the standard set out under Clause 4.3 – Height of Buildings the State Environmental Planning Policy (Gosford City Centre) 2018 which deals with those issues relating to the maximum permissible building heights.

Extent of the Variation to the Development Standard

The proposal seeks a maximum building height of 21.5 metres which is higher than the maximum permissible building height of 18 metres under the State Environmental Planning Policy (Gosford City Centre) 2018. The extent of the variation to the building height controls is shown on the attached architectural plans and is justified due to:-

- (v) the design merit of the building;
- (vi) its relationship to the adjoining and surrounding built form which is largely a result of the previous height and FSR bonus provisions under the earlier 2015 Gosford Local Environmental Plan planning provisions;
- (vii) its relationship to the future streetscape; and
- (viii) and the overall bulk and scale of the building

Objectives of the Standard

The **objectives** of Clause 4.3 – Height of Buildings of the State Environmental Planning Policy (Gosford City Centre) 2018 are as follows:-

- (i) to establish maximum height limits for buildings;
- (ii) to permit building heights that encourage high quality urban form;
- (iii) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight;
- (iv) to nominate heights that will provide an appropriate transition in built form and land use intensity;
- (v) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area; and
- (vi) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.

The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

The **objectives** of Zone R1 – *General Residential* under the State Environmental Planning Policy (Gosford City Centre) 2018 are:-

- (i) to provide for the housing needs of the community;
- (ii) to provide for a variety of housing types and densities;
- (iii) to enable other land uses that provide facilities or services to meet the day to day needs of residents;
- (iv) to ensure that development is compatible with the desired future character of the zone;
- (v) to promote best practice in the design of multi dwelling housing and other similar types of development; and
- (vi) to ensure that non-residential uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for multi dwelling housing or other similar types of development.

Assessment

Under the State Environmental Planning Policy (Gosford City Centre) 2018, the building height for a building on any land is not to exceed the maximum building height shown for the land on the [Height of Buildings Map](#).

The building designer for the project, **ELK Architects**, has designed the proposed residential flat building in such a manner as to:-

- (i) produce a high-quality residential development that provides a high level of articulation and effective and efficient residential floor space;
- (ii) optimize the development outcomes for the site whilst being mindful of bulk and scale;
- (iii) establish a high-quality streetscape that recognises the future expectations for the West Gosford residential precinct;

- (iv) further lift the architectural standard of the eastern end of the residential precinct and offset the poor built quality of the existing building stock on the northern side of Donnison Street (see **Figure 14**) and those to the east (see **Figure 15**); and
- (v) improve yields and development viability in line with both Council's and the public expectations for the precinct



Figure 14
Photograph showing old residential stock on the northern side of Donnison Street
(image courtesy of Google Earth Pro)



Figure 15
Photograph showing existing old residential housing stock on the northern side of
Donnison Street
(image courtesy of Google Earth Pro)

Consequently, a variation is sought to the Maximum Building Height development standard under the provisions set out in Clause 4.6 – Exceptions to development standards of the State Environmental Planning Policy (Gosford City Centre) 2018.

The **objectives** of this clause are as follows:-

- (iii) to provide an appropriate degree of flexibility in applying certain development standards to particular development; and
- (iv) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The building height variation is reasonable when considered within the context of the overall streetscape with highly visible frontages to both Donnison Street and Batley Street and the intent of both the Gosford Local Environmental Plan 2014 and the State Environmental Planning Policy (Gosford City Centre) 2018. The building is seven (7) storeys with two (2) basement level car parking levels and integrates satisfactorily within both the future existing and future residential context (see **Figure 16**).

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Figure 16
Streetscape Analysis from Batley Street
(image courtesy of ELK Architects)

As can be seen in *Figure 17*, the proposed development sits in behind the bulk of the existing residential flat building at #2 Wilhelmina Street which benefits from the 30% bonus provisions under the former Gosford LEP controls. This effectively prevents the proposed development from benefiting from the primary views to the south should strict compliance with the height controls be observed. The proposed variation to the height controls simply seeks to mirror those controls and restore balance to the planning outcomes.

The relative height planes are shown on the **Architectural Plans** prepared by *ELK Architects*.

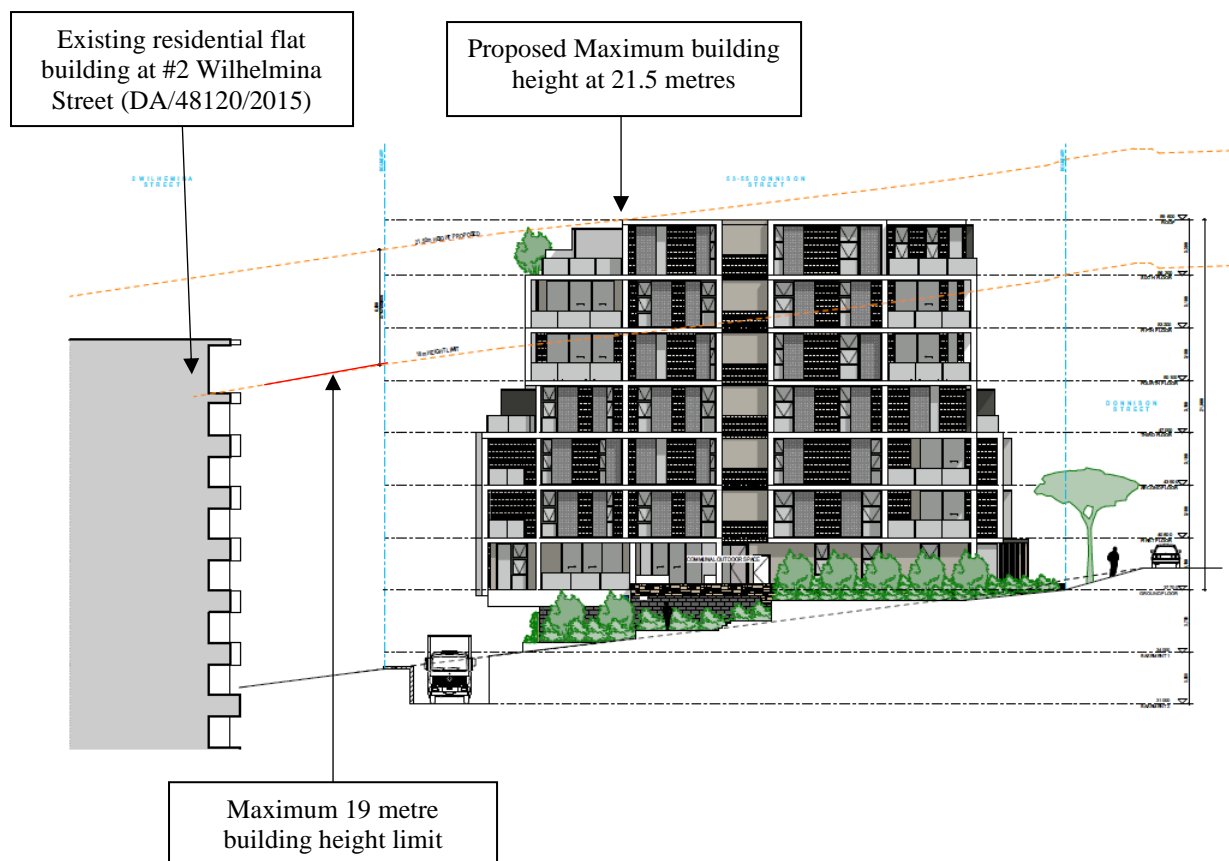


Figure 17
Eastern Elevation
(image courtesy of ELK Architects)

In relation to the *Underlying Objectives of the Standard of Clause 4.3 – Height of Buildings*, the proposed development and the variation to the Maximum Building Height standard meets the underlying objectives by:-

- (i) acknowledging the maximum height limits for buildings whilst recognising the adverse impacts of views and amenity from the adjoining residential approvals (viz: DA/48120/2015) that have the benefit from the previous 2015 bonus provisions under the then Gosford LEP 2014;
- (ii) ensuring the proposed building heights encourage high quality urban form that is complimentary to the adjoining developments;
- (iii) ensuring that the proposed building and public areas continue to receive satisfactory exposure to sky and sunlight;
- (iv) proposing heights that will provide an appropriate transition in built form and land use intensity particularly in relation to the adjoining development to the south;
- (v) ensuring that the proposed building is located appropriately to access available views whilst ensuring that the development is complementary to the natural topography of the area; and
- (vi) protecting public open space from excessive overshadowing and to allow views to identify natural topographical features.

In relation to Section 5(a)(i)(ii) – *Objects of the Environmental Planning & Assessment Act*, the variation to the development standard will not hinder the obtainment of the objectives.

Under Section 5(a)(i)(ii), the objects of this Act are:-

(a) *to encourage:*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land*

The variation to the Maximum Building Height requirement will not hinder the proper management and development of the West Gosford residential catchment which is undergoing major transitional changes from single and two storey detached residences to high density residential flat buildings. The proposal will in fact improve the social and economic welfare of the local community and create a better environment by substantially improving the livability and amenity of the locality by activating both the Donnison Street and Batley Street frontages and the provision of good quality accommodation space that encourages people to live close to the Gosford City Centre as well as in the surrounding urban catchment.

The proposal further improves the architectural standard of the locality and compliments the existing adjoining development and future development in the precinct. The variation to the Maximum Building Height requirement will not hinder the promotion and co-ordination of the orderly and economic use and the development of the land.

In fact, the proposal ensures the highest and best use of the subject site by formalizing the trend to higher density accommodation utilising the natural features of the land and activating both street frontages.

(iv) Clause 4.6(3)(a) – *Unreasonable and Unnecessary*

In relation to the question as to whether compliance with the development standard unreasonable or unnecessary in the circumstances (Clause 4.6 Sub-clause (3)(a)), it is the applicants view that strict compliance with the Floor Space Ratio development standard is unreasonable in this case as the proposed variation simply seeks to:-

- (i) offset the loss of views and amenity because of previous approvals including DA/48120/2015 at #2 Wilhelmina Street, immediately to the south of the site. This approval, which benefits from the previous Gosford City Centre bonus provisions in 2015, represents a height of 23.4 metres (ie: 18 metres + 30% bonus = 23.4 metres). This has resulted in a building of greater height and FSR to that which is allowable under the SEPP (Gosford City Centre);
- (ii) improve on existing poor built form along the northern side of Donnison Street through higher design standards and architectural design;
- (iii) maximise the site outcomes and financial viability of the site; and
- (iv) improve the residential standard of the precinct without any significant impact on the adjoining properties or the streetscape when considered along side the emerging built form including #14 Batley Street, #10 Batley Street, #2 Wilhelmina Street, #8 St George Street and #72 Donnison Street (see **Figure 17**)



Figure 17
Precinct Plan
(courtesy of ELK Architects)

It also proposes a high quality residential interface with the both the Donnison Street and Batley Street road frontages in line with the emerging and existing built form. It will ensure a more viable development and higher standard of residential yield compared to that which would otherwise be provided should strict adherence to the LEP standard be applied and in line with previously approved development under the former Gosford City Centre bonus provision arrangements as shown in **Table 2**. The proposal is an efficient use of the land which delivers social, economic and environmental benefits to the local community.

Table 2
Previous Approvals

Address	Development Application Number	Permissible FSR and Height	Approved FSR and Height
#2 Wilhelmina Street	DA/48120/2015	FSR 2:1 + 30% bonus = 2.6:1 Height 18 metres + 30% bonus = 23.4 metres	FSR 2.9:1 Height = 23.4 metres
#10 Batley Street	DA/38440/2010	FSR 2:1 + 30% bonus = 2.6:1 Height 18 metres + 30% = 23.4 metres	FSR 1.63:1 Height = 14.665 metres
#14 Batley Street	DA/46043/2014	FSR 2:1 Height = 18 metres	FSR 2.289:1 Height = 30.7 metres
#8 St George Street	DA/48516/2016	FSR 2:1 + 30% bonus = 2.6:1 Height 18 metres + 30% bonus = 23.4 metres	FSR 2.9:1 Height = 23.4 metres
#72 Donnison Street	DA/49552/2016	FSR 2:1 + 30% bonus = 2.6:1 Height 18 metres + 30% bonus = 23.4 metres	FSR 2.6:1 Height = 26.2 metres

The variation will not adversely affect the amenity of the immediate locality or compromise the objectives of Clause 4.3 – Height of Buildings of the State Environmental Planning Policy (Gosford City Centre) 2018 or Section 5(a)(i)(ii) of the EP&A Act.

In relation to this clause, it is considered that the objection to the Maximum Building Height standard is well founded and that based on the details provided above, strict adherence to the development standard would appear to be unreasonable and unnecessary in the circumstances of this development application. Therefore, Council's favourable consideration of the application under the provisions of Clause 4.6(3)(a) is sought.

(v) Clause 4.6(3)(b) – Environmental Planning Grounds

With regards to the question as to whether there are sufficient environmental planning grounds to justify contravening the development standard, it should be noted that the subject site has specific circumstances in relation to its prominent location and surrounding design standards. Many of the adjoining residential development (approved under previous bonus provision arrangements for both building height and FSR) which has triggered the specific design response and variation to the maximum building height.

The site is located on the prominent entry corner of Donnison Street and Batley Street (see **Figure 18**). The precinct is currently dominated by an eclectic mix of older style single story residential buildings on the northern side of Donnison Street and more recent residential flat buildings along Batley Street and Wilhelmina Street (see **Figure 19**).

The more recent residential developments have been constructed over the last six (6) years utilising the former Gosford City Centre bonus provisions for both FSR and maximum building height (viz: the Gosford LEP 2014 was amended in April 2015 via Amendment 12 to extend the 30% bonus height and floor space provisions under Clause 8.9. The incentive provision (Clause 8.9) ceased to apply 12 months after the gazettal of Amendment 12 [1st April 2016]). Reference is made to **Table 1**. Each of these building have greater overall height to the proposed building on the subject site.



Figure 18
Looking north east from Batley Street
(image courtesy of Wales & Associates Pty Limited)



Figure 19
Photograph looking south along Batley Street showing recent multi-storey residential development
(image courtesy of Google Earth Pro)

Council's attention is drawn to DA/48120/2015 at #2 Wilhelmina Street which has the greatest impact on the subject lands with a building height of 23.4 metres using the previous 30% bonus provisions. The additional building height has placed the subject site at a planning disadvantage.

The additional building height is in response to the negative impacts of the adjoining building particularly in relation to view sharing and view loss. This issue was addressed on p14 of the Council's planning assessment report for DA/48120/2015. The planning report under View Loss states:-

“The proposed development will have a height which is consistent with the building height standard under Gosford LEP 2014, however a variation to the floor space ratio standard is proposed, as well as variations to the setback controls under Gosford DCP 2013. The development will have a height of eight (8) storeys above Wilhelmina Street. When viewed from Donnison Street West, the building will appear to have a height of five (5) storeys as a result of the topography of the land. Views of Brisbane Water, The Broadwater, Point Frederick, surrounding mountains and beyond are available to the south/south-east. The proposal will impact upon views from Nos. 53 and 58 Donnison Street West (located to the north of the site), however given the elevation of No. 58 it is not considered that potential impacts will be notable. Therefore the views of No. 53 Donnison Street West form the primary consideration of this assessment”.

It further states:-

“In accordance with the principles of view sharing, principles outlined in Tenacity Consulting Pty Ltd v Warringah Council [2014] NSWLEC 140, the following view loss assessment is made:

- *views from the living area, kitchen and other habitable rooms are of distant water and mountain views;*
- *water views are more prized than mountain views;*
- *the majority of views from No. 53 Donnison Street West will be lost with any development complying with the height limit on the site (which the proposal does), however not all views will be lost due to the proposal;*
- *the extent of view loss resulting from the non-compliances is considered to be minor/negligible;*
- *a complying scheme would not result in a significant improvement, particularly the variation proposed to the side setbacks from Level 4 and above. The extent of building mass which would be removed by this amendment would not prevent the majority of the view impacts resulting from a fully compliant building form;*
- *this assessment has concluded that the extent of variations is supportable when considered on their merits”.*

The above assessment (and in particular Dot Point 3) was based on the assumption that height limits at the time of assessment would continue to apply without acknowledging that the incentive provision (under Clause 8.9) ceased to apply 12 months after the gazettal of Amendment 12 (1st April 2016) noting that the Gosford LEP was amended in April 2015 via Amendment 12 to extend the 30% bonus height and floor space provisions under Clause 8.9. These provisions no longer apply with the unintended consequence that the subject site cannot avail itself of the same bonus provisions to building height (or FSR) and therefore, cannot obtain the same benefit in terms of obtaining views to Brisbane Water. The views from the living area of #53 Donnison Street at the time of the above development application are shown in **Figure 20**. The current views from the same location are shown in **Figure 21**.



Figure 20
Views from living area of #53 Donnison Street West
(image courtesy of the resident in 2015)



Figure 21
Current views from living area of #53 Donnison Street West
(image courtesy of the current resident)

The proposed development has been designed with seven (7) residential levels and two (2) basement levels for car parking with articulated facades to produce a high level of street activation along both frontages (see **Figure 22** and **Figure 23**) and provide views to the upper units. The design response to the existing streetscape conditions and viability of the high quality design and modest residential unit yield (ie: 26 residential apartments) has necessitated the proposed increase in building beyond the current maximum of 18 metres.

By allowing the variation to the floor space ratio results in a more efficient and orderly use of the land and offsets the negative impacts produce by the previous 2015 bonus provisions in the Gosford LEP 2014.

The proposal produces a better outcome than would otherwise be the case if strict adherence to the standard were observed. In relation to this clause, it is considered that the objection to the Maximum Building Height standard is well founded.



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RENDERED PERSPECTIVE ALONG BATLEY STREET

Figure 22
Streetscape Analysis – Batley Street frontage
(image courtesy of ELK Architects)



Figure 23
Rendered Perspective – Batley Street
(image courtesy of ELK Architects)

(vi) Clause 4.6(4)(a)(ii) – *Public Interest*

In relation to the question as to whether the proposed development would be in the public interest, it is considered that the proposal is consistent with both the objectives of the standard and for development within the zone.

In relation to Clause 4.3 – Height of Buildings of the State Environmental Planning Policy (Gosford City Centre) 2018, this standard deals with those issues relating to the maximum permissible building height.

In relation to the *Underlying Objectives of the Standard of Clause 4.3 – Height of Buildings*, the proposed development and the variation to the Maximum Building Height standard meets the underlying objectives by:-

- (i) acknowledging the maximum height limits for buildings whilst recognising the adverse impacts of views and amenity from the adjoining residential approvals (viz: DA/48120/2015) that have the benefit from the previous 2015 bonus provisions under the then Gosford LEP 2014;
- (ii) ensuring the proposed building heights encourage high quality urban form that is complimentary to the adjoining developments;
- (iii) ensuring that the proposed building and public areas continue to receive satisfactory exposure to sky and sunlight;
- (iv) proposing heights that will provide an appropriate transition in built form and land use intensity particularly in relation to the adjoining development to the south;

- (v) ensuring that the proposed building is located appropriately to access available views whilst ensuring that the development is complementary to the natural topography of the area; and
- (vi) protecting public open space from excessive overshadowing and to allow views to identify natural topographical features.

With regard to the objectives for development within the zone, the subject site is currently zoned Zone R1 – *General Residential* under the State Environmental Planning Policy (Gosford City Centre) 2018.

The proposed development and the variation to the Floor Space Ratio standard **meets the objectives** of the zone in that:-

- (i) it contributes to the economic and social revitalisation of Gosford City Centre through the provision of high-quality residential floor space;
- (ii) it strengthens the regional position of Gosford City Centre through the provision of highly liveable urban space with design excellence;
- (iii) the proposal both protects and enhances the vitality, identity and diversity of Gosford City Centre;
- (iv) the development promotes employment and residential opportunities in Gosford City Centre;
- (v) through the design process, the proposal encourages responsible management, development and conservation of natural and man-made resources and to ensure that Gosford City Centre achieves sustainable social, economic and environmental outcomes;
- (vi) with a high-quality mix of residential floor space, the proposal helps to create a unique residential place, with activity during the day and throughout the evening, so that Gosford City Centre is safe, attractive, and efficient for, and inclusive of, its local population and visitors alike;
- (vii) through the design process, the development preserves and enhances solar access to key public open spaces; and
- (viii) through the design process, the proposal ensures that development exhibits design excellence to deliver the highest standard of architectural and urban design in Gosford City Centre

Therefore, it is considered that the proposal satisfies the public interest test as it is generally consistent with both the objectives of the standard and for development within the zone. In relation to this clause, it is considered that the objection to the Maximum Building Height standard is well founded.

Conclusion

Based on the above assessment, the attached architectural plans and supporting documents, it is considered that the proposed residential development will deliver a better planning outcome than one that strictly complies with the current 18 metre building height limit for the following reasons:-

- (i) strict compliance would be unresponsive to the impacts and unintended consequences (ie: view loss) of adjoining approvals which enjoy the benefit of the previous 30% bonus provisions and in some cases, further increased under Clause 4.6 of the GLEP;

- (ii) strict compliance would not be responsive to the intent of the Gosford Local Environmental Plan 2014 objectives;
- (iii) strict compliance would not be responsive to the intent of the urban design controls contained within the Gosford Development Control Plan 2013 for the West Gosford precinct;
- (iv) strict compliance would not facilitate a satisfactory urban design outcome in response to the existing poor quality urban form on the northern side of Donnison Street;
- (v) strict compliance would restrict building height and subsequent floor space outcomes to the extent that the alternative would be an underutilisation of the site in an area within the West Gosford residential precinct that seeks higher height and density outcomes; and
- (vi) strict compliance would not fully meet the desired future character of the precinct

It is considered that the objection to the Maximum Building Height standard is well founded and that based on the details provided above, strict adherence to the development standard would appear to be unreasonable and unnecessary in the circumstances of this development application. Therefore, Council's favourable consideration of the application under the provisions of Clause 4.6 is sought.

2.1.3 Demolition

Clause 2.7 – Demolition requires development consent under State Environmental Plan (Gosford City Centre) 2018 applies to the site.

The demolition of a building or work may be carried out only with development consent (note: if the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Policy or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent).

This application includes the demolition of the existing residential building on the corner of Donnison Street and Batley Street as shown in **Figure 24**.



Figure 24
Existing residence on the corner of Donnison Street and Batley Street
(image courtesy of Google Earth Pro)

2.14 Design Excellence

Clause 8.3 – *Design excellence* under State Environmental Plan (Gosford City Centre) 2018 applies to the subject site. The objective of this clause is to ensure that development exhibits design excellence that contributes to the natural, cultural, visual and built character values of Gosford City Centre.

This clause applies to development involving the erection of a new building or external alterations to an existing building. It states that development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.

In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:-

- (i) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved;
- (ii) whether the form and external appearance of the development will improve the quality and amenity of the public domain;
- (iii) whether the development is consistent with the objectives of clauses 8.10 and 8.11;
- (iv) any relevant requirements of applicable development control plans; and

- (v) how the development addresses the following matters—
- the suitability of the land for development,
 - existing and proposed uses and use mix,
 - heritage issues and streetscape constraints,
 - the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - bulk, massing and modulation of buildings,
 - street frontage heights,
 - environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
 - the achievement of the principles of ecologically sustainable development,
 - pedestrian, cycle, vehicular and service access, circulation and requirements,
 - the impact on, and any proposed improvements to, the public domain.

The attached **Design Excellence Statement** prepared by *ELK Architects* addresses the design excellence requirements of the SEPP.

2.15 *Heritage Conservation*

Clause 5.10 – Heritage conservation under State Environmental Plan (Gosford City Centre) 2018 applies to the subject site. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the [Heritage Map](#) as well as being described in Schedule 5. The **objectives** of this clause are as follows:-

- (a) to conserve the environmental heritage of Gosford,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

The subject site is not subject to nor in close proximity to any heritage under Schedule 5 of the State Environmental Plan (Gosford City Centre) 2018.

2.2 State Environmental Planning Policy No. 65 – Design Quality

The SEPP aims to raise the design quality of residential flat development across the state through the application of a series of design principles. It provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development. The accompanying regulation requires the involvement of a qualified designer throughout the design, approval and construction stages. SEPP 65 applies to all residential flat development of three storeys or more and with four or more dwellings.

The attached **SEPP65 Apartment Design Guide Checklist** prepared by *ELK Architects* details the level of design compliance with SEPP 65. The proposed development **COMPLIES** with the relevant standards in the SEPP.

2.3 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the site. The Regulations under the Act have established a scheme to encourage sustainable residential development (*the BASIX scheme*) under which:-

- (i) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out; and
- (ii) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.

The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State. This Policy achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

In accordance with the requirements of State Environmental Planning Policy (BASIX), a BASIX Certificate and Thermal Performance Certificate is attached for each of the residential units. The BASIX and Thermal Performance Certificates were prepared by SLR Consulting Pty Limited.

2.4 State Environmental Planning Policy No 55—Remediation of Land

The object of this Policy is to provide for a statewide planning approach to the remediation of contaminated land. This Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:-

- (i) by specifying when consent is required, and when it is not required, for a remediation work;
- (ii) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular; and
- (iii) by requiring that a remediation work meet certain standards and notification requirements.

This Policy applies to the whole of the State.

The attached **Preliminary Geotechnical Assessment & Preliminary Site Investigation of Contamination** prepared by *Douglas & Partners* addresses the requirements of the SEPP.

Based on the findings of the PSI, Douglas Partners considers that there is generally a low potential for contamination given the past mainly residential use. Some potential contamination sources were identified (refer Table 3, Section 9 of the Report) including fill and former and current buildings. The site would generally be considered compatible (from a site contamination perspective) with the proposed residential unit development given that the majority of the site would be excavated for the proposed two basement levels.

Based on review of the limited site history information and the walkover, the site appears to generally have a low potential for contamination, and would generally be compatible with the proposed development (from a site contamination standpoint), subject to completion of the following assessments:-

- (i) **Existing Structures:** A pre-demolition hazardous building material survey in accordance with SafeWork NSW requirements is recommended to be conducted by an appropriately qualified occupation hygienist prior to the demolition of the existing structures. All demolition work should be undertaken by a licenced demolition contractor and a clearance certificate provided by an occupational hygienist for the ground surface post demolition;
- (ii) **Soil:** An intrusive soil investigation with associated contamination sampling should be conducted to confirm the assessed low potential for contamination. Given that part of the site is covered in tall grass and given there is a residential property present on part of the site, DP consider it would be appropriate to conduct the intrusive soil investigation following stripping of the vegetation and demolition of the existing structure.
- (iii) **Groundwater:** Should the results of the soil investigation indicate signs of contamination; groundwater testing may be recommended. Any soil removed from the site must be waste classified prior to disposal to a licensed facility as detailed in Section 11.3.2.

2.5 Draft State Environmental Plan (Design and Place)

The proposed Design and Place State Environmental Planning Policy (Design and Place SEPP) has been prepared to positively influence new development and in doing so, enable the design of healthy and prosperous places that support the wellbeing of people, community and Country.

The Design and Place SEPP will be a principle based SEPP, integrating and aligning good design and place considerations into planning policy, and giving effect to a number of objects of the Environmental Planning and Assessment Act 1979 including good design and amenity of the built environment, sustainable management of built and cultural heritage, and the proper construction and maintenance of buildings. It will also promote the NSW Premier's Priorities for a Better Environment (Greener Public Spaces and Greening our City).

The appended **Architectural Plans** prepared by **ELK Architects** addresses the Design and Place SEPP requirements as shown in attached SEPP65 ADG Checklist prepared by **ELK Architects**.

2.6 State Environmental Planning Policy (Resilience and Hazards) 2021

On the 2nd December, the Minister for Planning and Public Spaces Rob Stokes announced nine (9) key principles and themes for the NSW planning system. The theme-based focus areas will make the planning system more accessible and user-friendly. The state environmental planning policies (SEPPs) will be consolidated to align with the focus areas. This review included State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) which consolidates and repeals the provisions of the following SEPPs:-

- (i) SEPP (Coastal Management) 2018 (Coastal Management SEPP);
- (ii) SEPP 33 – Hazardous and Offensive Development (SEPP 33); and

(iii) SEPP 55 – Remediation of Land (SEPP 55)

These changes are part of a broader administrative consolidation of SEPPs. Planning Circular PS– 21-007 gives an overview of all changes made as part of the SEPP consolidation initiative.

It is important to note that no policy changes have been made. The SEPP consolidation does not change the legal effect of the existing SEPPs, with section 30A of the Interpretation Act 1987 applying to the transferred provisions.

The SEPP consolidation is administrative and has been undertaken in accordance with section 3.22 of the Environmental Planning and Assessment Act 1979. The new Resilience and Hazards SEPP does the following:-

- (i) transfers most existing provisions from the above SEPPs being consolidated into chapters 2, 3 and 4 of the new SEPP. Chapter 1 contains the preliminary information and commencement details; and
- (ii) repeals the 3 SEPPs being consolidated.

Benefits of the changes include:-

- (i) aligning SEPPs with the planning principles focus areas – the SEPP changes are part of a package of reforms to consolidate the forty five (45) existing SEPPs into eleven (11) new SEPPs based on nine (9) themed focus areas.;
- (ii) simplifying the planning system – the SEPP consolidation builds on previous work to simplify, consolidate and reduce the number of SEPPs. The consolidation reflects the NSW Government’s commitment to reduce the complexity of the NSW planning system. The changes will simplify and improve the effectiveness and usability of current policies by reducing the number of separate planning instruments

The Resilience and Hazards SEPP incorporates provisions from the SEPPs being consolidated as follows:-

- (i) Chapter 2 – *Coastal management* which contains planning provisions from the Coastal Management SEPP for land use planning within the coastal zone consistent with the Coastal Management Act 2016;
- (ii) Chapter 3 – *Hazardous and offensive development* contains planning provisions from SEPP 33 to manage hazardous and offensive development; and
- (iii) Chapter 4 – *Remediation of land* contains planning provisions from SEPP 55, which provides a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm.

The Resilience and Hazards SEPP will begin on the 1st March 2022. The 3 SEPPs being consolidated will be repealed on the same day. References in planning legislation and policies to the three (3) SEPPs being consolidated will be taken as references to the equivalent provisions in the Resilience and Hazards SEPP. Provisions within the repealed SEPPs have been transferred to the new SEPP and the intent and provisions remain largely unchanged. The changes should not impact development application assessment. The Resilience and Hazards SEPP should be used for new development and rezoning applications.

Savings and transitional provisions from the consolidated SEPPs will not be transferred to the Resilience and Hazards SEPP. However, all savings and transitional provisions of the repealed SEPPs continue to have effect due to sections 5(6) and 30(2)(d) of the Interpretation Act 1987

2.7 Gosford City Centre Development Control Plan 2018

This plan is known as the Gosford City Centre Development Control Plan 2018 and supports the objectives identified by the *State Environmental Planning Policy (Gosford City Centre) 2018*. The aims of the DCP are:-

- (i) to identify expectations and requirements for development within the Gosford City Centre and build upon the GCC SEPP by providing detailed objectives and controls for development;
- (ii) to ensure that all development aligns with the recommendations and desired place character in the Urban design and Implementation Framework prepared by the NSW Government Architect;
- (iii) to identify approaches and techniques which promote design excellence resulting in quality urban design and architectural outcomes in the Gosford City Centre; and
- (iv) to promote best practice and quality environmental outcomes

2.7.1 *Building Form*

Chapter 5.2 – Built Form Provisions applies to the site. This chapter sets out the preferred building typologies across the affected zones. These provisions include key setback controls across Gosford as shown in **Figure 25**.

2.7.2 *Street Alignment and Setbacks*

Clause 5.2.1 – Street setbacks and rear setbacks applies to the site. Street setback controls help to create great streetscapes and provide a good pedestrian environment. The controls ensure buildings have a consistent alignment and provide space for planting and footpaths.

The subject site does not fall within those areas zoned B3 or B4 and therefore are not subject to the setback controls shown in **Figure 25**. However, the controls specify that for all other areas, a six (6) metre rear setback is required. The proposed development **COMPLIES** with this requirement.

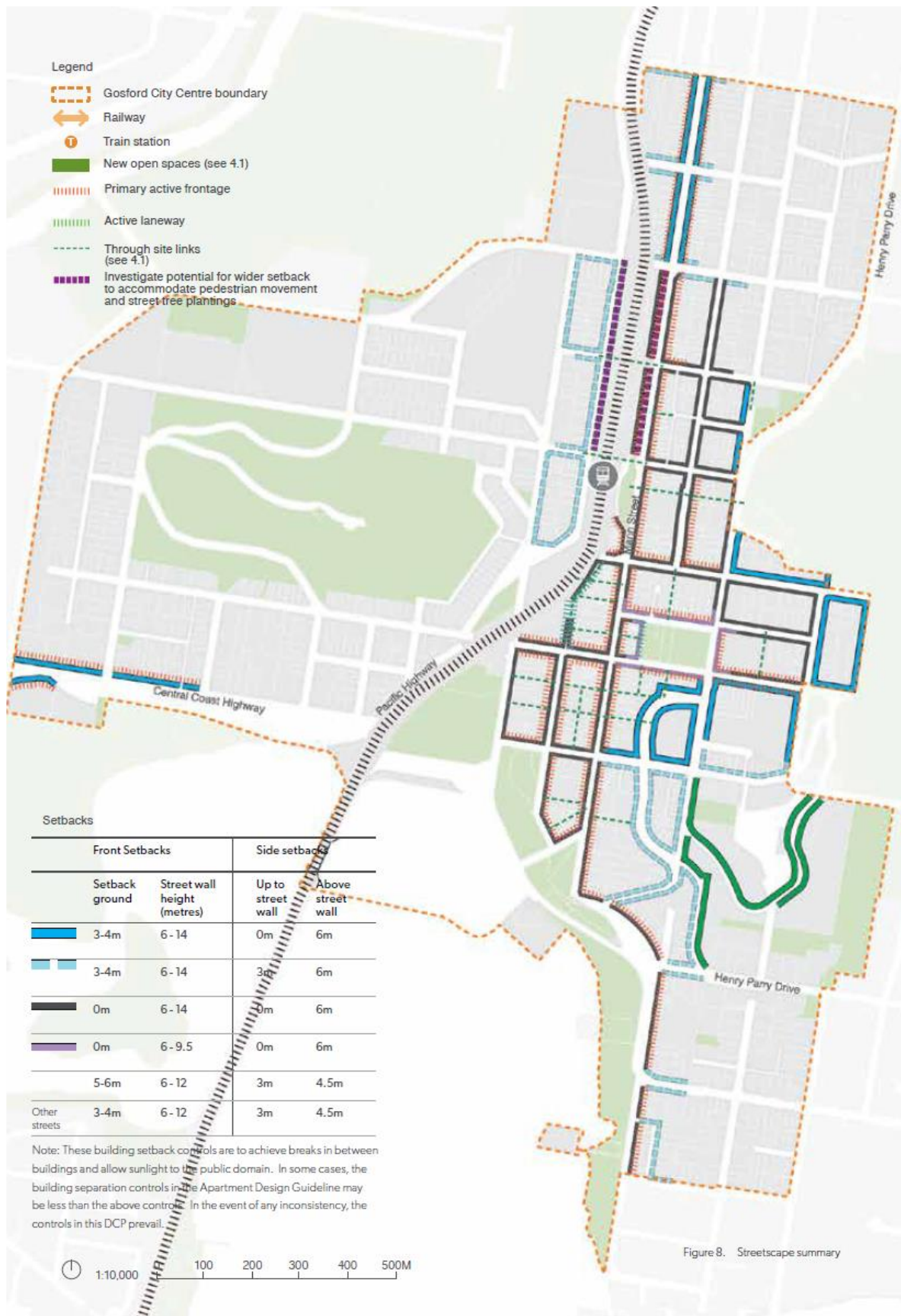


Figure 25
Extract from the Gosford City Centre DCP (Figure 8)

2.6.3 Active Street Frontages

Clause 5.2.3 – *Active street frontages and street address* applies to the site. The controls specify that all locations are to provide street address and direct pedestrian access off the primary street frontage. The proposal **COMPLIES** with this requirement by providing direct pedestrian access off Donnison Street as shown **Figure 26**.



Figure 26
Rendered image showing direct pedestrian access off Donnison Street
(image courtesy of ELK Architects)

2.7.4 Building Setbacks and Building Separation

Clause 5.2.4 – *Building setbacks and separation* applies to the site. Minimum side setbacks up to street wall height are defined in Figure 8 of the Gosford City Centre DCP (see **Figure 25**). In addition, setbacks (including front, rear and side setbacks) for residential uses should be compliant with the Apartment Design Guide that accompanies SEPP65 regarding visual privacy. This is addressed in the appended **SEPP65 Design Guide Checklist** and the **SEPP65 Design Guide Summary** prepared by *ELK Architects*.

The controls also stipulate that above the street wall height, all building facades should be well articulated to be attractive in all views. Blank walls with minimal articulation facing any boundary will not be permitted. It is considered that the proposed design **COMPLIES** with these provisions.

2.7.5 Internal Amenity

Clause 5.2.9 – *Internal amenity* applies to the site. The **objective** of the clause is to ensure high quality internal amenity for all uses in Gosford.

The controls require that the building depth, deep soil requirements, communal open space and planting on structures should follow the guidance provided in the Apartment Design Guide that accompanies SEPP 65. Further, development applications are to demonstrate compliance with Apartment Design Guide sun access for residential uses. This is addressed in the appended **SEPP65 Design Guide Checklist** and the **SEPP65 Apartment Design Guide Checklist** prepared by *ELK Architects*.

2.7.6 Landscape Design

Clause 5.2.11 – *Landscape design* applies to the site. Landscape design includes the planning, design, construction and maintenance of all utility, open space and garden areas. Good landscaping provides breathing space, passive and active recreational opportunities and enhances air quality in city centres. It is fundamental to the amenity and quality of outside space for residential flats and multi-dwelling housing.

The proposed development **COMPLIES** with the DCP controls in that:-

- (i) the appended **Landscape Plan** has been prepared by *Conzept Landscape Architects*;
- (ii) the landscape plan includes:-
 - a planting schedule with numbers and species of plants including botanical and common names;
 - the number and name including botanical and common names of mature trees on site;
 - the type, levels and details of paving, fencing, retaining walls and other details of external areas of the site;
 - an outline of how landscaped areas are to be maintained for the life of the development
- (iii) the development proposal has been designed to minimise the impact on significant trees on site, street trees and trees on adjoining land including remnant vegetation; and
- (iv) all landscaped areas will be irrigated with recycled water.

2.7.7 Site Cover and Deep Soil Zones

Clause 5.2.12 – *Site cover and deep soil zones* under the Gosford City Centre DCP applies to the site. Limiting site cover provides separation between buildings. This space may be public (accessible and usable by the general public), communal (shared by all occupants of a development) or private (for the exclusive use of a single dwelling or tenancy). Limiting site cover improves amenity by providing daylight access, visual privacy and opportunities for recreation and social activities. Site coverage is greater closer to the Commercial Core where wall-to-wall development is allowable.

Deep soil zones are areas of natural ground retained within a development, uninhibited by artificial structures and with relatively natural soil profiles. Deep soil zones have important environmental benefits, including:-

- (i) promoting healthy growth of large trees with large canopies;
- (ii) protecting existing mature trees; and
- (iii) allowing infiltration of rainwater to the water table and reduction of storm water runoff

The **Architectural Plans** (Site Coverage Plan) prepared by *ELK Architects* details the deep soil zone calculations as shown in *Figure 27*.

Built Area: 45% excludes Hardstand areas	Deep Soil: 15% total area 182m ² Min 3m width as per ADG	Landscape: 32% total area 378m ²
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Figure 27
Deep Soil Zone Calculations
(extract courtesy of ELK Architects)

The DCP controls require that the deep soil zone shall comprise no less than 15% of the total site area (or proportionate to the percentage of residential uses in a mixed-use development). It is to be provided preferably in one continuous block but otherwise with no dimension (width or length) less than 6 metres. The proposal **COMPLIES** with these requirements in that 15% of the total area is available for deep soil planting.

3.0 PROPERTY DETAILS:

The attached **Architectural Plans** prepared *ELK Architects* shows the existing site improvements within the subject site. The property is known as Lots A and B in DP312912 #53-55 Donnison Street at West Gosford. The attached **Site Survey Plan** prepared by *Clarke Dowdle & Associates* (Consulting Surveyors) at Umina Beach also shows the existing site features.

4.0 EASEMENTS/RIGHTS-OF-WAY

The property is not known to be encumbered by any easements or rights-of way.

5.0 EXISTING BUILDINGS AND IMPROVEMENTS

Lot B is occupied by a single storey rendered residential building with tile roof (as shown in *Figure 28* and *Figure 29*) with multiple vehicle access points off Batley Street (see Figure 15). Lot A is currently vacant as shown in *Figure 30*.

The site details are shown on the attached **Site Survey Plan** prepared by *Clarke Dowdle & Associates*. All site improvements will be removed as part of the development of the site.

+



Figure 28
Photograph showing existing residential building from Donnison Street
(image courtesy of Google Earth Pro)



Figure 29
Photograph showing existing residential building from Batley Street
(image courtesy of Google Earth Pro)



Figure 30
Photograph showing vacant land at #55 Donnison Street
(image courtesy of Google Earth Pro)

6.0 LANDSCAPING AND VEGETATION

6.1 Existing Landscaping

The subject site is already fully cleared of its original vegetation. The site is partly vacant (#55 Donnison Street) and occupied by a single storey rendered residential residence (#53 Donnison Street) with atypical introduced urban landscaping. The existing trees and vegetation within and adjacent to the site are located mainly on the periphery of the property and on the Batley Street nature strip. Existing vegetation consists mainly of low quality, insignificant and poorly maintained small trees and shrubs as described in the attached **Arboricultural Impact Assessment** prepared by **Michael Shaw (Consulting Arborist)**. All existing site vegetation will be removed in order to facilitate the proposed residential development.



6.2 Proposed Landscaping

The attached **Landscape Plan** prepared by **Conzept Landscape Design** shows the proposed site landscaping. The intent of the proposed landscaping is to soften and integrate the new development with the surrounding streetscape to create a high aesthetic quality and amenity for both the new occupants and the adjoining public domain.

The proposed tree, shrub and ground cover species nominated for this site have been selected from several sources, including suitable low-water-use native planting lists and Gosford City Council's preferred endemic plant species lists, with a view for low-water usage and low landscape maintenance requirements.

Consideration has also been given to aspect, site constraints, soil depths and planter widths, as well as the hydraulic design which incorporates bio-retention as part of the planting treatment have further steered plant selection for the site.

The landscape shall be designed with public safety mind, clear views maintained under tree canopies around parking areas and common areas. The landscape has been designed with reference to Gosford City Council landscape guidelines and codes.

The design shall consider creating interesting, practical and attractive outdoor courtyards, well defined entry areas, safe and practical access and circulation and recreational spaces within the framework of the proposed built form and services.

Clause 5.2.11 – Landscape design applies to the site. Landscape design includes the planning, design, construction and maintenance of all utility, open space and garden areas. Good landscaping provides breathing space, passive and active recreational opportunities and enhances air quality in city centres. It is fundamental to the amenity and quality of outside space for residential flats and multi-dwelling housing.

The proposed development **COMPLIES** with the DCP controls in that:-

- (v) the appended **Landscape Plan** has been prepared by *Conzept Landscape Architects*;
- (vi) the landscape plan includes:-
 - a planting schedule with numbers and species of plants including botanical and common names;
 - the number and name including botanical and common names of mature trees on site;
 - the type, levels and details of paving, fencing, retaining walls and other details of external areas of the site;
 - an outline of how landscaped areas are to be maintained for the life of the development
- (vii) the development proposal has been designed to minimise the impact on significant trees on site, street trees and trees on adjoining land including remnant vegetation; and
- (viii) all landscaped areas will be irrigated with recycled water.

6.3 Open Space

Section 3D – Communal and Public Open Space of the NSW Department of Planning Apartment Design Code deals with the issues relating to the open space requirements and the communal use of those areas.

Communal open space is an important environmental resource that provides outdoor recreation opportunities for residents, connection to the natural environment and valuable “breathing space” between apartment buildings. It also contributes to the appeal of a development and the wellbeing of residents.

Some communal open space is accessible and usable by the general public. The size, location and design of communal or public open space will vary depending on the site context and the scale of development. The function of open space is to provide amenity in the form of:-

- (i) landscape character and design;
- (ii) opportunities for group and individual recreation and activities;
- (iii) opportunities for social interaction;
- (iv) environmental and water cycle management;
- (v) opportunities to modify microclimate; and
- (vi) amenity and outlook for residents

The useable part of the communal open space area may be supplemented by:-

- (i) additional landscape area, circulation space and areas for passive use and outlook; and
- (ii) public land used for open space and vested in or under the control of a public authority.

High quality open space is particularly important and beneficial in higher density developments (for private open space requirements see Section 4E – Private Open Space and Balconies of the NSW Department of Planning Apartment Design Code). Communal open space should:-

- (i) have a minimum area equal to 25% of the site; and
- (ii) achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9:00am and 3:00pm on the 21st June (mid-winter)

In this instance, the communal open space is provided on the Donnison Street podium with a total area of 205m² (ie: 17.5% of the total site area). This is less than the required 25% of the site area. However, all residential units have been provided with generous private courtyards and balcony areas well more than the design criteria under Section 4E – Private Open Space and Balconies of the Apartment Design Code which offsets the shortfall in the communal area.

7.0 CONTOUR LEVELS

The contour levels are shown on the attached **Site Survey Plan** prepared by **Clarke Dowdle & Associates** (Consulting Surveyors) of Umina Beach. The land generally falls from the north (Donnison Street) to the south at a grade of between 15% towards the rear boundary with site levels ranging from RL38.43m AHD (corner of Donnison Street and Batley Street) to RL32.38m AHD in the south west corner. Lot B is occupied by an existing rendered residential building (with tile roof) which will be demolished as part of the development proposal and Lot A is vacant.

8.0 STORMWATER DRAINAGE

8.1 Existing Stormwater Drainage

The existing residential building and associated structures have been constructed such that all roof water and surface runoff is collected in a system of gutters, pits and pipelines and discharged to Council's stormwater system in Batley Street.

8.2 Proposed Stormwater Details

Clause 6.7 – Water Cycle Management under the Gosford Development Control Plan 2013 applies to the site. The purpose of this plan is to minimise the impact of development on the natural predevelopment water cycle. This will lead to more sustainable outcomes that will protect the environment.

Under Council's engineering guidelines for on-site detention, it is required that post development flows be limited to less than or equal to pre-developed flows for all stormwater events up to and

including the 1% AEP storm event. The attached **Stormwater Concept Design** prepared by **Burgess Arnott & Grava Pty Limited** (Consulting Engineers) of Forestville details the proposed stormwater works and basement drainage. All works are in accordance with Chapter 6. – *Water Cycle Management*.

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The proposed works include:-

- (i) subsoil drainage;
- (ii) internal stormwater drainage;
- (iii) stormwater collection wells and pump out facilities;
- (iv) detention tanks;
- (v) rainwater collection tanks;
- (vi) external drainage connections in Batley Street;
- (vii) sedimentation and erosion controls; and
- (viii) planter drains

Further detailed engineering drawings and details will be submitted with the Construction Certificate application in accordance with Council's standard conditions relating to the disposal of stormwater.

9.0 WATERWAYS AND WATERCOURSES

The subject site is not adjacent to any waterways or watercourses.

10.0 FLOODING

10.1 General

The property is NOT encoded as being affected by the 1% AEP storm event.

10.2 Proposed Mitigation Measures

No flood mitigation measures are required as part of the development application as the property is not flood prone.

11.0 CONSTRUCTION DETAILS

11.1 Location

The attached Site Analysis Plan (as part of the architectural plans) prepared **ELK Architects** shows the proposed residential building in relation to the existing boundaries. The site is located within the emerging West Gosford residential precinct on the corner of Donnison Street and Batley Street as shown in **Figure 2**. There are a total of twenty six (26) residential apartments within the development which have been designed to maximise areas of private open space, capitalise on solar access and to generally articulate the development pattern.

11.2 Schedule of External Finishes

Proposed construction materials will be fully detailed in the building specification to be submitted with the Construction Certificate. The materials and finishes are shown on the architectural plans attached. Generally, the materials to be used are as shown in **Figure 31**.

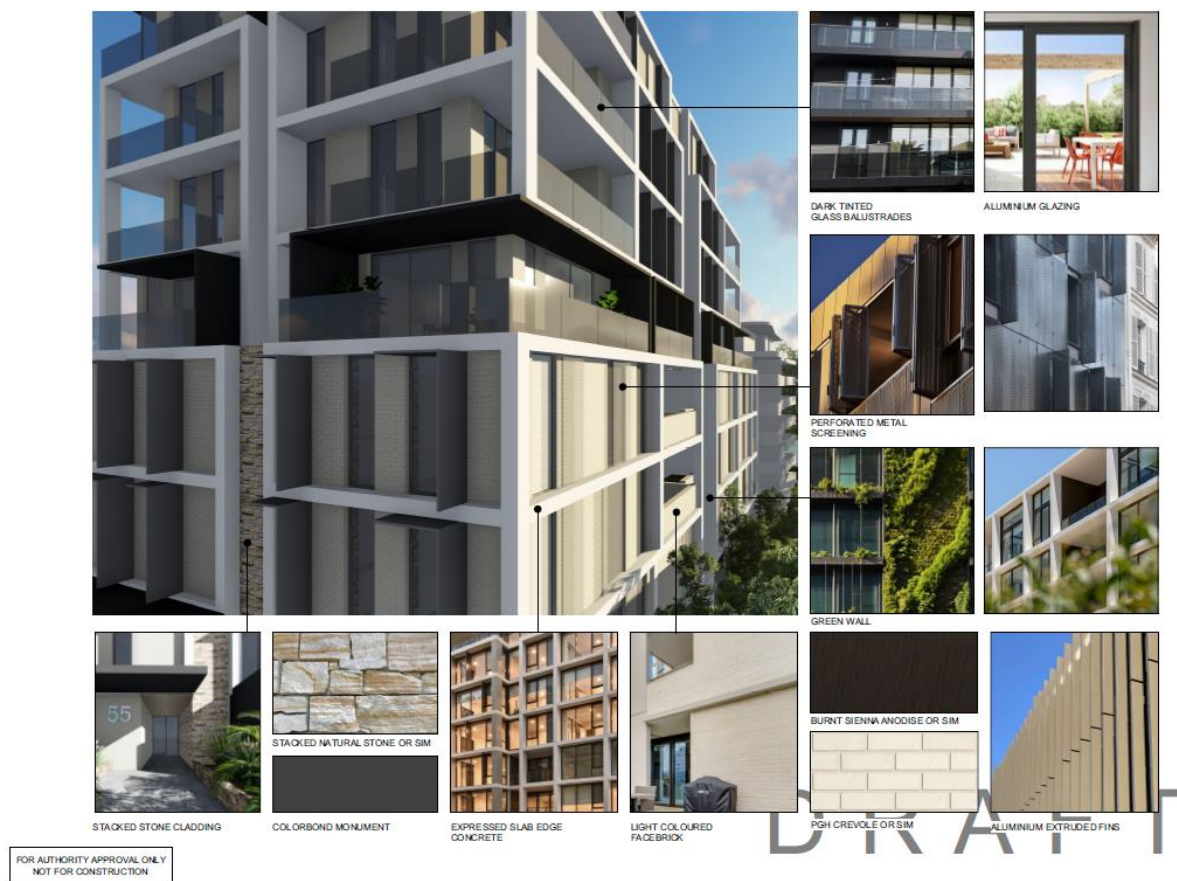


Figure 31
Schedule of External Finishes
(courtesy of ELK Architects)

11.3 Elevations and Sections

The architectural plans prepared by **ELK Architects** show the existing building floor plans, elevations and sections in relation to the existing buildings in which the proposed residential development is to be established.

11.4 Floor Areas and Floor Space Ratio

The subject lands are designated T1 and currently have a maximum floor space ratio of 2:1 under the Gosford Local Environmental Plan 2014 as shown in **Figure 32**.

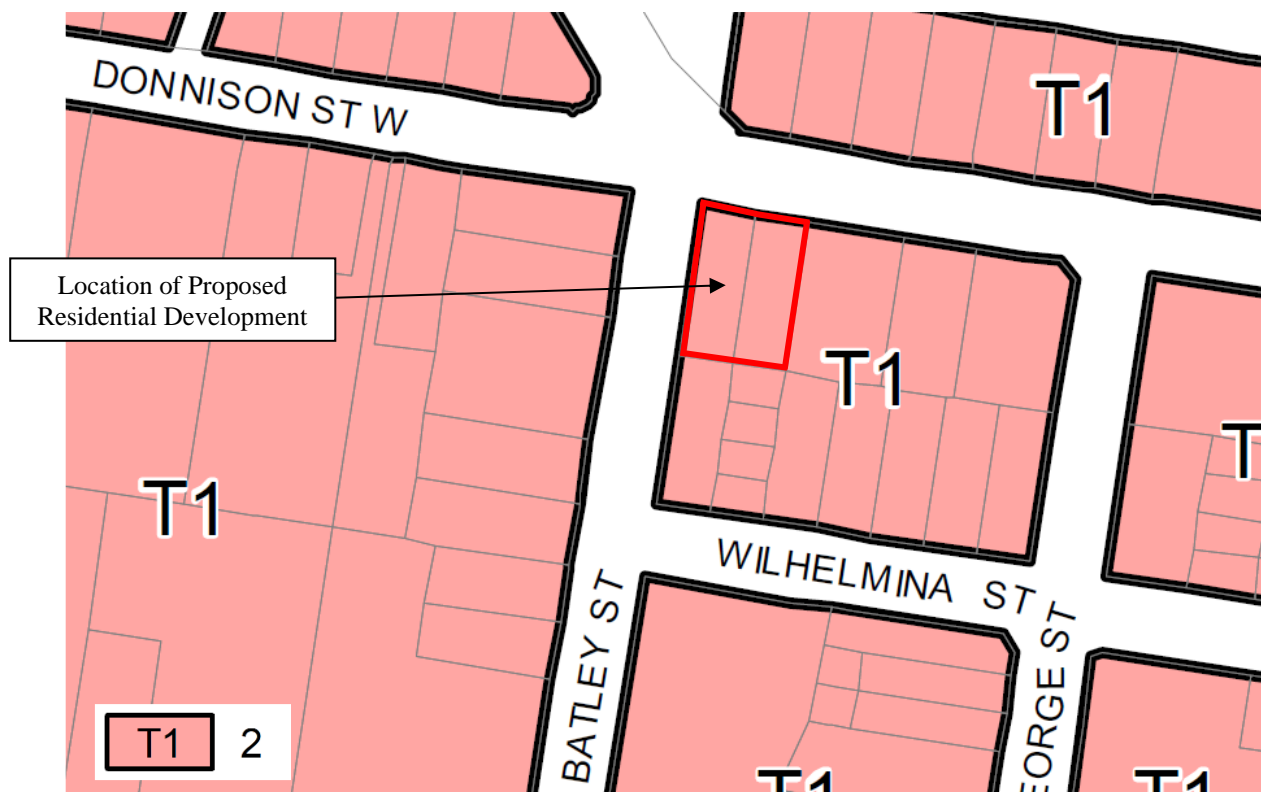


Figure 32

Extract from the SEPP (Gosford City Centre) 2018 Floor Space Ratio Map FSR_001
(courtesy of Central Coast Council through the NSW Legislation portal)

The subject site has an area of 1,165m² and a gross floor area of 2,505m² resulting in a floor space ratio of **2.15:1**. The proposed development therefore **DOES NOT COMPLY** with Clause 8.3 – Floor Space Ratio and Clause 8.9 – Development Incentives of the Gosford Local Environmental Plan 2014. The following floor areas apply:-

Table 3
Floor Areas

Building Component	Floor Area
Ground Level	416.18m ² (residential)
Level 1	412.33m ² (residential)
Level 2	412.33m ² (residential)
Level 3	348.71m ² (residential)
Level 4	323.76m ² (residential)
Level 5	324.34m ² (residential)
Level 6	268.17m ² (residential)
Total	2,505m²
Site Area	1,165m ²
Floor Space Ratio (Permitted)	1.5:1
Floor Space Ratio (Actual)	2.15:1

The following floor areas and balcony/courtyard areas shown in *Table 4* apply the residential development.

Table 4
Schedule of Floor Areas

Unit No.	Floor Area	Balcony/Courtyard Area
01	78m ² (2 bed)	20m ² terrace
02	82m ² (2 bed)	10m ² balcony
03	80m ² (2 bed)	10m ² balcony
04	82m ² (2 bed)	16m ² terrace
101	90m ² (2 bed)	10m ² balcony
102	105m ² (3 bed)	12m ² balcony
103	106m ² (3 bed)	10m ² balcony
104	90m ² (2 bed)	11m ² balcony
201	90m ² (2 bed)	10m ² balcony
202	105m ² (3 bed)	13m ² balcony
203	105m ² (3 bed)	10m ² balcony
204	90m ² (2 bed)	11m ² balcony
301	80m ² (2 bed)	10m ² balcony
302	83m ² (2 bed)	15m ² balcony
303	82m ² (2 bed)	18m ² balcony
304	80m ² (2 bed)	13m ² balcony
401	57m ² (1 bed)	11m ² balcony
402	89m ² (2 bed)	11m ² balcony
403	89m ² (2 bed)	14m ² balcony
404	58m ² (1 bed)	11m ² balcony
501	58m ² (1 bed)	11m ² balcony
502	90m ² (2 bed)	12m ² balcony
503	90m ² (2 bed)	12m ² balcony
504	59m ² (1 bed)	9m ² balcony
601	130m ² (3 bed)	31m ² balcony
602	130m ² (3 bed)	31m ² balcony

A variation is sought to the maximum floor space ratio of 1.5:1 with an increase to 2.15:1 (variation 43.3%) on the basis of the design merit and key location of the proposed development together with the constraints placed on the site from previously approved development to the south and west. A Clause 4.6 variation is provided in support of the variation in Section 2.1.1 – Floor Space Ratio in this report.

11.5 Energy Efficiency – BASIX Certificate

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the site. The Regulations under the Act have established a scheme to encourage sustainable residential development (*the BASIX scheme*) under which:-

- (i) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out; and

- (ii) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.

The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State. This Policy achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

In accordance with the requirements of State Environmental Planning Policy (BASIX), a ABSA BASIX Certificate and Thermal Performance Certificate is attached for each of the residential units. The BASIX and Thermal Performance Certificates were prepared by SLR Consulting Pty Limited.

11.6 Access/Compliance

The attached **Disability Access Report** prepared by *Lindsay Perry Access* address issues relating to the Building Code of Australia and the Disability Discrimination Act 1992.

The appended report demonstrates that the fundamental aims of accessibility legislation are achievable within the proposed development. Spatial planning and general arrangements of facilities will offer inclusion for all building users. Disability is often defined as any limitation, restriction or impairment which restricts everyday activities and has lasted or is likely to last for at least 6 months. Disabilities can be very varied. They can be physical, cognitive, intellectual, mental, sensory, or developmental. They can be present at birth or can occur during a person's lifetime. They can also be permanent or temporary.

The report states that in Australia, almost one in five people – 4.3 million – have a disability with one in three having severe or profound core activity limitation. Equity and dignity are important aspects in the provision of access to buildings for all users. With respect to people with a disability, equity and dignity are sometimes overlooked in the construction of new buildings or refurbishment works.

The report concludes that the design approach needs to maintain a high level of equity for people with disabilities and meet the performance requirements of the BCA. The performance requirements adopt two main concepts in the provision of access for people with a disability being to the degree necessary and safe movement. Both of these concepts need to be achieved within the context of equitable and dignified access. In this respect, a wide range of disabilities needs consideration and a compromise reached between requirements of different disability groups. Measures need to be implemented to ensure inclusion of all users, not a particular disability group in isolation.

12.0 TRAFFIC MANAGEMENT

Car parking requirements are governed by the Gosford City Centre Development Control Plan 2013 under Chapter 7 – Access and Parking. The **objectives** of the controls are to:-

- (i) facilitate the development of building design excellence appropriate to a regional city;
- (ii) require parking and servicing provisions to be contained within development sites to an amount and rate adequate for the economic and sustainable growth of the city centre;

- (iii) provide for safe and secure access;
- (iv) minimise impacts on city amenity, the public domain and streetscape; and
- (v) ensure that access is provided for the disabled and mobility impaired.

The proposed development will comprise a total of twenty six (26) residential units with two levels of basement car parking. Ingress and egress will be available from Batley Street.

12.1 Parking Areas

The attached **Assessment of Traffic and Parking Implications** prepared by **Transport & Traffic Planning Associates** reviews the parking requirements for the proposed development which will comprise thirty eight (38) spaces in two basement and levels including two (2) accessible spaces. Provision is also made in the basement for four (4) resident bicycles.

Vehicle access is to be provided from the western side of the proposed building onto Batley Street with separate ingress/egress to each basement level.

The proposed development site is well serviced by public transport services which comprise:-

- (i) Gosford Railway Station some 650 metres to the north with the connection it provides to the regional transport network; and
- (ii) bus routes connecting to the bus/rail interchange which run along Donnison Street West (where the closest stops are located some 150 metres from the site) with destinations throughout the Gosford City area.

Parking requirements are specified in the Gosford City Centre Development Control Plan 2018 Chapter 7.4 – On Site Parking. The parking rate for residential flat building is shown below in **Table 5**.

Multi Dwelling Housing, Residential Flat Buildings	Resident car parking:
	1 Bedroom dwelling - 1 car space/dwelling
	2 Bedroom dwelling - 1.2 car spaces/dwelling
	3 or more bedroom dwellings - 1.5 car spaces/dwelling
	Visitor car parking:
	0.2 spaces/dwelling, provided on site and clearly marked for use by visitors only
	Disability accessible car parking:
	Not less than 10% of the required resident and visitor spaces
	Motorcycle parking:
	1 space/15 dwellings (or part thereof)
	Bicycle parking:
	1 resident's space/3dwellings + 1 visitor space/12 dwellings (or part thereof)

Table 5
Extract from Table 4.1 in Gosford City Centre DCP 2018 – Chapter 7.4

Based on the above standards, the following rates would apply:-

Table 6
Car Parking Calculations

Component	Rate
Residential Apartments (1 bedroom)	1.0 space/unit x 4 = 4 spaces
Residential Apartments (2 bedroom)	1.2 spaces/unit x 16 = 19.2 spaces
Residential Apartments (3 bedroom)	1.5 spaces/unit x 6 = 9 spaces
Visitor	1 space/ 5 units = 26/5 = 5.2 spaces
Total Required	37.4 spaces

It is proposed that the development provide thirty eight (38) spaces including two (2) suitable for disabled persons in the basement. The proposed development therefore **COMPLIES** with Chapter 7.4.

The proposal is further supported by the fact that the development is:-

- (i) is 15 minutes' walk from the Gosford Rail Station and transport interchange;
- (ii) is located close to a major bus route (Central Coast Highway) as shown in **Figure 33**;
- (iii) is located within easy walking distance to the Gosford City Centre and extensive shopping facilities; and
- (iv) has high accessibility

For the above reasons, it is considered that the development will have a lesser reliance on private vehicles due to the proximity of the Gosford Rail Station transport hub. Further, in line with contemporary transport planning objectives, which are increasingly aimed at reducing the reliance on private vehicles, it is proposed to provide for four (4) bicycle spaces within the basement together.

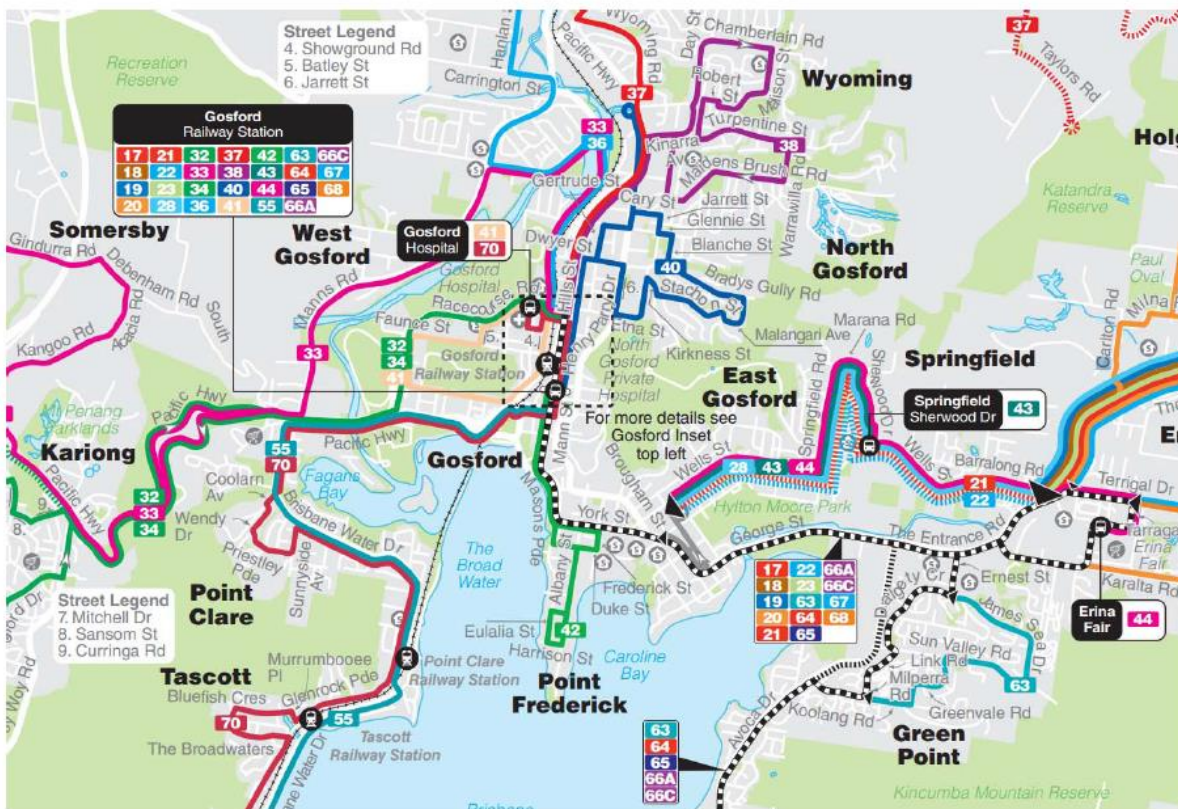


Figure 33
Bus Route Plan
(courtesy of Busways)

The **Assessment of Traffic and Parking Implications** report concludes that the development will:-

- (i) not present any unsatisfactory traffic capacity, safety or environmental related implications;
- (ii) incorporate a suitable and appropriate parking provision for the proposed nature of uses; and
- (iii) incorporate suitable vehicle access, internal circulation and servicing arrangements

12.2 Traffic Movements

12.2.1 Access

Vehicle accesses for the basement carpark levels will comprise two x six (6) metre wide combined ingress/egress driveways located on the Batley Street frontage which will also provide access for the loading bay. The new driveways will be located where suitable sight distances are available in accordance with the requirements of AS2890.1 and 2.

12.2.2 Internal Circulation

Generous ramp grades/widths, aisle widths and parking bay dimensions are provided for in the carpark design in compliance with the AS2890.1 design requirements. The two-way circulation system will have satisfactory provisions for manoeuvring and will be facilitated by suitably located convex mirror to improve lines of sight between vehicles.

12.2.3 Servicing

Waste will be removed from the access driveway area by Council's 12.5 metre heavy rigid refuse vehicles as indicated in the turning path diagram in Appendix B of the appended **Assessment of Traffic & Parking Implications** prepared by *Transport and Traffic Planning Associates Pty Limited*.

The assessment accords with the criteria and design/operational requirements of AS2890.2 (2002). Service personnel and maintenance vehicles will be able to use the visitor parking spaces while any occasional requirements for large delivery vehicles (ie: furniture pantechnicons) will be reliant on the available on-street parking in the area as is normal for a residential apartment development of this nature.

All vehicles will be able to enter and leave the proposed development in a forward direction.

The attached **Assessment of Traffic and Parking Implications** prepared by *Transport and Traffic Planning Associates Pty Limited* reviews the traffic and parking requirements for the proposed development. It is concluded that the development will:-

- (i) not present any unsatisfactory traffic capacity, safety or environmental related implications;
- (ii) incorporate a suitable and appropriate parking provision for the proposed nature of uses; and
- (iii) incorporate suitable vehicle access, internal circulation and servicing arrangements

13.0 SITE WASTE MANAGEMENT

Chapter 7.2 – Waste Management of the Gosford Development Control Plan 2013 applies to the site. Waste and resource consumption is a major environmental issue and a priority for all levels of government within Australia. This is particularly the case as landfill sites become scarce and the environmental and economic costs of waste generation and disposal rise. Government and society alike are exposed to the issue of managing the increasingly large volumes of waste generated by our society. Sustainable resource management and waste minimisation has emerged as a priority action area and a key in the quest for Ecologically Sustainable Development (ESD). Critical actions in this regard include the following (moving from most desirable to least desirable):-

- (i) avoiding unnecessary resource consumption;
- (ii) recovering resources for reuse;
- (iii) recovering resources for recycling or reprocessing; and
- (iv) disposing of residual waste (as a last resort)

The building and construction industry is a major contributor to waste, much of which is still deposited to landfill. The implementation of effective waste minimisation strategies has the potential to significantly reduce these volumes.

Effective waste planning and management can also benefit the builder/developer. Some of the benefits of good waste planning and management include:-

- (i) reduced costs;
- (ii) improved workplace safety;

- (iii) enhanced public image; and
- (iv) compliance with legislation such as the Protection of the Environment Operation Act 1997 that requires waste to only be transported to a place that can lawfully accept it

The aims of this chapter is to facilitate sustainable waste management within the Gosford Local Government Area in a manner consistent with the principles of ESD.

13.1 Garbage Collection Points

The proposed development has been designed with the garbage collection room located on the Basement 2 Level centrally located in the proposed building. It makes provision for residential bin storage in a specifically designated area.

The attached **Assessment of Traffic and Parking Implications** prepared by *Transport and Traffic Planning Associates Pty Limited* addresses the servicing arrangements for the residential development. Refuse will be removed from the access driveway area by Council's 12.5 metre heavy rigid refuse vehicles as indicated in the turning path diagram in Appendix B of the appended report. The report accords with the criteria and design/operational requirements of AS2890.2 (2002).

It is proposed that all residents of the proposed development deliver domestic waste as required to the garbage room which is to be serviced by an approved private contractor on a weekly basis. The ingress/egress has been designed to accommodate a standard waste collection vehicle as shown in the attached **Assessment of Traffic and Parking Implications**.

13.2 Controls for Site Waste Management

Clause 7.2 – Waste Management of the Gosford Development Control Plan 2013 applies to the subject sites. This Chapter aims to facilitate sustainable waste management within the former Gosford Local Government Area in a manner consistent with the principles of ESD.

Waste and resource consumption is a major environmental issue and a priority for all levels of government within Australia. This is particularly the case as landfill sites become scarce and the environmental and economic costs of waste generation and disposal rise. Government and society alike are exposed to the issue of managing the increasingly large volumes of waste generated by our society.

The sites are currently serviced by Council's waste services contractor with standard domestic waste collection. Domestic, recycle and green waste bins are delivered to the kerb side weekly on appointed collection days.

13.2.1 *Garbage Collection Points*

The proposed development has been designed with the main garbage collection room located on the basement level near the main vehicle ingress/egress such that Council's waste contractor can service the bulk bins in the waste storage enclosure. The architectural plans indicate the ability of the minimum 12.5 metre long rear loading, dual rear axle residential waste collection HRV to enter and exit the site.

The vehicle will enter the basement level and exercise a three point turn into the waste truck reversing area and egress in a forward direction. A waste servicing location is indicated adjacent to the residential waste storage enclosure to facilitate roll out of bulk waste bins for servicing. The waste servicing location does not impede general access to, from and within the site as all waste collection will be undertaken during the early morning. A minimum 4.0m height clearance is provided in the waste vehicle manoeuvring areas.

13.2.2 Waste Management Plan

A **Site Waste Management Plan** is attached detailing the controls for site waste management to be implemented as part of the development process. The plan was prepared by **Wales & Associates Pty Limited**. The Site Waste Management Plan has been prepared in accordance with the requirements of Gosford City Council's Development Control Plan 2013 Chapter 7.2 – Waste Management.

14.0 EXTENT OF CUT AND FILL

The **Architectural Plans** prepared by **ELK Architects** show the extent of cut and fill required for the proposed development.

A total of **3,535m³** will be excavated from the site to accommodate the basement car parks comprising 2,625m³ (lower basement) and 900m³ (basement).

Note: Please note that the indicative quantity for the bulk excavation is based on initial architectural drawings. Levels often change after demolition and following CC Drawings.

15.0 EROSION AND SEDIMENTATION CONTROL

Chapter 6.3 – Erosion Sedimentation Control of the Gosford Development Control Plan applies to the site. This chapter applies to any activity that involves, or could involve:-

- (i) disturbance of, or placing fill on, the soil surface, and/or changes to the contours of the land; or
- (ii) changing the rate and/or volume of runoff flowing over land or directly/indirectly entering receiving waters.

It covers the whole process of development and construction, from initial planning to final site stabilisation. The purpose of this Chapter is to help achieve a healthy, productive and diverse catchment. Erosion of soil because of disturbance or mismanagement of land is inconsistent with this goal. The **objectives** of this chapter are:-

- (i) to prevent land from being degraded by soil erosion or unsatisfactory land and water management practices;
 - To protect streams and waterways from being degraded by erosion and sediment caused by unsatisfactory land and water management practices.
 - To promote and protect biodiversity.

Erosion and sedimentation controls will be installed and maintained in accordance with the former Gosford City Council's *Code of Practice Erosion Sedimentation Control* and Chapter 6.3 – Erosion Sedimentation Control.

Full engineering details will be provided in accordance with appropriate conditions of consent as required by the Central Coast Council. Works will include the installation of sediment fences around the perimeter of the site area, stormwater inlet protection and diversion drains where necessary. The attached **Stormwater Concept Design** prepared by **Burgess Arnott & Grava Pty Limited** (Consulting Engineers) of Forestville details the proposed erosion and sedimentation control works.

16.0 ROAD FORMATIONS:

16.1 Existing Road Formation

The development fronts Donnison Street (see Figure 19) with primary access to the existing dwelling off Batley Street as shown in **Figure 34**. Donnison Street is partly engineered with bitumen sealed carriageway, barrier kerb, concrete footpath, stormwater and public utilities. The Batley Street frontage of the site is not kerbed and guttered (see **Figure 35**).



Figure 34
Photograph showing the existing road frontage conditions in Donnison Street
(image courtesy of Google Earth Pro)



Figure 35
Photograph showing the existing road frontage conditions in Batley Street
(image courtesy of Wales & Associates Pty Limited)

16.2 Road Upgrading

As part of the development of the site, upgrading of both the Donnison Street and Batley Street frontages will be required to accommodate the proposed ingress/egress to the car parking levels and pedestrian access to the residential building. The road frontage will also need to be upgraded including kerb and gutter, footpath and bitumen sealed of the road shoulder. Full engineering details will be provided at Construction Certificate stage in accordance with any Conditions of Consent that may be imposed by the Central Coast Council.

17.0 CLEARING:

The subject site is already fully cleared of its original vegetation. The site is partly vacant (#55 Donnison Street) and occupied by a single storey rendered residential residence (#53 Donnison Street) with atypical introduced urban landscaping. The existing trees and vegetation within and adjacent to the site are located mainly on the periphery of the property and on the Batley Street nature strip. Existing vegetation consists mainly of low quality, insignificant and poorly maintained small trees and shrubs as described in the attached **Arboricultural Impact Assessment** prepared by **Michael Shaw (Consulting Arborist)**. All existing site vegetation will be removed to facilitate the proposed residential development.



18.0 PUBLIC UTILITIES AND SERVICES:

The following information in relation to existing services and utilities was provided by Dial Before You Dig.

Association of Australian Dial Before You Dig Services Ltd. does not maintain information regarding the location

of underground assets. DBYD merely facilitates communication between the users of this service and Members/Participants. DBYD is not responsible for the accuracy of information received from users of this service, as to proposed excavation activity. There are also owners of underground assets which do not participate in the referral service operated by DBYD. Therefore, DBYD cannot make any representation or warranty as to the accuracy, reliability or completeness of the information contained in this notice.



DBYD and its employees, agents and consultants shall have no liability (except insofar as liability under any statute cannot be excluded) arising in respect thereof or in any other way for errors or omissions including responsibility to any person by reason of negligence. All users of this service acknowledge that they have a duty of care to observe with regards to underground networks when digging or excavating. All services should be located by survey prior to the commencement of all works.

18.1 Sewer Services

The site and the existing residential building is serviced from the existing Central Coast Council 150mm sewer main which traverses the rear of the site (ie: Line UB). The existing building is connected to the Council's sewer (see **Figure 36**). The existing sewer line will require relocation to accommodate the proposed development.



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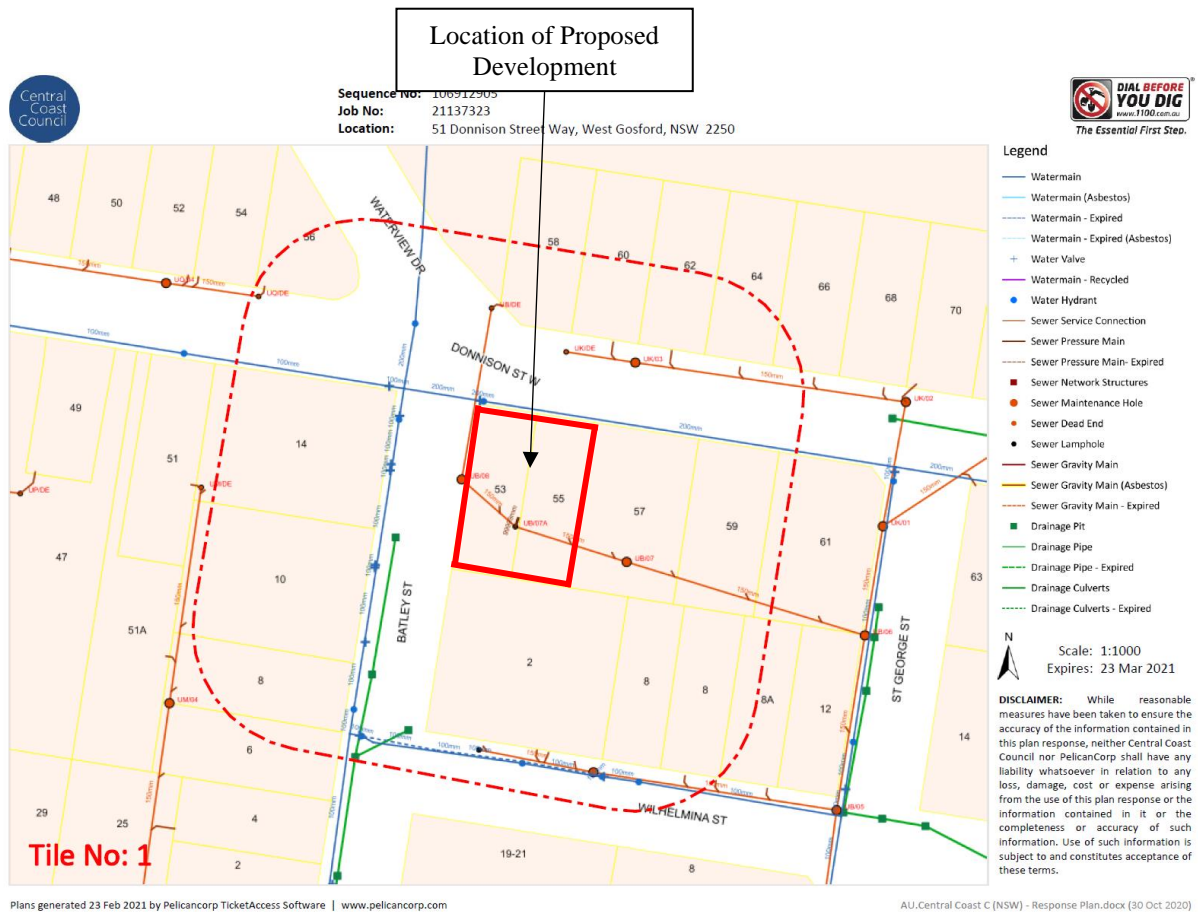


Figure 36
Extract from Central Coast Council's Infrastructure Plans
(courtesy of Central Coast Council through the Dial Before You Dig portal)

The attached **Concept Sewermain Relocation Plan** prepared by **Wallace Design Group** shows the proposed adjustments to the Council's existing sewer mains which includes the extension to the UK Line to pick up the dead end junction on the UB Line. This will enable the UB Line to be terminated at the western boundary to Lot A with a new sewer junction to be provided (see **Figure 37**).



Figure 37
Extract from Wallace Design Group Sewermain Plans
(courtesy of Wallace Design Group)

18.2 Water Reticulation

The site and existing residential building are serviced from the existing Central Coast Council 200mm dia. water main in Donnison Street and is connected to the Council's reticulated water supply (see **Figure 36**). The proposed development can be connected to the existing infrastructure.



18.3 Power Supply

The site can be serviced from existing Ausgrid overhead and underground power lines in both Batley Street and Donnison Street as shown see **Figure 38**. The existing building is currently connected to the power grid from overhead cabling in Batley Street. The proposed development can be serviced from the existing overhead infrastructure subject to application to Ausgrid.



18.4 Telecommunications



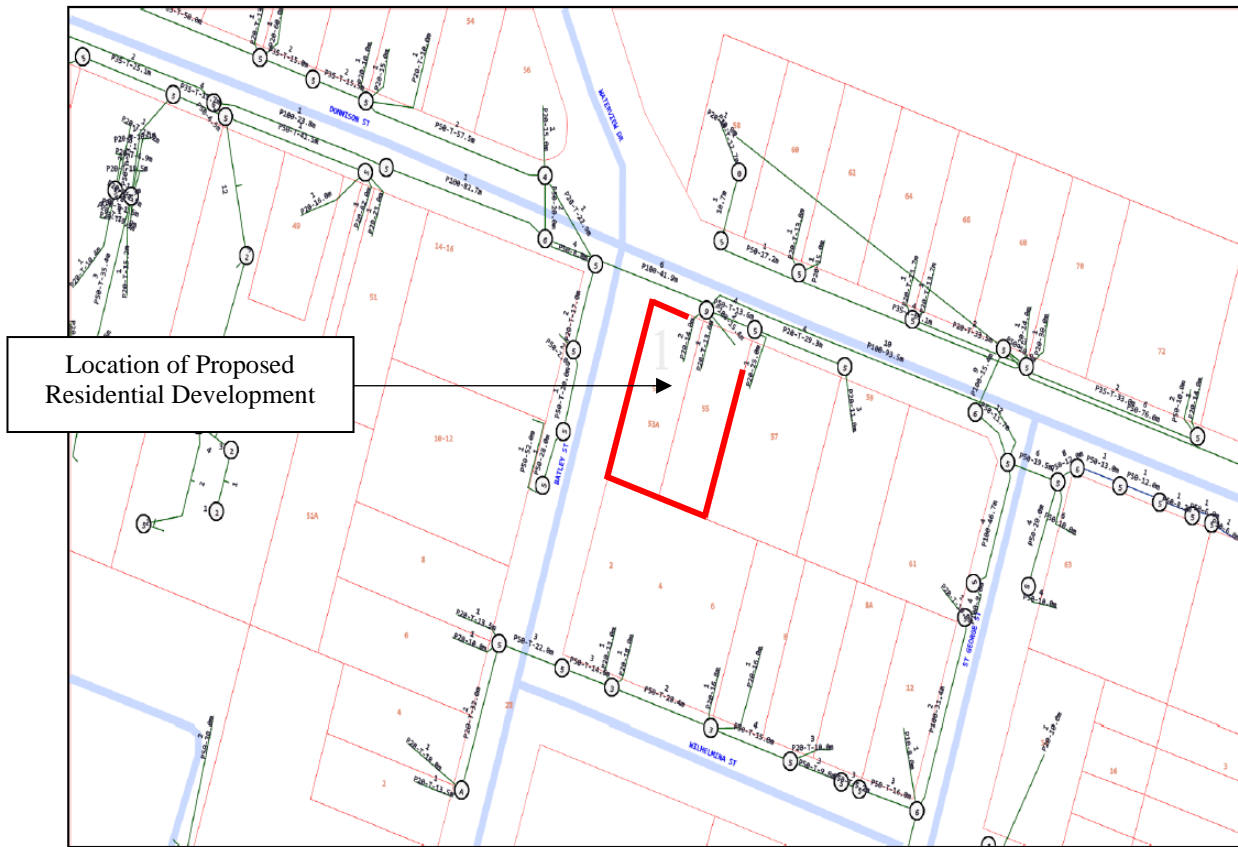


Figure 39
Extract from the NBN Co. Infrastructure Records
(courtesy of NBN Co. through the Dial Before You Dig portal)

18.5 Gas Supply

Jemena has underground gas reticulation available in both Donnison Street and Batley Street as shown in **Figure 40**. Gas supply is available subject to application to Jemena.





Figure 40
Extract from Jemena Infrastructure Plans
(courtesy of Jemena through the Dial Before You Dig portal)

19.0 STATEMENT OF ENVIRONMENTAL EFFECTS:

The following Statement of Environmental Effects has been prepared for the proposed residential development in Donnison Street at Gosford. The proposed seven (7) storey residential development will have some effect on the local environment as will any high-density residential development project. However, the effect will be offset by the provision of a high-quality residential facility that will provide substantial benefits to the local community. The following details highlight the measures proposed to reduce the potential effects of the development. All measures will be incorporated into the development to create an environmentally acceptable residential proposal.

19.1 Flora Effects

The subject site area of the development is already fully cleared of its original vegetation. All site improvements will be removed as part of the development process. The proposed residential development use will not impact on any rare or endangered flora nor does it affect any wildlife corridors as the development site has been largely cleared of any native vegetation.

19.2 Fauna Effects

As above, the subject site area of the development is already fully cleared of its original vegetation. All site improvements will be removed as part of the development process and the property cleared. The proposed development use will not impact on any rare or endangered fauna nor does it affect any wildlife corridors as the development site has been largely cleared of any native vegetation.

19.3 Traffic Effects

Traffic issues are addressed under Section 12 – Traffic Management. Vehicle accesses for the basement carpark levels will comprise two x six (6) metre wide combined ingress/egress driveways located on the Batley Street frontage which will also provide access for the loading bay as shown on the **Architectural Plans** prepared by **ELK Design**. The new driveways will be located where suitable sight distances are available in accordance with the requirements of AS2890.1 and 2. All vehicles will be able to enter and leave the proposed development in a forward direction.

The attached **Assessment of Traffic and Parking Implications** prepared by **Transport and Traffic Planning Associates Pty Limited** reviews the traffic and parking requirements for the proposed development. It is concluded that the development will:-

- (iv) not present any unsatisfactory traffic capacity, safety or environmental related implications;
- (v) incorporate a suitable and appropriate parking provision for the proposed nature of uses; and
- (vi) incorporate suitable vehicle access, internal circulation and servicing arrangements

19.4 Noise Effects

The proposed residential development abuts established surrounding residential development. As the land is zoned R1 – *General Residential* under the State Environmental Planning Policy (Gosford City Centre) 2018, some noise effects should be anticipated. There are already some noise effects because of existing and new higher density residential activities in the surrounding residential properties which represents an area in significant transition.

The subject land is in an area of transition with traditional detached housing being replaced with higher density residential apartment buildings.

It should be noted that the proposed building is to be orientated north/south and built into the slope of the land with car parking to be located under the building by way of covered parking. Whilst some short term noise impacts will be experienced during the construction phase of the development, it is not anticipated that the proposed development will cause any significant adverse noise impacts in the longer term as a result of its operation.

The attached **Noise Impact Assessment** prepared by **Spectrum Acoustics** addresses several noise related aspects pertaining to the residential apartments including:-

- (i) road traffic noise impacts; and
- (ii) Rail noise and vibration impacts

19.5 Visual Amenity Effects

19.5.1 *General*

Chapter 3 – Places and Character under the Gosford City Centre Development Control Plan 2018 applies to the site. The subject lands fall within those areas marked “Residential” as shown in **Figure 41**.

3.1 Character areas

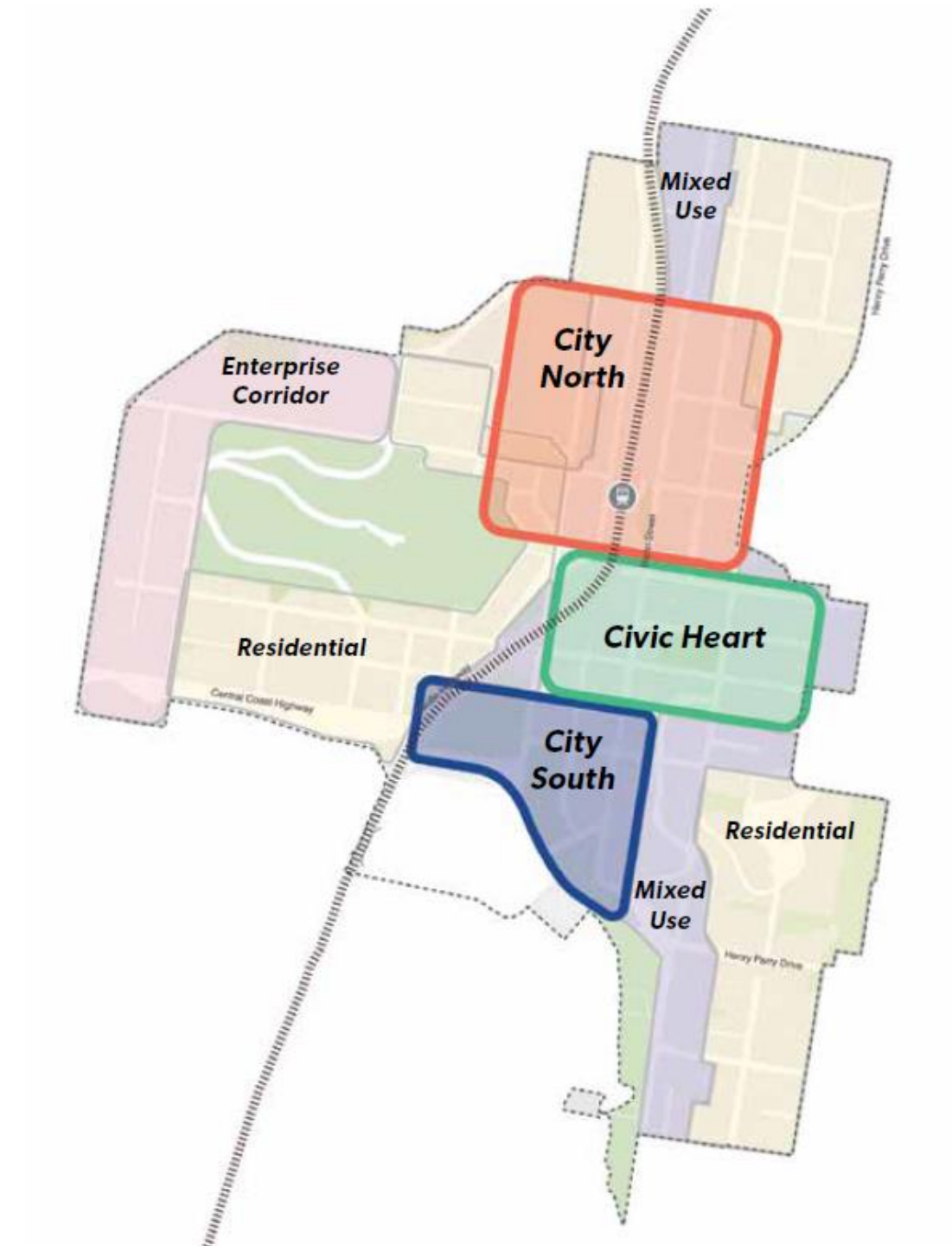


Figure 41
Plan showing Character Areas within the Gosford City Centre
(image courtesy of Central Coast Council)

19.5.2 Character

The **objectives** of Clause 3.5 – Other Areas are to:-

- (i) encourage a mix of uses including employment, residential, recreation and retail uses that support the commercial core;
- (ii) provide a diversity of housing, including higher density residential development in the city fringe to support the viability of the city centre and encourage 24-hour use of the city's amenities;
- (iii) facilitate tourism and increased residential development along the waterfront;
- (iv) provide a mix of lower scale employment uses in the enterprise corridor zone to encourage employment generating opportunities that complement the commercial core; and
- (v) ensure that the built form in the city fringe areas is to maintain the prominence of Presidents Hill and views to Brisbane Water

The city fringe areas allow a range of uses including residential, employment, light industrial and retail to support the city centre. In particular, the “**residential areas**” within the city fringe will provide for a diverse range of housing to accommodate an additional 10,000 residents over the next 25 years. New development will consist of medium to high density residential apartments to encourage increased housing within walking distance of the city centre.

The proposed development **COMPLIES** with the objectives of Clause 3.5 in that:-

- (i) the proposal provides for substantial residential uses that support the commercial core;
- (ii) the proposal provides for diversity of housing through higher density residential development within the city fringe to support the viability of the city centre and encourage 24-hour use of the city's amenities; and
- (iii) the proposal ensures that the built form maintains the prominence of Presidents Hill and views to Brisbane Water

19.5.3 Visual Impact Assessment

The attached **Visual Impact Assessment** has been prepared by **Dr. Phillip Pollard** to consider the appropriateness of the proposed apartment building, in respect to:-

- (i) urban design;
- (ii) visual impacts and its impacts upon nearby and surrounding properties; and
- (iii) the public realm in respect to views.

Dr. Pollard has concluded that the impacts arising in respect to view losses in the area are minimal in respect to views from public places and are no more than moderate in respect to any views from private places. He is also of the opinion that the proposal is a well-considered design that sites comfortably in the context. Further, he is of the opinion that the development is complementary to the area's likely future character, and though different in scale to the original development in the area, contributes positively to the city's current character.

19.6 Air Quality Effects

In the short term, the potential impacts on the air quality will be limited to those effects caused from emissions from construction machinery and motor vehicle exhausts associated with the site excavation and building works. Atmospheric pollutants caused by such emissions are not expected to have a significant long-term effect on the surrounding area. When construction is completed, impacts on air quality caused by the operation of the development are not expected to be appreciably more than currently created by the existing commercial, retail and residential uses.

19.7 Erosion and Sedimentation Effects

Clause 6.3 – Erosion Sedimentation Control of the Gosford Development Control Plan 2013 is designed to help achieve a healthy, productive and diverse catchment. Erosion of soil because of disturbance or mismanagement of land is inconsistent with this goal.

As with all development work, the potential for soil erosion and sediment transfer is present. In order to limit this potential, it is intended to implement the necessary controls to restrict such transfer to within the construction zone and prevent any erosion and sediment transfer onto adjoining lands or to the Council's trunk drainage system.

The attached ***Sedimentation & Erosion Control Plan*** prepared by ***Burgess Arnott & Grava Pty Limited*** (Consulting Engineers) shows the controls to be implemented.

During the course of construction, filter fences will be provided adjacent to the exposed work face and hay bales anchored with star pickets will be provided at the site low points. Due to the sloping nature of the site, erosion and sediment transfer will need to be carefully controlled. However, all works will be monitored on a daily basis and the construction area secured with control devices at the conclusion of each day's work. At the completion of each phase of the construction works, all exposed areas will be secured to ensure that the area is stabilised as quickly as possible.

All works will be carried out in accordance with Clause 6.3 – Erosion Sedimentation Control.

19.8 Socio-Economic Effects

The proposed shop top housing and residential flat building will have many positive socio-economic benefits for the local community particularly in relation to:-

- (i) the provision of good quality commercial floor space in an emerging sector of the City Centre precinct;
- (ii) the provision of much needed high quality residential accommodation for younger families and professionals who want to be near Gosford District Hospital, the city centre precinct and the Gosford Rail interchange;
- (iii) the creation of a small boutique retail and business opportunities; and
- (iv) the provision of high-quality residential accommodation within the Gosford City Centre which is close to public transport links and city services

The proposed shop top housing and residential flat building will complement similar uses already established in the city centre precinct and will meet the growing demand for high quality commercial floor space and residential apartments.

Benefits will include:-

- (i) the provision of much needed residential accommodation that will meet strong local demand for younger families and professionals near Gosford District Hospital, city centre precinct and Gosford Rail interchange;
- (ii) creation of short term construction jobs and long term employment opportunities within the new commercial spaces;
- (iii) potential increase in local employment as the business draws on the local population for labour;
- (iv) an increase in street activation; and
- (v) increased economic activity and support services

19.9 Hours of Operation

The proposed development will be accessible 24 hours a day.

19.10 Bushfire Effects

It is noted that the subject lands are identified as being bushfire prone on Council's GIS mapping as shown in **Figure 42**.

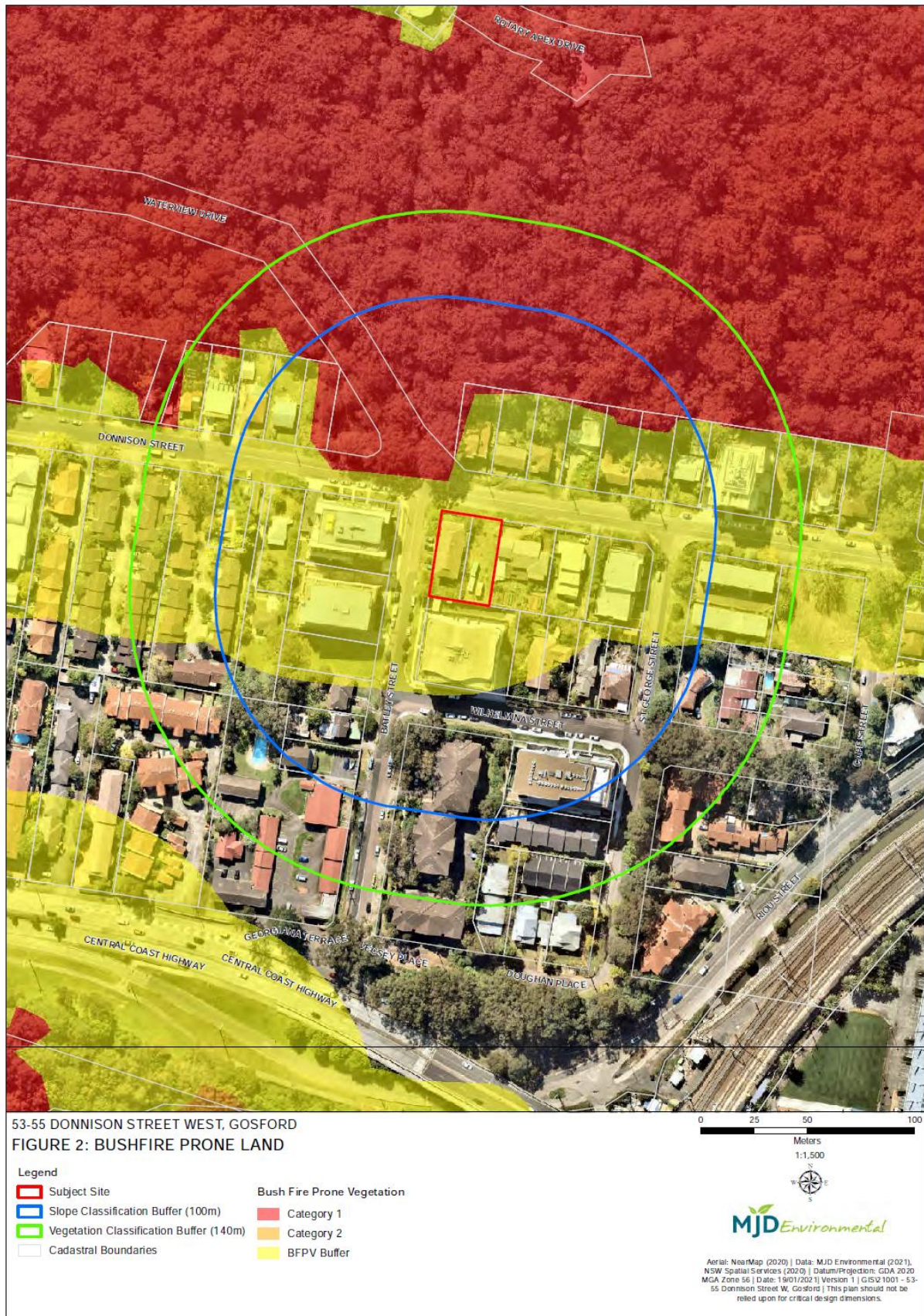


Figure 42
Bushfire Prone Mapping
(image courtesy of MJD Environmental)

The attached **Bushfire Assessment Report** prepared by **MJD Environmental** details the bush fire risks associated with the subject site.

The assessment found that hazard vegetation types occur within 140m of the site. The primary risk is from the forest-class vegetation located uphill to the North of the Site. Adjacent to this forest-class hazard vegetation is an area of open canopy containing exotics & native regrowth that forms a Woodland-class hazard vegetation as per Table A1.9 of PBP (2019). The slope under the primary hazard vegetation is upslope. This hazard and associated slope have been assessed as having the greatest effect on bushfire behaviour to determine required separation distances from the hazard.

In summary, the following key recommendations have been generated to enable the proposal to comply with PBP (2019).

- (i) the following APZ will be required in perpetuity:-
 - 24m from the Forest hazard to the North & North-West. The APZ is provided by Donnison Street West
- (ii) with due consideration to the separation distance from the hazard (situated outside the site to north), the building is to be constructed to a BAL-29 standard over the northern and western elevation and entire roofline. The eastern and southern elevation is to be constructed to BAL-19;
- (iii) access complies with PBP 2019. The site benefits from dual street frontage will be provided to the proposed development from Batley Street;
- (iv) services are to be provided and connected to the site in accordance with PBP (2019) as summarised and assessed in Chapter 3, Section 3.3 of this Bushfire Assessment Report; and
- (v) careful consideration of future site landscaping and ongoing fuel management must occur to minimise the potential impact of bushfire on the site.

19.11 SEPP (COASTAL MANAGEMENT) 2018

Reference is made to the NSW State Government legislation which requires the applicant to submit additional information outlining how the proposal satisfies the aims and objectives of SEPP (Coastal Management) 2018.

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the [Coastal Management Act 2016](#), including the management objectives for each coastal management area, by:-

- (i) managing development in the coastal zone and protecting the environmental assets of the coast, and
- (ii) establishing a framework for land use planning to guide decision-making in the coastal zone; and
- (iii) mapping the four (4) coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the [Coastal Management Act 2016](#).

The subject properties fall with the Coastal Use Area mapping as shown in **Figure 43**. The coastal use area is the land identified as such by the Coastal Use Area Map.



Figure 43
Extract from the State Environmental Planning Policy (Coastal Management) 2018 – Maps
(courtesy of the NSW Department of Planning and Environment)

Under Division 4 – Coastal Use Area, development on land within the coastal use area must not be granted consent unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:-

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability;
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores;
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands;
- (iv) Aboriginal cultural heritage, practices and places; and
- (v) cultural and built environment heritage

Further, the consent authority must be satisfied that:-

- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

The consent authority must also consider the surrounding coastal and built environment, and the bulk, scale and size of the proposed development. The following comments are made in relation to the **aims and objectives of the act**.

(a) **Aim – manage development in the coastal zone and protect the environmental assets of the coast**

The proposed mixed use development will not adversely affect the *management of the coastal zone* of this section of the NSW coast as the proposal is to be constructed within an established residential area that already has substantial high rise residential accommodation. Nor will the proposed development adversely affect the *environmental assets* of the coast. The size, bulk and scale is consistent with desired character outcomes for the precinct as expressed in the Gosford City Centre Development Control Plan 2018. The development represents a considerable improvement to the existing built form and compliments adjoining residential development to the south and east of the site.

The proposal therefore **COMPLIES** with the above objective.

(b) **Aim – establish a framework for land use planning to guide decision-making in the coastal zone**

The proposed residential development will not adversely affect the *establishment of the required framework* for land use planning within the coastal zone as the proposal is to be constructed within an established high density residential area that already has substantial high rise development and a historical residential pattern. The size, bulk and scale is consistent with desired character outcomes for the precinct as expressed in the Gosford City Centre Development Control Plan 2018.

The proposal therefore **COMPLIES** with the above objective.

(c) **Aim - mapping the four (4) coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016**

The proposed residential development will not adversely affect the *mapping of the four coastal management zones* as the proposal is to be constructed within an established high density residential area that already has substantial high rise development and a historical residential pattern whereby mapping is required to consider the existing built environment.

The proposal therefore **COMPLIES** with the above objective.

The following comments are made in relation to the **matters to be considered under the act**.

(a) **Consideration – impacts on existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability**

The subject site is not adjacent to the Brisbane Water foreshore. Therefore, it does NOT impede public access to these areas. The proposal therefore **COMPLIES** with the above consideration.

(b) Consideration – impacts on overshadowing, wind funnelling and the loss of view from public spaces to foreshores

As above, the subject site is not adjacent to the Brisbane Water foreshore and the foreshore reserve. Therefore, the development does NOT create overshadowing, wind funneling or loss of views from public access to these areas. The proposal therefore **COMPLIES** with the above consideration.

(c) Consideration – impacts on visual amenity and scenic qualities of the coast including coastal headlands

The proposed development is consistent with the desired character under Council's Chapter 3 – Places and Character under the Gosford City Centre Development Control Plan 2018.

The proposed bulk, height and scale of the building is also consistent with the desired future character for the precinct which represents an area in transition with existing residential and commercial building stock being upgraded and/or replaced with higher density residential and mixed use development.

The subject site is in a relatively prominent position along Donnison Street on the corner of Batley Street. However, the proposal will not have any significant adverse visual impacts on the coastline due to its high degree of architectural treatment, articulation and boundary setbacks. Therefore, it is considered that the proposal **COMPLIES** with the above consideration.

(d) Consideration – impacts on Aboriginal cultural heritage, practices and places

The proposed residential development does not impact on any known items of Aboriginal cultural heritage and therefore, **COMPLIES** with the above consideration.

(e) Consideration – impacts on cultural and built environment heritage

The subject lands and the proposed residential development are not located within a heritage listed area nor close to any heritage listed items. The immediate precinct is mix of older style detached residential buildings and more recent multi-dwelling residential developments within an area of medium to high density urban transition. The traditional built form does not reflect any significant built environmental heritage form that would cause the proposed development to adversely impact of the cultural attributes of the area and therefore, **COMPLIES** with the above consideration.

(f) Consideration – design, siting and management

The proposed residential development has been designed in accordance with the requirements of the Gosford City Centre Development Control Plan 2018 and the National Construction Code of Australia such that the bulk, scale and orientation of the building takes into consideration the above consideration (a) to (e).

The proposed design has been prepared giving due consideration to all matters that are required to be addressed under the SEPP in that it:-

- (i) complies with the aims and objectives of the SEPP as described above;

- (ii) does not affect existing public access to and along the coastal foreshore;
- (iii) does not affect opportunities for provide new public access to and long the coastal foreshore;
- (iv) addresses and considers the issue of sustainability given its type, location and design and its relationship to the surrounding area. This is addressed in the development report and Statement of Environmental Effects appended to the development application;
- (v) does not cause any detrimental impact on the amenity of the coastal foreshore especially in relation to overshadowing or loss of views;
- (vi) does not adversely impact on the scenic qualities of the NSW coastline. Whilst the property is in a prominent location, the design (including setbacks and articulation) are complimentary to the precinct and are consistent with the desired future outcomes for the area;
- (vii) does not impact on threatened flora or fauna nor impact on sensitive habitats;
- (viii) does not impact on marine life or marine vegetation;
- (ix) does not impact of wildlife corridors;
- (x) is not affected by Aboriginal cultural places, beliefs, customs or traditional knowledge;
- (xi) will not impact on water quality. All appropriate erosion and sedimentation controls will be implemented in accordance with Council's codes and practices; and
- (xii) does not affect any items of heritage, archaeological or historic significance

19.12 Crime Prevention Through Environmental Design

Crime Prevention Through Environmental Design (CPTED) is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods. It includes the built environment, open space (including passive recreation space), pedestrian and transport corridors, conflicts of land use etc.

CPTED aims to reduce opportunities for crime by using design and place management principles that reduce the likelihood of essential crime 'ingredients' (ie: law, offender, victim or target, opportunity) from intersecting in time and space.

In practice this means that predatory offenders often make "cost benefit assessment" of potential victims and locations before committing crime. CPTED aims to create the reality (or perception) that the costs of committing crime are greater than the likely benefits. This is achieved by creating environmental and social conditions that:

- (i) maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension);
- (ii) maximise the effort required to commit crime (increasing the time, energy and resources required to commit crime);
- (iii) minimise the actual and perceived benefits of crime (removing, minimising or concealing crime attractors and rewards); and
- (iv) minimise excuse making opportunities (removing conditions that encourage / facilitate rationalisation of inappropriate behaviour).

CPTED employs four key strategies. These are:-

- (i) territorial re-enforcement;
- (ii) surveillance;

- (iii) access control; and
- (iv) space/activity management.

The following strategies are to be included in the development:-

Territorial Re-enforcement

Community ownership of public space sends positive signals. People often feel comfortable in, and are more likely to visit, places which feel owned and cared for. Well used places also reduce opportunities for crime and increase risk to criminals. If people feel that they have some ownership of public space, they are more likely to gather and to enjoy that space. Community ownership also increases the likelihood that people who witness crime will respond by quickly reporting it or by attempting to prevent it. Territorial reinforcement can be achieved through:-

- (i) design that encourages people to gather in public space and to feel some responsibility for its use and condition;
- (ii) design with clear transitions and boundaries between public and private space;
- (iii) clear design cues on who is to use space and what it is to be used for. Care is needed to ensure that territorial reinforcement is not achieved by making public spaces private spaces, through gates and enclosures.

In this instance:-

- (iv) the design encourages people to gather in the common open space along the northern boundary and to feel some responsibility for its use and condition through high quality design and functionality;
- (v) the design provides clear transitions and boundaries between public and private space with well defined points of access; and
- (vi) the proposal has clear design cues on who is to use space and what it is to be used for through landscaping and clearly defined points of egress and ingress. Care has been taken to ensure that territorial reinforcement is not achieved by making public spaces private spaces, through gates and enclosures.

Surveillance

The attractiveness of crime targets can be reduced by providing opportunities for effective surveillance, both natural and technical. Good surveillance means that people can see what others are doing. People feel safe in public areas when they can easily see and interact with others. Would be offenders are often deterred from committing crime in areas with high levels of surveillance. From a design perspective, 'deterrence' can be achieved by:-

- (i) clear sightlines between public and private places;
- (ii) effective lighting of public places;
- (iii) landscaping that makes places attractive, but does not provide offenders with a place to hide or entrap victims

The shop top housing and residential flat building has been designed so as not inhibit natural surveillance (ie: block sight lines) nor provide concealment and entrapment opportunities.

It has been designed taking into consideration:-

- (i) the Australian and New Zealand Lighting Standard 1158.1 – *Pedestrian* which requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels; and
- (ii) vision and surveillance in the basement level car park areas

Access controls

Physical and symbolic barriers can be used to attract, channel or restrict the movement of people. They minimise opportunities for crime and increase the effort required to commit crime. By making it clear where people are permitted to go or not go, it becomes difficult for potential offenders to reach and victimise people and their property. Illegible boundary markers and confusing spatial definition make it easy for criminals to make excuses for being in restricted areas. However, care needs to be taken to ensure that the barriers are not tall or hostile, creating the effect of a compound. Effective access control can be achieved by creating:-

- (i) landscapes and physical locations that channel and group pedestrians into target areas;
- (ii) public spaces which attract, rather than discourage people from gathering; and
- (iii) restricted access to internal areas or high-risk areas (like car parks or other rarely visited areas). This is often achieved using physical barriers

In this instance,

- (i) all entry points (pedestrian and vehicle) are to be clearly signposted and identify the area as being private property; and
- (ii) pedestrian access markings on site where car park crossings are located will be clearly indicated

Space / Activity Management

Popular public space is often attractive, well maintained and well used space. Linked to the principle of territorial reinforcement, space management ensures that space is appropriately utilised and well cared for. Space management strategies include activity coordination, site cleanliness, rapid repair of vandalism and graffiti, the replacement of burned out pedestrian and car park lighting and the removal or refurbishment of decayed physical elements.

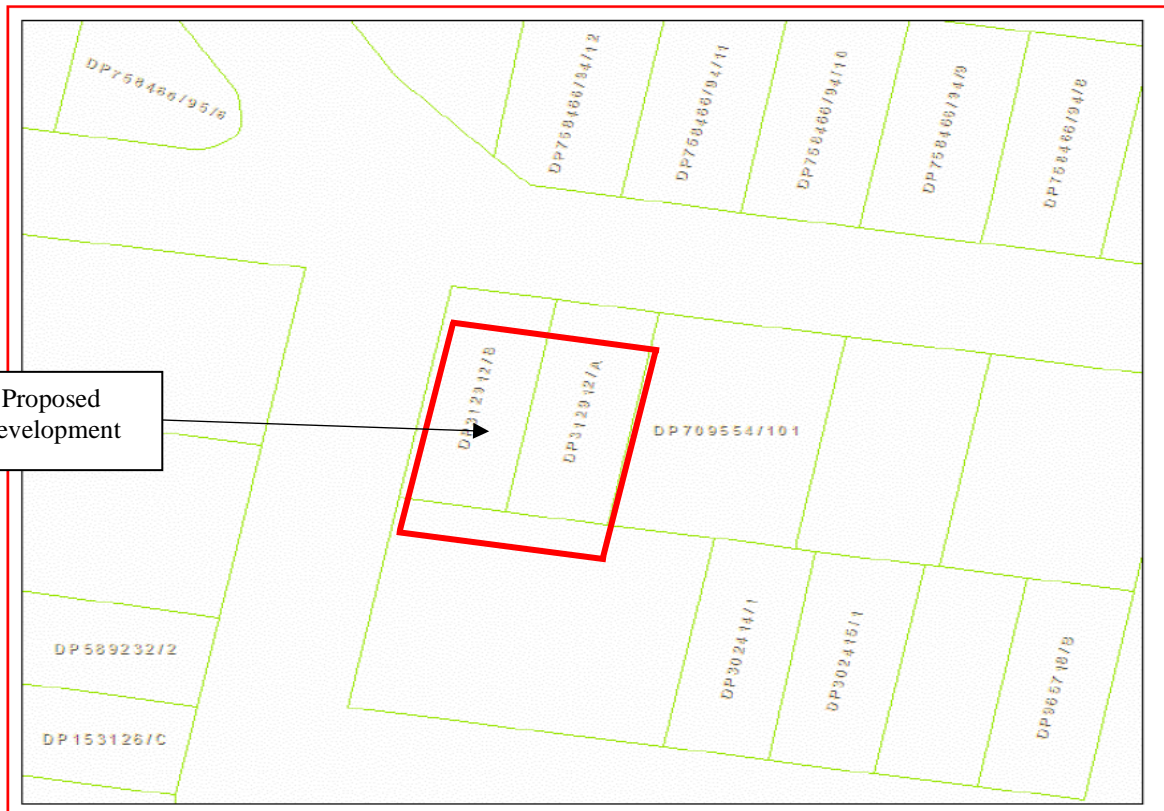
Directional signage is to be provided throughout the development. The signage is to be clear, legible and useful so as to aid way finding throughout the development (particularly around entry, car parking and pedestrian areas).

Gardens, hard walls, fencing and perimeter landscaping is to be well maintained. Any evidence of anti-social behaviour (eg: graffiti, malicious damage, broken lights etc) is to be cleaned, fixed, made good and replaced within 24 hours. A Maintenance Plan is to be prepared for the site. The garbage bin areas are to be always secured and kept clean.

19.13 Archaeological Effects

With regards to the potential impacts of site of archaeological significance, a search of the Office of the Environment and Heritage AHIMS Web Services has shown that:-

- (i) there are no aboriginal sites in or near the subject site; and
- (ii) there are no aboriginal places declared in or near the subject site (see **Figure 44**)



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

Figure 44

Map showing area of AHIMS Search

(image courtesy of the Office of the Environment and Heritage AHIMS Web Services)

19.14 Geotechnical Effects

The attached Preliminary Geotechnical Assessment & Preliminary Site Investigation of Contamination prepared by Douglas & Partners addresses the geotechnical impacts of the proposed development. Douglas Partners Pty Ltd was engaged by Australian Luxury Living to complete the preliminary geotechnical assessment (PGA) and preliminary site investigation for contamination (PSI) undertaken for a proposed residential unit development.

The objective of the PSI is to assess the potential for contamination at the site based on past and present land uses and to comment on the need for further investigation and / or management with regard to the proposed development.

19.14.1 PSI Conclusions and Recommendations

Based on the findings of the PSI, Douglas Partners considers that there is generally a low potential for contamination given the past mainly residential use. Some potential contamination sources were identified (refer Table 3, Section 9 of the Report) including fill and former and current buildings.

The site would generally be considered compatible (from a site contamination perspective) with the proposed residential unit development given that most of the site would be excavated for the proposed two basement levels. Based on review of the limited site history information and the walkover, the site appears to generally have a low potential for contamination, and would generally be compatible with the proposed development (from a site contamination standpoint), subject to completion of the following assessments:-

- (i) **Existing Structures:** A pre-demolition hazardous building material survey in accordance with SafeWork NSW requirements is recommended to be conducted by an appropriately qualified occupation hygienist prior to the demolition of the existing structures. All demolition work should be undertaken by a licenced demolition contractor and a clearance certificate provided by an occupational hygienist for the ground surface post demolition;
- (ii) **Soil:** An intrusive soil investigation with associated contamination sampling should be conducted to confirm the assessed low potential for contamination. Given that part of the site is covered in tall grass and given there is a residential property present on part of the site, DP consider it would be appropriate to conduct the intrusive soil investigation following stripping of the vegetation and demolition of the existing structure; and
- (iii) **Groundwater:** Should the results of the soil investigation indicate signs of contamination; groundwater testing may be recommended. Any soil removed from the site must be waste classified prior to disposal to a licensed facility as detailed in Section 11.3.2.

19.14.2 Geotechnical Comments

In relation to expected ground conditions, Douglas Partners have determined that based on a review of the available information the subsurface conditions are likely to comprise medium and high plasticity residual clay soils derived from the in situ weathering of the parent Terrigal Formation rock layers. Such soils usually range in consistency from firm through to hard, with the firm soils tending to be relatively limited in depth and areal extent, and usually associated with waterlogged zones. The upper layers of the Terrigal Formation tend to be highly weathered, and often include completed weathered layers that have soil properties. As such, rock strengths can vary markedly throughout the rock profile.

With regards to groundwater conditions, Douglas Partners have determined that given excavations are proposed, and groundwater is likely to be encountered, then appropriate shoring and dewatering measures will be required.

Generally, seepage rates through the Terrigal Formation and overlying residual soil profile would be expected to be relatively low, and likely able to be managed by pumping from localised sumps within the excavation. Monitoring of the groundwater collected will be required prior to disposal.

20.0 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

It is prudent to take into consideration the principles of ecologically sustainable development as required in the management and development of the area. These comments are in accordance with the *New South Wales (Australia) Local Government Amendment (Ecologically Sustainable Development) Act 1997* and partly addresses the Performance Criteria in the DCP.

Effective integration of economic and environmental considerations is recommended in decision making processes through the implementation of the following processes:-

- (i) *The Precautionary Principle – namely, if there are threats of serious or irreversible environmental damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*

The site is cleared of native vegetation with the property occupied by a single storey rendered building with tile roof (Lot B) with Lot A being vacant. The property has been continuously used for residential purposes since the middle of last century to establish a long-term residential presence in the locality. This has been supported by a range of surrounding residential activities within an area that is in transition from atypical detached residential housing to medium and high density living. All existing site improvements are to be removed to accommodate the proposed development. There are no identified threats that would cause serious irreversible environmental damage nor any lack of scientific certainty in relation to the development.

- (ii) *Inter-generational Equity – namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.*

The proposed residential building has been designed in accordance with all current engineering and environmental regulations and to such a standard that the local environment will be protected both during construction and because of its ongoing operation. The development will also create both short and long term employment opportunities and create a mix of high quality residential accommodation that will specifically benefit younger families and professionals within the City Centre precinct. Therefore, the health, diversity and productivity of the environment will not be adversely affected by the proposed residential development.

- (iii) *Conservation of Biological Diversity and Ecological Integrity – namely, that the conservation of biological diversity and ecological integrity should be a fundamental consideration.*

As the property has been fully developed for residential purposes for over 50 years, the subject land has been significantly modified and degraded compared to its natural state.

Therefore, the application for the proposed residential building will not have any appreciable effect on the biodiversity or ecological integrity of the area.

21.0 CONCLUSION:

The proposed residential development is recommended to the NSW Department of Planning and Environment (DPIE) on the basis that it:-

- (i) it is permissible in the Zone R1 – *General Residential* under State Environmental Planning Policy (Gosford City Centre) 2018;
- (ii) will provide much needed residential accommodation that will service the local community and the West Gosford precinct;
- (iii) can be fully serviced with a range of utilities;
- (iv) has direct access to Gosford Rail Station and the city centre precinct; and
- (v) is easily accessible to the local community.

22.0 LIMITATIONS:

Wales & Associates Urban Design Partners (WA) has prepared this report for a project at #53-55 Donnison Street at West Gosford in accordance with instructions of VLZ Constructions Pty Limited and Australian Luxury Living Pty Limited. The report is provided for the exclusive use of VLZ Constructions Pty Limited and Australian Luxury Living Pty Limited for this project only and for the purpose(s) described in the report. It should not be used for other projects or by a third party. In preparing this report WA has necessarily relied upon information provided by the client and/or their agents. WA's advice is based upon the information supplied and encountered during this assessment. The accuracy of the advice provided by WA in this report may be limited by undisclosed information provided by other sub-consultants.

The advice may also be limited by budget constraints imposed by others or by site accessibility. This report must be read in conjunction with all the attached notes and reports and should be kept in its entirety without separation of individual pages or sections. WA cannot be held responsible for interpretations or conclusions made by others unless they are supported by an express statement, interpretation, outcome or conclusion given in this report. Please contact the undersigned for clarification of the above as necessary.



18th January 2022

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Matthew Wales
Director – Wales & Associates Urban Design Partners

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Date

END

REFERENCES

The following documents were referenced:-

- (i) New South Wales Government (1979) Environmental Planning & Assessment Act (as amended);
- (ii) New South Wales (Australia) Local Government Amendment (Ecologically Sustainable Development) Act 1997;
- (iii) State Environmental Planning Policy (Gosford City Centre) 2018;
- (iv) State Environmental Planning Policy No. 65 – Design Quality;
- (v) State Environmental Planning Policy (Coastal Management) 2018;
- (vi) State Environmental Planning Policy (BASIX);
- (vii) Draft State Environmental Plan (Design and Place);
- (viii) State Environmental Planning Policy (Resilience and Hazards) 2021;
- (ix) Gosford Local Environmental Plan 2014;
- (x) Gosford City Centre Development Control Plan 2018;
- (xi) Planning for Bush Fire Protection 2019; and
- (xii) Department of Planning Apartment Design Guide