

# REPORT TO HUNTER & CENTRAL COAST JOINT REGIONAL PLANNING PANEL

**TITLE** JRPP 2009HCC016  
**DEVELOPMENT APPLICATION NO.** 37907/2009 PART 1  
**APPLICANT:** DOUG SNEDDON PLANNING PTY LTD  
**PROPOSED:** MEDICAL CENTRE (HEALTH SERVICES FACILITY) (JRPP) ON  
**LOT:** 10 DP: 612457, 12 JARRETT STREET NORTH GOSFORD  
**Directorate:** Environment and Planning  
**Business Unit:** Development

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*The following item is defined as a planning matter pursuant to the Local Government Act, 1993 & Environmental Planning & Assessment Act, 1979.*

## EXECUTIVE SUMMARY

### Background

At its meeting held 13 May 2010 the JRPP resolved as follows:

*The determination of the proposal be deferred to a subsequent JRPP meeting at the earliest practicable opportunity and the applicant and Council be requested, respectively, to respond to the following matters:*

**Applicant:** to address the following concerns expressed by the JRPP, where relevant through amendment of the DA proposal or otherwise through written responses, for the JRPP's consideration:

1. Landscaping and lack of deep soil planting;
2. Urban design, articulation and materials;
3. Relationship with surrounding buildings and streetscape, including southern neighbour; and
4. Car parking provisions, including comparative rates, and drop-off arrangements.

**Council:** to address the following matters in a further report to the JRPP:

1. Clarification of the submission by the General Manager of Council, in terms of how it represents the Council's assessment of the DA, and that the GM or his representative be invited to address the JRPP when the DA is reconsidered by the JRPP;
2. Provide all information relevant to the assessment and determination of the application;
3. Provide information on the background of the Draft LEP controls for the site, and any submissions received directly relating to the changed controls for the site, as well as details of any strategic studies undertaken to support these changed controls;
4. Provide information on the appropriate car parking rates and comparisons relating to the proposed development;
5. Assessment of the SEPP 1 objection considering the "5 ways of establishing that compliance is unreasonable or unnecessary" under *Wehbe v Pittwater Council*; and
6. In the event of a recommendation for refusal, draft conditions of consent be provided on a without prejudice basis.

## REPORT

A. The applicant's submission in response to issues raised by the JRPP is attached as "Attachment C".

B. Council's response to the matters raised by the JRPP is as follows:

**1. Clarification of the submission by the General Manager of Council, in terms of how it represents the Council's assessment of the DA, and that the GM or his representative be invited to address the JRPP when the DA is reconsidered by the JRPP.**

The revised planning report (**Attachment A**) and submission presented by the General Manager represents the position of Council.

The General Manager or his representative is available to attend the next JRPP meeting upon request.

**2. Provide all information relevant to the assessment and determination of the application.**

Refer revised report and attachments.

**3. Provide information on the background of the Draft LEP controls for the site, and any submissions received directly relating to the changed controls for the site, as well as details of any strategic studies undertaken to support these changed controls.**

In relation to Point 3 of the resolution, Council's Integrated Planning section has provided the following background information with respect to the draft LEP controls for the site:

- i. Council endorsed the proposed comprehensive citywide DLEP in May 2008 and submitted it during the s64 stage of processing to the Department of Planning in the same month.

In respect of the subject site, it was proposed to be zoned to the equivalent zone, height and floor space ratio i.e. Residential General R1, 11m and 0.85:1 (respectively).

- ii. Draft Gosford LEP 2009

- Department of Planning issued a Section 65 Certificate on 13.1.10
- DLEP exhibited February to 5 May 2010
- Subject site proposed in DLEP as:  
Zone - SP2 Infrastructure (Health Services Facility)  
FSR - 2:1  
Height of Building - 11.5m
- No strategic studies underpinned Council considerations (i.e. report on S65 Certificate for Proposed Draft Gosford LEP 2009 to Council 1.12.09)
- The consideration of this matter also resulted from discussions with the Department of Planning.
- The DLEP 2009 affectations emanated directly from a report of Director Environment Planning to Council on 1.12.09 (see following excerpt, which includes the applicant / proponent's submission, recommendation and resolution):.

*"No.12 Jarrett Street Lot 10 DP 612457 North Gosford...*

*Discussions have taken place with the Department of Planning concerning the opportunities for the provision of expanded health facilities on a site adjoining the North Gosford Private Hospital.*

*The Department of Planning has indicated its desire to progress consideration of the expansion of this facility and has indicated to Council that the Department of Health is supportive of the proposal.*

*Hospitals are permissible in residential zones and North Gosford Private Hospital is zoned residential currently. The Department of Planning's Practice Note for Infrastructure directs that hospitals should be zoned to SP 2 - Hospital. The subject site is not owned by the Hospital. "*

The applicant has provided the following justification for the proposal:

*"North Gosford Private Hospital located on Lot 1 DP 1064130, No. 9 Burrabil Avenue, North Gosford (Owner - Sandhurst Trustees Limited – Healthcare North Gosford) is currently undergoing a refurbishment and expansion program of the existing private hospital originally established in the 1980's.*

*The existing hospital currently has a floor area of 13,419m<sup>2</sup> and Gosford City Council has recently granted approval to a number of development applications for refurbishment, including a roof top extension of professional consulting rooms.*

*The principal hurdle currently being experienced in expanding medical services in the North Gosford Hospital Precinct is the limited opportunity available to expand the site area of the precinct; the inappropriateness of the existing 2(c) Residential zoning applying to the site under the Gosford Planning Scheme Ordinance; and the limiting nature of the existing floor space ratio control of 0.75:1 applicable under the Residential 2 (c) zone. The zoning/permissible floor space ratio constraints currently applying to the precinct are proposed to be largely overcome by zoning the existing hospital site to SP2 Infrastructure (with a maximum permissible FSR of 2:1) under the soon to be publicly exhibited Draft Gosford City Wide Comprehensive LEP 2009.*

*Lot 10 DP 612457, No. 12 Jarrett Street, North Gosford, presents the only strategic opportunity within the block bounded by Henry Parry Drive, Burrabil Avenue, Jarrett Street and Etna Street, to be included within an expanded North Gosford hospital/medical precinct and redeveloped for hospital/medical centre purposes, as it directly adjoins the hospital precinct. The hospital precinct is otherwise prevented from expansion due to existing medium density residential development adjoining its boundaries.*

*It is proposed to develop a 'Neurosurgery Medical Centre "on Lot 10 DP 612457, which will provide six types of medical facility services, two of which will be unique to the Central Coast (i.e. Neurosurgery and Hyperbaric medicine, including provision of the only Hyperbaric Medical Chamber in NSW located outside the Prince of Wales Hospital).*

*The proposal requires the construction of a building comprising two medical floors (one of which is to be occupied by, and physically linked by connecting bridge to the adjacent hospital) having a gross floor area 2,546m<sup>2</sup> (floor space ratio of 1.47:1) and two car parking levels providing for 59 car spaces. Capital Cost is \$8.7m.*

*The existing 2 (c) Residential zoning of the land is inappropriate and fails to recognize that the appropriate long term use of the site is for the provisions of medical services to the community, operating as part of the North Gosford Private Hospital Medical Precinct. It is also appropriate for the boundary of the Gosford City Centre planning district to be amended to incorporate the North Gosford Hospital Medical Precinct, as supported by The Gosford Challenge 'Charrette'.*

Council has been advised by the Department of Planning of a number of actions to progress this matter. The first action is to consider the inclusion of the proposed rezoning of 12 Jarrett Street North Gosford in the draft Gosford LEP 2009 so that it can be considered as part of the public exhibition of the plan. This action will progress the matter but still allow the public and Council to further review the proposal.

The Report of Director Environment Planning to Council on 1 December 2009 made the following recommendation:

- A The proposed Draft Gosford LEP 2009 & proposed Draft Gosford DCP 2009 be endorsed for public exhibition ..., and*
- I Council resolve to include in the public exhibition of the draft Gosford LEP 2009 the rezoning of Number 12 Jarrett Street Lot 10 DP 612457 North Gosford to SP2 Hospital and the corresponding height and floor space maps be altered to reflect that of the adjoining North Gosford Private Hospital.*

**Attachment D** contains a copy of the full Council Resolution

iii. Review of all public submission of the Draft Gosford LEP 2009

- As the close of submission on 5 May 2010, approximately 1,503 submissions have been registered with an additional 23 late submissions received.
- A review of all submissions and late submissions has indicated Council has received one (1) submission in support of the draft Gosford LEP 2009, to rezoning Number 12 Jarrett Street Lot 10 DP 612457 North Gosford to SP2 Hospital.

**4. Provide information on the appropriate car parking rates and comparisons relating to the proposed development.**

Refer "**Attachment A**": Revised Report - Car Parking Provision

**5. Assessment of the SEPP 1 objection considering the "5 ways of establishing that compliance is unreasonable or unnecessary" under *Wehbe v Pittwater Council*.**

Refer "**Attachment A**": Revised Report - SEPP 1 Objection

**6. *In the event of a recommendation for refusal, draft conditions of consent be provided on a without prejudice basis.***

Refer "Attachment B": Draft Conditions of Consent.

<b>Attachments</b>	A	Revised Planning Report
	B	Draft Conditions of Consent
	C	Applicant's Submission dated 9 June 2010
	D	Notice of Council Resolution: Council Meeting – 1 December 2009 Report on S65 Certificate for Proposed Draft Gosford LEP 2009
	E	Final Plan Set
	F	Applicant's SEPP 1 Objection

<<Insert Attachment Link/s Here >>

## **ATTACHMENT A - Revised Planning Report**

### **REPORT TO HUNTER & CENTRAL COAST JOINT REGIONAL PLANNING PANEL**

**TITLE**            **DEVELOPMENT APPLICATION NO. 37907/2009**  
**APPLICANT: DOUG SNEDDON PLANNING PTY LTD**  
**PROPOSED: MEDICAL CENTRE (HEALTH SERVICES FACILITY) ON LOT:**  
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## **EXECUTIVE SUMMARY**

### **Reason for Referral to Joint Regional Planning Panel**

The proposal comprises health services facilities which has a capital investment value of more than \$5M and is classified as regional development under Part 3, Clause 13B(B)(2) of State Environmental Planning Policy (Major Developments) 2005.

### **Application Received**

Original application: 18 December 2009  
Amended Plans (Issue E) received: 30 March 2010 and 8 April 2010 - plans considered by JRPP at its meeting held 13 May 2010.  
Amended Plans (Issue C) received: 9 June 2010

### **Proposal**

Medical Centre (Health Services Facility)

### **Zone**

Residential 2(c)-GPSO

### **Area**

1748m<sup>2</sup>

### **City Vision 2025**

Although not a statutory plan, the proposal is consistent with the City Vision.

### **Public Submissions**

Four (4)

### **Pre-DA Meeting**

A Pre-DA Meeting was held on 10 April 2008

### **Political Donations**

None Declared

### **Relevant Statutory Provisions**

- 1 Environmental Planning & Assessment Act, 1979 – Sections 79C and 79BA
- 2 Local Government Act 1993 – Section 89
- 3 State Environmental Planning Policy No 1- Development Standards
- 4 State Environmental Planning Policy No. 71 - Coastal Protection
- 5 State Environmental Planning Policy (Major Developments) 2005
- 6 Gosford Planning Scheme Ordinance - Clauses 10, 29B
- 7 Draft Gosford LEP 2009
- 8 Development Control Plan 106 - Site Waste
- 9 Development Control Plan 111 - Car Parking
- 10 Development Control Plan 165 - Water Cycle Management
- 11 Development Control Plan 128 - Public Notification of Development Applications
- 12 Development Control Plan 59 - Character

### **Key Issues**

- 1 Background
- 2 The Proposal /Amended Plans
- 3 The Site and Locality
- 4 Gosford Planning Scheme Ordinance: Permissibility, Zoning, Clause 29B Floor Space Ratio
- 5 SEPP 1 Objection - Maximum Floor Space Ratio
- 6 Objectives of Zone
- 7 Character
- 8 Car Parking
- 9 Traffic Impact/Comments RTA
- 10 Tree Removal and Landscaping
- 11 NSW Rural Fire Service Comments
- 12 Draft Gosford LEP 2009
- 13 Climate change and sea level rise
- 14 SEPP 71 - Coastal Protection
- 15 Public Submissions

### **Recommendation**

Approval

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## **REPORT**

### **Background**

The proposal was discussed at a Pre DA meeting held on 10 April 2008. Development Application 35952/08 was originally lodged for a medical centre comprising a building with a gross floor area as defined under the GPSO of approximately 2546m<sup>2</sup> and a site area of 1748m<sup>2</sup>. In the assessment of the proposal, Council's assessment staff considered that the use of SEPP 1 - Development Standards to vary the minimum site area requirement prescribed by the GPSO was inappropriate and the application was recommended for refusal.

Prior to determination of the application, the applicant was provided with the opportunity to address the grounds for refusal and amended plans were submitted on 11 May 2009. The changes to the design of the proposed medical centre included the reduction of the floor area by the deletion of the top floor level. The lower car park level was also deleted. The proposed medical centre as amended comprised a ground floor car park level containing 27 car parking spaces (including 2 disabled spaces), ambulance bay and a plant room. The first floor level contained the health care facilities (hyperbaric medicine, ultrasound room, pathology laboratory, radiology department and tenancy), having a gross floor area (excluding external walls) of 1204m<sup>2</sup>. This represented a floor space ratio of 0.69:1 which complied with the maximum FSR requirement of 0.75:1 under Clause 29B of the GPSO.

Council approved DA 35952/08 for a "Day Surgery - Medical Centre" at No 12 Jarrett Street, North Gosford on 18 May, 2009, subject to conditions.

### **The Proposal**

The applicant has advised that the approved development (Development Consent 35952/2008) proved to be economically unviable and failed to provide sufficient floor area to meet the needs of the specialist medical practitioners and hospital's floor area requirements. As a result, the applicant has essentially resubmitted the original proposal which was previously recommended for refusal by Council.

The applicant has submitted amended plans in response to matters raised by the JRPP at its meeting held 13 May 2010. The revised proposal will have a total gross floor area of 2,531m<sup>2</sup>.

Clause 29B of the GPSO provides that any non-residential building erected within the 2(c) residential zone shall not exceed a floor space ratio of 0.75 while this application proposes an FSR of 1.45:1.

The proposed medical centre will comprise a building with four levels including two levels of car parking (52 car parking spaces). Parking areas will include a number of plant and store rooms and will be situated partly below and partly above natural ground level and will be accessed from Jarrett Street. The third level (ground floor) will contain a hyperbaric medicine area, ultrasound room, pathology laboratory, radiology department and amenities. The fourth level (first floor) will contain a day surgery. Details of the fit out and number of beds for the day surgery have not been provided. No overnight or inpatient accommodation is proposed.

The applicant has indicated that: *"The proposed development will provide specialist medical services not currently available to the residents of the Central Coast and expanded private hospital facilities for the community. For example, the Hyperbaric Medical Chamber which will be principally for the treatment of cancer patients will be only the second such facility in NSW".*

The proposal will require the demolition of existing buildings and the removal of all trees on the site to accommodate the development with replacement tree planting and landscaping proposed.

The proposed development has been submitted as an integrated development however the proposal is not a special fire protection purpose and does not require separate approval from the NSW Rural Fire Service. The RFS have instead provided an assessment under Section 79BA of the Environmental Planning and Assessment Act 1979.



## **Amended plans submitted 9 June 2010**

Amended plans were submitted on 9 June 2010 in response to matters raised by the Panel and proposed changes based on comparison with previous plan set Issue E (considered by JRPP at its meeting held 13 May 2010) are as follows:

### DA03 - Upper car park level plan

- The footprint of the building has been slightly reduced in area (8.4m<sup>2</sup>) with a step in the facade at the south east corner.
- The side building setback to the northern boundary has been reduced by 650mm extending the building footprint towards this boundary.
- The required setback to the sewer manhole (northern boundary) has been reduced from 2m to 1.35m and does not comply with Council's guidelines for "Building Over or Near Council Sewer and Water Mains.
- Car parking spaces 1-3 and 12-14 are marked as time limited drop off/pick up parking restricted for use by those accompanying day surgery patients.
- Pedestrian footpath, door entry and roller shutter door to car park provided for after hours security.
- Driveway width increased by 63mm and roller door fitted.
- Ambulance bay increased in width to 5.1m.

### DA.04 - Lower car park level plan

- Same as previous plan apart from minor amendment to building footprint SE corner (8.4m<sup>2</sup>).

### DA.05 - Ground floor plan

- Floor area of individual medical rooms have all been increased in size as a result of internal floor changes and reduced building setback to northern boundary from 2.519m to 1.669m.
- Slight reduction in gross floor area from 1273m<sup>2</sup> to 1265.25m<sup>2</sup>
- Setback to sewer manhole reduced from 2m to 1.15m a cantilevered ground floor slab soffit (2.5m<sup>2</sup> in area) has been provided to provide clearance to sewer manhole NW boundary - referred to by applicant as "small balcony" NW corner.
- Minor change to entry arrangement, retaining wall and garden planter at frontage which extends to front boundary.
- Balcony (1.4m wide) added to NE corner of building having an area of 18m<sup>2</sup>.

### DA.06 First floor plan

- Slight reduction in gross floor area from 1273m<sup>2</sup> to 1265.25m<sup>2</sup>
- Setback to northern boundary reduced 2.547m to 1.697m
- Minor balcony addition NE corner 18m<sup>2</sup>

### DA.07 - Section AA

- The northern side parapet has been lowered from RL 33.8 to RL 33.6m AHD by 200mm.
- Lower car park level raised from RL 19.7 to RL 20.3m AHD (600mm) and first floor ceiling level increased as a result from RL 31.4m AHD to RL 32m AHD.
- Roof top plant room reduced in size providing greater separation of topmost level of building from side southern common residential boundary from 2m to 8m reducing

overall height of building at side eastern boundary by 1.4m (top of parapet at boundary 33.6 previously RL 34.4m AHD). As a result the building presents a two storey 8m height from NGL to top of parapet at this boundary.

#### DA. 08 North and Jarrett Street elevations

##### Jarrett Street Elevation

- Sun shade awning structure which extended to 800mm off front boundary has been removed from front façade of building.
- Main entry amended and replaced with glazed entry canopy with stack stone cladding walls which extends to 3m off front boundary with raised landscape garden bed with retaining wall extending to boundary.
- Section of front external wall of building also finished with stack stone cladding to project 1m forward of main building façade with setback of 6.22m retained for main façade.
- 1.4m wide wrap round balcony added to north east corner of building.
- Main roof parapet height reduced by 1.55m from RL 34.55m AHD to RL 33.0m AHD.
- Floor to ceiling heights increased by 600mm from RL 31.4m to RL 32.0m AHD.

##### North Elevation

- Sun shading side awning structure removed.
- Balcony added ground and first floor NW corner and recess in façade SW corner.
- Textured finish to ground level block work wall provided.
- Main parapet height reduced RL 34.55m AHD to RL 33.0m AHD 34.55m to 33m.

#### DA.09 - South and west elevations

##### South elevation

- Top parapet height reduced by 1.55m.
- Window glazing first floor level reduced on southern elevation.

##### West elevation

- Rear doors added to provide access upper car park level from rear of site.
- Main parapet height reduced.

#### **The Site and Locality**

The subject site comprises Lot 10 DP 612457 and is located at 12 Jarrett Street, North Gosford. The site has an area of 1,748m<sup>2</sup>, with a frontage of 38 metres and a depth of 46 metres and is currently occupied by a single storey fibro dwelling and detached garage with large garden surrounds and mature trees present on the site. A sewer line crosses the western side of the property.

Immediately adjoining the site is a one to two storey medical centre to the north, a medium density residential development known as "Ashwood Grove" to the south, low density detached housing to the east and North Gosford Private Hospital to the west. . **(Refer Figure 1: aerial photograph and Figure 2: streetscape view)**



**Figure 1 - Aerial Photograph showing subject site and surrounding development pattern.**



Subject Site

Subject Site



2(a) zoned land in Jarrett Street directly opposite site



**Northern end of Jarrett Street**  
**Figure 2 - Streetscape Views**

### Southern End of Jarrett Street

### Figure 2 - Streetscape Views

## Assessment

This application has been assessed using the heads of consideration specified under Section 79C of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans. The assessment supports approval of the application and has identified the following key issues which are elaborated upon for Council's information.

## Gosford Planning Scheme Ordinance

### Permissibility/Zoning

The current zoning of the subject land together with the adjoining hospital site is 2(c) Residential under the Gosford Planning Scheme Ordinance. A medical centre is permissible with consent in the 2(c) residential zone.



Figure 3 - Zoning Map

Zone	Floor Space Ratio
2(a)	0.5:1
2(b)	0.6:1
2(c), 2(d)	0.75:1
3(a), 3(b)	1:1
9(c)	0.25:1

Table 1 - Floor Space Ratio - Clause 29B(2) GPSO

Floor Space Ratio:

Clause 29B of the GPSO stipulates that the maximum floor space ratio (FSR) permitted in the 2(c) zone is 0.75:1 (i.e. 1311m<sup>2</sup> maximum floor area for the subject site area of 1748m<sup>2</sup>). The proposed building has a gross floor area of 2531<sup>2</sup> and a site area of 1748m<sup>2</sup>. This represents a floor space ratio of 1.45:1 or variation to the development standard of 93% - an excess of 1220m<sup>2</sup>.

### **Applicant's SEPP 1 Objection**

The applicant has submitted a SEPP 1 objection to vary the maximum floor space ratio development standard, with the following reasons in support of such request as summarised:

*"This SEPP 1 objection establishes that in respect to the proposed development of a Medical Centre/hospital on Lot 10 DP 612457, No. 12 Jarrett Street North Gosford, the need for strict compliance with the 0.75:1 floor space ratio development standard of clause 29B of the Gosford Planning Scheme Ordinance is both unreasonable and unnecessary for the following reasons:*

- *the objectives of the 2(c) Residential zone are achieved by the proposed development:*
- *the proposed development of a Medical Centre/Hospital on the subject land will be compatible with the established mixed health services institutional and residential character of the locality and will result in the use of the subject land for specialist medical and hospital purposes, which will provide the greatest public benefit to residents of the Central Coast.*
- *The proposed development will not have adverse impacts upon the natural environment or unreasonable impacts on neighbours: the existing 2(c) Residential zone is inappropriate to the subject land as it does not recognise/reflect the unique location of the subject land relative to the adjoining hospital medical precinct and that the land offers the only opportunity for expansion of the hospital precinct and consequently any requirement for strict compliance with the 0.75:1 floor space ratio development standard in this case would be unreasonable or unnecessary : Wehbe at (48);*
- *Gosford City Council recognises that the existing 2(c) Residential zoning and the accompanying 0.75:1 floor space ratio are inappropriate to the subject land and has consequently resolved to include the rezoning of the subject land to SP2 Infrastructure (hospital) in the public exhibition of draft Gosford LEP 2009 within which a maximum floor space ratio of 2:1 is to be permitted:*
- *the proposed development is consistent with State, regional and local planning strategies for the provision of social infrastructure to accommodate a regional population increase off 100,000: and*
- *having regard to the above factors, there is no purpose or public benefit to be derived in this case by strictly applying the development standard: Wehbe at (43)."*

A detailed SEPP 1 Objection prepared by the applicant is attached to this report as **Attachment F**.

### Assessment Comment

State Environmental Planning Policy No 1 - Development Standards provides that a development standard contained within an environmental planning instrument may be varied where objection is well founded and where strict compliance with those standards would in a particular case be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.

In deciding whether to consent to the variation of development standards in a particular case, the consent authority should examine whether the proposed development is consistent with the State, regional or local planning objectives for the locality, and in particular whether the underlying purpose of the development standard will be achieved despite the proposed variation.

Assessment of the SEPP 1 objection to the maximum floor space ratio development standard as stipulated under clause 29B of the Gosford Planning Scheme Ordinance has been considered and applied the "*underlying object test*" using the 5 part test suggested in *Winten Property Group Limited v North Sydney Council* (2001) 130 LGERA 79 as follows:

"Is the planning control in question a development standard"?

Clause 29B of the GPSO is a numerical development standard for the purposes of SEPP 1- Development Standards, and may be varied by the consent authority pursuant to the provisions of the Policy.

"What is the underlying objective or purpose of the development standard"?

The Gosford Planning Scheme Ordinance does not contain stated objectives for the development standard. Nevertheless, it is considered that the underlying intent of the maximum FSR requirement is to control density and resulting building bulk, size and scale of development consistent with the desired character and zone objectives for the immediate locality.

It is considered that the proposal is consistent with the underlying objectives of the standard for the following reasons:

- The proposed amendments to the design have reduced overall building height (top of parapet) with the medical centre presenting largely as a two storey building to the street frontage and common southern residential boundaries. The northern and western elevations presents as a three storey development with the upper basement car park level elevated above natural ground level.
- Streetscape appearance and building articulation has been improved with feature stone stacked walls and balcony areas incorporated into the design, providing visual relief to the massing of the north elevation.
- The proposal raises no significant amenity impacts on adjoining developments in terms of loss of views or solar access. Privacy issues have been addressed by limiting glazed windows on the first floor southern building façade which adjoins residential development.
- The overall height and bulk of the proposed building is not considered excessive and proposed landscaping provision and required street tree planting at the frontage of the site will maintain consistency with the leafy character of the existing streetscape.

"Is compliance with the development standard consistent with the aims of the Policy and in particular does compliance with the development standard tend to hinder the obtainment of the objectives specified in Section 5(a)(i)(ii) of the Environmental Planning and Assessment Act?"

Clause 9 of the Department of Planning's Circular B1 states:

*"It is necessary to assess the likelihood of similar applications being made to vary the standard in the locality. Councils should consider whether the cumulative effect of similar approvals will undermine the objective of the standard or the planning objectives for the locality. If the council considers that it will do so, the application should be refused or a decision should be made not to approve others like it."*

In this instance, it is considered that approval of the proposal will not result in a cumulative impact and is unlikely to create pressure for development at a higher density or more intensive developments than that anticipated by strategic and character objectives for the locality. The

proposal will form part of a medical precinct and has been assessed on its individual merits having regard to the nature of adjoining developments. Accordingly, approval of the proposed development is unlikely to hinder the attainment of Section 5(a)(i) and (ii) of the EP&A Act 1979.

Council has resolved to include and rezone the subject land under the Draft LEP 2009 to Special Infrastructure (Health Services Facility). The draft plan has finished exhibition and as a consequence, the draft LEP becomes a valid head of consideration in assessing this application under Section 79C (1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

*"Is compliance unreasonable and unnecessary in the circumstances?"*

It is considered that compliance with the development standard is unreasonable and unnecessary in this instance having regard to the characteristics of the site and surrounding development.

The *Winten* test is only one of the possible ways to assess a SEPP 1 Objection. In response to matters raised by the JRPP, assessment of the SEPP 1 objection includes consideration of the "5 ways of establishing that compliance is unreasonable or unnecessary" under *Wehbe v Pittwater Council*.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston of the Land and Environment Court, set out a new 5 part test (see further below). He also rephrased the assessment process as follows:

1. The applicant must satisfy the consent authority that "the objection is well founded", and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
2. The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the *Environmental Planning & Assessment Act 1979*; and
3. It is also important to consider:
  - a. whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
  - b. the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

Preston CJ then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

4. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Where the grounds of objection are of a general nature and would be applicable to many sites in the locality, approval of the objection may create an adverse planning precedent. Preston CJ noted that there is a public benefit in maintaining planning controls and a SEPP 1 objection should not be used in an attempt to effect general planning changes throughout the area.

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;

#### *Assessment Comment*

The implied objectives of the maximum floor space ratio development standard FSR requirement is to control density and resulting building bulk, size and scale of development so as to achieve a development which is consistent with zone and character objectives for the locality and ensure buildings have appropriate landscaped areas, setback and site coverage.

As a result of further amendment to the proposal, the perceived height of the building has been reduced with the lowering of the roof line and parapet heights and reduction in the size of the rooftop plant room which has been moved inwards from the edges of the building to reduce perceived overall building height from the adjoining residential development to the south. The proposal now presents largely as a two storey building from the southern common residential boundary and a two to three storey building to the street frontage and other boundaries.

In addition, a greater level of articulation to the building façade has been achieved by varying external wall materials and finishes. Additional elements have been added to break up exterior wall massing with the inclusion of small balcony areas and a minor step in the façade SE corner, use of stone stacked cladding for section of the wall at the frontage and blockwork has been provided with a textured finish. These elements and additional soft landscaping at the frontage have provided a satisfactory streetscape appearance of the development, although the provision of broadside shrub and small tree plantings to offset visual bulk remains limited. Such plantings are not considered feasible in these locations due to the lack of deep soil planting areas on these boundaries and constraints posed by the relocation of the sewer. **(Refer Condition 5.10)**

The number and size of glazed windows first floor on the southern elevation of the building have been reduced to ensure adequate privacy for the adjoining residential units (Ashwood Lodge) and to minimise amenity impacts

Accordingly it is considered that the underlying objectives of the development standard have been achieved, despite the extent of non compliance with the numerical standard..

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

#### *Assessment Comment*

The objectives of the standard are considered relevant in ensuring resulting development is of an appropriate height and visual bulk relative to the characteristics of the site and surrounding



development, is consistent with desired character and zone objectives for the locality and results in no significant adverse impact on the amenity of adjoining residents in terms of loss of views, solar access or privacy. However, despite the extent of non compliance with the numerical standards, the proposal still achieves and is consistent with the underlying objectives of the maximum floor space ratio development standard, having regard to the nature of surrounding development.

- 3 The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

*Assessment Comment*

The underlying object or purpose is neither defeated nor thwarted by compliance with the maximum floor space ratio development standard.

- 4 The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

*Assessment Comment*

This reason is not relevant as the development standard has not been abandoned.

- 5 The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

*Assessment Comment*

The applicant contends in their SEPP 1 objection, that: *"the existing 2(c) residential zone is inappropriate to the subject land as it does not recognise/reflect the unique location of the subject land relative to the adjoining hospital medical precinct and that the land offers the only opportunity for expansion of the hospital precinct and consequently any requirement for strict compliance with the 0.75:1 floor space ratio development standard in this case would be unreasonable or unnecessary.... Gosford City Council recognises that the existing 2(c) Residential zoning and the accompanying 0.75:1 floor space ratio are inappropriate to the subject land and has consequently resolved to include the rezoning of the subject land to SP2 Infrastructure (hospital) in the public exhibition of draft Gosford LEP 2009 within which a maximum floor space ratio of 2:1 is to be permitted"*

It is agreed, the zoning of the land is inappropriate in this instance having regard to the nature of surrounding development in particular the site's proximity to North Gosford Private Hospital and if constructed the proposed medical centre will form part of an established medical precinct. The North Gosford Private hospital site is also zoned 2(c) residential and under the draft LEP, the hospital, adjoining medical centre and the subject site will be rezoned to SP2 Infrastructure (Health Services Facility) with a maximum permissible FSR of 2:1 for the zone.

Accordingly, the objection under SEPP No. 1 - Development Standards is considered to be well founded and adherence to the standard is unreasonable and unnecessary.

## **Objectives of Zone**

Clause 10(3) of the Gosford Planning Scheme Ordinance stipulates that consent must not be granted for development of land within the prescribed zone, unless the objectives of the zone

have been taken into consideration in conjunction with the objectives of the Local Government Act 1993, pertaining to Ecologically Sustainable Development.

An objective of the 2(c) zone is to ensure non-residential uses should be compatible with a medium to high density residential environment and afford services to residents at a local level and are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for high density residential uses.

In this instance, it is considered that the proposal is of an appropriate visual bulk and height, provide a satisfactory level of articulation and landscaping treatment at the street frontage and is thereby consistent with the stated objectives of the Residential 2(c)-zone.

### **Character**

Clause 10(4) of the Gosford Planning Scheme Ordinance stipulates that the Council must not grant consent for development unless it has taken into consideration the character of the development site and the surrounding area, where, for the purpose of this provision, character means the qualities that distinguish each area and the individual properties located within that area.

The application is subject to DCP 159 Character and is located in the North Gosford 3 Open Woodland Hillside area, but adjoins the North Gosford 9. Community Centres and Schools area.

*The character objectives for Places in North Gosford 3: Open Woodland Hillside is summarised as follows:*

*These should remain low-density residential areas where the existing scenic quality and amenity of prominent hillsides are enhanced substantially by further “greening”.*

*Maintain the semi-natural character of hillsides. Complement the established canopy by planting trees and shrubs that are predominantly indigenous throughout all garden areas and along street verges. Facing all boundaries, emphasise a leafy garden character by avoiding tall retaining walls, elevated structures.*

*In areas that are defined as bushfire prone, hazard must not be increased by inappropriate new plantings or structures.*

*Avoid disturbing natural slopes and trees by appropriate siting of structures plus low impact construction such as suspended floors and decks, rather than extensive cut and fill. Avoid the appearance of a continuous wall of development along any street or hillside by locating buildings behind front and rear setbacks similar to their surrounding properties, and providing at least one wide side setback or stepping the shape of front and rear facades.*

*Minimise the scale and bulk of buildings by stepping floor-levels to follow natural slopes and by using irregular floor plans to create well-articulated forms. Front or rear facades that are taller than neighbouring dwellings should be screened by balconies, verandahs, stepped forms or extra setbacks. Roofs should be gently-pitched to minimise the height of ridges, and flanked by wide eaves to disguise the scale of exterior walls.*

*Minimise the scale of prominent facades by using extensive windows and verandahs plus a variety of materials and finishes rather than expanses of plain masonry.*

Given the characteristics of the land, the nature of the proposed non-residential land use and the site's proximity to North Gosford Private Hospital, it is also appropriate to have regard to the desired character statement for immediately adjoining land - *North Gosford No 9: Community Centres and Schools*.

The following character objectives are of relevance to the proposal:

*These properties should continue to provide community, educational and recreation services according to the needs of their surrounding residential population. The scenic and civic qualities of prominent vegetated backdrops should be protected as well as enhanced.*

*Protect the habitat and scenic values of remnant bushland by retaining natural slopes and by avoiding further fragmentation of the tree canopy.*

*Ensure that new developments do not dominate their natural or landscaped settings, or their predominantly low-rise residential surroundings. Surround buildings with landscaped settings that maintain the scenic quality of prominent bushland backdrops or existing corridors of planted trees. Ensure that the height and siting of new structures also preserve levels of privacy, sunlight and visual amenity that are enjoyed by neighbouring dwellings and their private open spaces. Complement the bushland canopy by planting all setbacks, courtyards and parking areas with shrubs and trees that are predominantly indigenous. Along front boundaries, provide for surveillance and safety by planting hedges or using fences that are low or see-through. Promote high levels of visible activity around buildings by adopting elements of traditional "mainstreet" shopping villages, including extensive windows and building entrances that are located to reveal indoor activity. Incorporate footpaths, verandahs or colonnades to concentrate pedestrian access between clearly identified building entrances and surrounding streets or carparks.*

*Minimise the scale and bulk of new buildings and avoid the appearance of uniform building heights along any street by well-articulated forms. Divide floor space into separate pavilion structures that are surrounded by landscaped courtyards, and vary the shape and height of facades, particularly to identify major entrances. For visually-prominent facades, incorporate extensive windows that are shaded by framed verandahs or exterior sunscreens, and display some variety of materials or finishes rather than expanses of plain masonry or metal cladding. Roofs should be gently-pitched to minimise the height of ridges, and flanked by wide eaves or verandahs that disguise the scale of exterior walls.*

Following further amendments to the design of the proposal to improve articulation and reduce height of the building, it is considered that the proposal is consistent with the desired character objectives for the locality and will not detract from the existing streetscape.

### **Car Parking Provision**

The amended plans provide a total of 52 off-street car parking spaces comprising 30 car parking spaces (including 1 disabled space) within the lower level car park and 22 car parking spaces (including 2 disabled spaces) and ambulance bay within the upper level car park. A six metre driveway from Jarrett Street provides access to basement car parks. Car parking spaces 1 – 3 and 12 – 14 are marked as time limited drop off/pick up parking restricted for the use of day surgery patients. The number of staff and medical professionals attending the centre at any one time has also been reduced in number from 42 to 31.

Council's DCP 111 - Car parking stipulates the following car parking requirement for "professional consulting rooms and medical practices":

- *3 spaces per surgery or consulting rooms, plus 1 space for each professional practitioner and other staff present at any one time.*

The proposal as amended comprises the following rooms;

#### Ground Floor:

Radiology Department -529m<sup>2</sup>

Hyperbaric Medicine - 266m<sup>2</sup>

Ultrasound Room - 126m<sup>2</sup>

Pathology Laboratory -180m<sup>2</sup>

### First Floor

Day Surgery (3 theatre/surgeries and neurosurgery) - 1200m<sup>2</sup>

A total of 31 staff/professionals will be present at any one time.

The applicant has advised the following in relation to car parking provision:

*"In response to the request of the JRPP for supplementary information on car parking provision and drop-off arrangements, the requirement for on-site car parking and suitable drop-off arrangements have been further considered following more specific discussions with medical colleagues and prospective tenants.*

*The following revised analysis is provided of the maximum number of staff and patients present within the centre at any one time:*

	<b>Staff</b>	<b>Doctors</b>	<b>Patients</b>
Radiology	3	1	4
Hyperbaric	2	1	3
Pathology	2	-	2
(automated)			
Ultrasound	2	1	2
Neurosurgery	2	1	2
Day Surgery	10	6	8
(3 theatres)			
<b>Total</b>	<b>21</b>	<b>10</b>	<b>21</b>

*In summary, there will be 31 professionals/staff and 21 patients present within the centre at any one time. On the basis that the centre essentially comprises five (5) medical sections as indicated in the previously submitted traffic assessment and having regard to the above indicated staff numbers being present at any one time, the centre would generate a demand for 46 car spaces (i.e. 15 spaces for the 5 medical sections and 31 professional/staff spaces). The proposed development provides 52 spaces, thereby providing sufficient on-site car spaces to meet staff/patient demand."*

### **Assessment Comment**

In this instance, the rooms provided within the medical centre are not consulting rooms typical of professional consulting rooms and medical practices, but rather are rooms used for health and diagnosis services similar to those services offered by a hospital (i.e. hyperbaric chamber, ultra sound room, radiology department, pathology lab and day surgery comprising 3 operating theatres/surgeries and neurosurgery?) to people admitted as out patients. In addition, the sizes of the proposed rooms are significantly larger than those which would normally be considered typical of professional consulting rooms and medical practices. For instance, the radiology department has a floor area of 529m<sup>2</sup> and the day surgery has an area of 1200m<sup>2</sup>. As indicated by the applicant's estimates, the day surgery will have 3 operating theatres, 10 staff, 6 doctors and 8 patients and neurosurgery 2 staff 1 doctor and 2 patients at any one time and should therefore not be calculated as one consulting room.

Full fit out details for these areas have not been provided and it is not considered appropriate to apply the rate applicable to professional consulting rooms and medical practices for this type of health care facility by calculating each medical section including the day surgery as one consulting room each. It is also uncertain whether the neurosurgery forms part of the day surgery and whether this is in addition to the three operating theatres.

As such, further adjustments therefore need to be made if applying the car parking rate applicable to *professional consulting rooms*, under DCP 111- Car Parking. Such adjustments should reflect the likely number of staff/doctors and patients attending the facility at any one time evident by comparison with similar facilities

It is considered that the day surgery component is equivalent to three consulting rooms based on the number of operating theatres, staff and doctors. Therefore applying the rate applicable to professional consulting rooms based on the following calculations (i.e. 31 staff/professional practitioners = 31 spaces required + 4 consulting rooms and day surgery with 3 operating theatres = 21 spaces required, Total = 52 spaces), the proposal meets the car parking requirements under DCP 111.

*The applicant contends that:*

*"The proposed development has two particular operational features which distinguish it from the calculation of car parking rates required for facilities typically categorised as medical centres for the purposes of Gosford Development Control Plan 111 – Car Parking, and which effectively reduce the real demand for car parking in this case:*

- The proposed Day Surgery will contain three surgical theatres. As day surgery patients are 'fasted' and are not allowed to drive after their treatment, they do not generate a demand for car parking as such, other than as required for short term patient 'drop-off' and 'pick-up' by family members or others. Similarly, the treatment of patients in the Hyperbaric medical suite does not generate a real demand for car parking as patients are typically dropped off and picked up later.*

*In consultation with the project traffic engineer, the project design has been modified to remove the driveway/porte cochere drop-off arrangement and to instead provide for patient 'drop-off' and 'pick-up' by allocating six (6) dedicated short term car space Nos. 1-3 and 12-14 on the upper car park level, located in close proximity to the lift which provides access to all floors. This will be sufficient to accommodate the programmed arrival/departure of patients and any overlap due to delayed departure/arrival times; and*

- The proposed development is a centre for Medical Specialists, not general practitioners and involves the timetabling of longer consultations per patient and more complex/longer investigations per patient than those typically provided in a 'general practice' medical centre. This consequently provides for a reduced demand for on-site car parking at any one time."*

*It is considered that the proposed on-site car parking and drop-off arrangements are appropriate to the operational requirements of the proposed Jarrett Street Specialist Centre and satisfy the rate of car parking required by Gosford Development Control Plan No. 111 in respect to Professional Consulting Rooms and Medical Practices."*

The analysis based on the applicant's *"more specific discussions with medical colleagues and prospective tenants"*, advises the maximum number of patients, staff and doctors present at any one time would be 52 people the same as the total number of car parking spaces provided by the proposal.

It is agreed that consultation time periods with patients would generally (but not always) be longer for this type of facility than those normally associated with a standard GP medical practice. The provision of six (6) short term time limited parking for pick up and drop of patients undergoing surgery may also lessen car parking demand. However this will require enforcement and monitoring that such spaces are correctly used.

Accordingly, it is considered that the proposal provides a satisfactory level of off street parking on the basis of additional information submitted by the applicant and subject to conditions of consent to limit number of staff and medical practitioner and surgeries. **(Refer Condition Nos. 5.4, 6.17 and 6.18)**

### **Traffic Impacts / RTA Comments**

The application was referred to the RTA having regard to the site's close proximity to North Gosford Private Hospital and other traffic generating developments including a school.

The RTA has raised **no objections** to the proposal, subject to conditions and submission of a traffic report to address a number of issues relating to the Impact of traffic generation on surrounding network, including cumulative impact of proposed / recently approved developments associated with North Gosford Private Hospital that have not yet been constructed, vehicle access, car parking, minimum sight-distance requirements and minimum sight lines for pedestrian safety and provision for service delivery and garbage collection.

The traffic report prepared by TPK and Associates, dated March 2010 addresses the issues raised in the RTA submission. The report concludes that the development will not have an adverse impact on the capacity of the surrounding road network in terms of intersection capacity, route capacity and local environmental traffic capacity.

### **Tree Removal and Landscaping**

The proposal will require the removal of all trees on the site to accommodate the development and the application was referred to Council's Tree Management Officer who raised no objection to their removal. Trees to be removed mostly consist of ornamental species such as Jacaranda and Camphor laurel. A few native trees were present consisting of Cheese trees.

The applicant has submitted a landscape plan on 8.4.2010 which provides four trees (rainforest varieties) along the frontage of the site comprising two Cudgerie with a height at maturity of 15 metres within the site boundaries and two street trees Eumundie Quandong 10m height at maturity. Lomandra grass plantings, dwarf Lilly Pilly and small shrubs are provided to side and rear boundaries within setback areas ranging in width from 0.8metres 1.8 metres. Amendments have also been made to the landscaped area at the frontage of the site which has been altered following changes made to the driveway arrangements. (Amended plan set Revision E dated 16.03.2010). Council's Tree Management Officer has raised **no objections** to replacement tree planting.

### **NSW Rural Fire Service**

The site together with the adjoining land containing North Gosford Private Hospital is identified as bush fire prone land. The application has been submitted as an integrated development and is accompanied by a *Bush Fire Assessment Report*, prepared by Conacher Environmental Group which advises that: *"proposed development is classified as a special fire protection purpose under Planning for Bush Fire Protection (RFS 2006) as the proposed medical centre may include a day surgery facility and will therefore contain anaesthetised patients"*. The RFS have previously advised that medical centres involving day surgery for out patients only (i.e. no persons staying overnight on the premises) do not fall within this definition of a "special fire protection purpose" and as such the application has been assessed under section 79BA of the *Environmental Planning and Assessment Act 1979*.

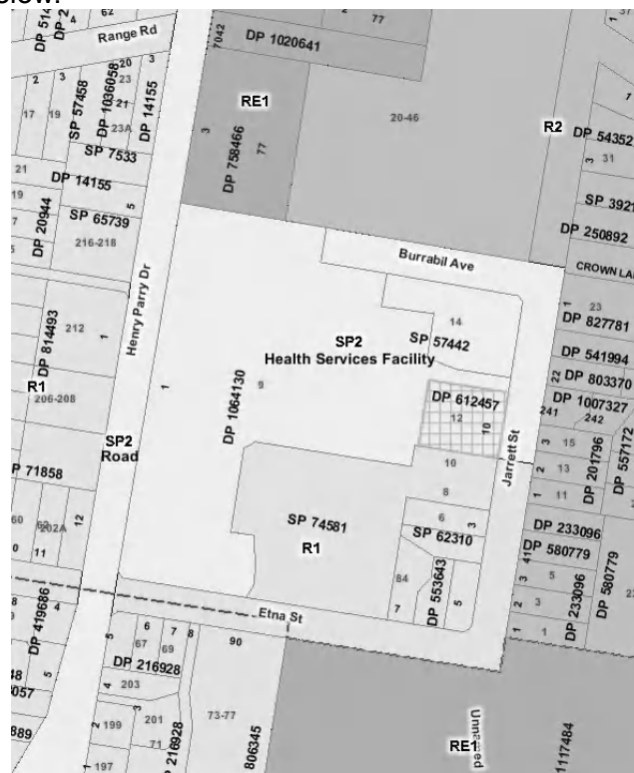
The NSW Rural Fire Service has assessed the proposal and has raised **no objections** to the proposal subject to compliance with conditions relating to required asset protection zones, water and utilities and landscaping. **(Refer Condition Nos. 3.10, 6.15 and 6.16)**

## Draft Gosford Local Environmental Plan 2009

Council has been advised by the Department of Planning that it and the Department of Health wish to support the process for establishment of the facility. The subject site was included in SP2 zone in December 2009 following representations made by the applicant, with Council resolving, at its meeting of 1 December 2009 to include within the draft Gosford LEP 2009, the necessary zoning and other planning controls that would permit the health services facility.

The draft Gosford LEP 2009, was placed on public exhibition from 10 February 2010 to 5 May 2010 and as a consequence, the draft LEP becomes a valid head of consideration in assessing this application under Section 79C (1)(a)(ii) of the Environmental Planning and Assessment Act 1979. Accordingly, the application has been assessed under the provisions of Draft Gosford Local Environmental Plan 2009 in respect to zoning, development standards and special provisions.

It is proposed under the draft LEP to rezone the site to SP2 Infrastructure (Health Services Facility) as indicated below:



**Figure 4: Draft LEP Zoning Map**

Under the draft plan, the maximum permissible FSR is 2:1 for the zone. A maximum building height of 11.5 metres (NGL to topmost point including lift over run) also applies to the subject land. The assessment concluded the proposal is consistent with the Draft Plan.

## Climate change and sea level rise

Climate change and sea level rise have been considered in the assessment of this application.

Climate change and sea level rise will be felt through:

- increases in intensity and frequency of storms, storm surges and coastal flooding;
- increased salinity of rivers, bays and coastal aquifers resulting from saline intrusion;
- increased coastal erosion;

- inundation of low-lying coastal communities and critical infrastructure;
- loss of important mangroves and other wetlands (the exact response will depend on the balance between sedimentation and sea level change); and
- impacts on marine ecosystems.

Internationally there is a lack of knowledge on the specifics of climate change and the likely impact it will have on the subject development. Government action may mitigate the impact of climate change and the question of sea-level rise may be able to be addressed through the construction of containment works or through Council's policies that may be developed over time.

In the absence of any detailed information at the present however, refusal of this application is not warranted.

### **SEPP 71**

The provisions of State Environmental Planning Policy (SEPP) No 71- Coastal Protection requires Council consider the Aims and Objectives of the SEPP together with the matters for consideration listed in Clause 8 of the SEPP when determining an application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the Department of Planning NSW. The subject property falls within the Coastal Zone.

The Aims and Objectives and the matters listed under Clause 8 have been considered and the application complies with the provisions of the SEPP.

### **Public Submissions**

Four (4) public submissions were received in relation to the application. Those issues associated with the key issues have been addressed in the above report. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979.

A summary of the submissions are detailed hereunder.

#### **1. Overdevelopment of the site with 84% of the site to be built upon, exceeds permissible floor space ratio.**

##### **Comment**

The proposal does not comply with the maximum floor space ratio requirement applicable to the development on 2(c) zoned land under Clause 29B of the GPSO. Accordingly the applicant has submitted a SEPP 1 objection to the development standard. In this instance it is considered that the development standard is unreasonable and unnecessary. **(Refer SEPP 1 Objection above).**

#### **2. The removal of all trees from the site, the lack of any outdoor areas for staff or patients.**

##### **Comment**

The applicant has submitted amended plans and landscape plan on 8.4.2010 which have increase landscaping provision particularly across the frontage of the site to include replacement tree plantings.



3. **Lack of parking.** The area already suffers a severe lack of parking for the private hospital. the traffic has increased dramatically, including truck deliveries to the hospital and medical centre, doctors, workers and patient's vehicles, as well as local residents vehicles, their visitor's, and deliveries.

Comment

Available on street parking in the vicinity of the hospital and school is limited during peak periods. The applicant has submitted additional information in relation to car parking provision and the number of staff has been reduced to achieve compliance with the car parking rate applicable to medical practices under DCP 111- Car Parking. On the basis of the information provided it is considered that sufficient on site parking is provided to service the development without impacting further on available parking within Jarrett Street and the adjoining Hospital.

4. **Calculation of car parking requirements.**

The applicant has calculated car parking requirements based on 3 car spaces per surgery or consulting rooms and 1 car space for each professional practitioner and other staff present. This is not appropriate for the development. The upper floor is a day surgery/Hospital and will have substantial numbers of nursing and paramedical staff. In addition anaesthetists, surgeons and associated medical staff will be working there and parking will be required for patients and their carers. I believe this formula is not applicable to this day hospital. The lower floor is dedicated to diagnostic procedures and not consulting rooms and hence the formula does not apply to this either. Both radiology, including ultra sound and pathology comprise over 800m<sup>2</sup>. These types of diagnostic facilities have a high volume of patients and carers visiting and the formula for consulting rooms is not applicable. The application does not mention how many beds the proposed day surgery will have.

Comment

The car parking rate under DCP 111- Car parking, applicable to professional consulting rooms and medical practices has been adjusted in relation to the day surgery component of the development. It is considered that as the day surgery will have three operating theatres, this component of the development is equivalent to three consulting rooms in terms of number of staff, doctors and patients in attendance and likely car parking demand generated. The applicant also contends that: *The proposed development is a centre for Medical Specialists, not general practitioners and involves the timetabling of longer consultations per patient and more complex/longer investigations per patient than those typically provided in a 'general practice' medical centre. This consequently provides for a reduced demand for on-site car parking at any one time.*

(Refer previous section of report - Car parking)

5. **Traffic.** The proposal will create a lot of extra traffic in the current peak times. Jarrett street, North Gosford is about 400m long and has approximately 67 houses/units, a Private Hospital, a large Specialists Medical Centre, a Kindergarten, a School, as well as a Red Bus route, add to that (after your approval), a day Surgery, and all the other departments on that new development application above.

This will increase the traffic, and parking space required by the new Doctors, technicians, workers and new patients, even with the limited car spaces provided by the developer.

**The traffic situation near the school gets very dangerous and frustrating just before and after school.**

Comment

The Traffic Assessment Report, prepared by TPK & Assoc., dated March 2010 advises the proposal will not have an adverse impact on the capacity or level of service of the surrounding road network. In addition, the RTA has no objection to the proposal.

**6. Jarrett Street does not have kerb and guttering along its entire length any approval of this development should include funding for road improvements.**

Comment

There is no existing kerb and gutter or concrete footpath across the frontage of the site. The adjoining properties (residential units on the southern side and North Gosford Private Hospital on the northern side) have existing kerb and gutter and concrete footpath across their street frontage in Jarrett Street. This site therefore forms a missing link for kerb and gutter and footpath in this section of Jarrett Street.

This development would be required to construct half road works, footway formation, and a concrete footpath across the full frontage of the site in Jarrett Street. **(Refer Condition 2.4)**

**7. External appearance badly designed building, impact on property values Unsympathetic to existing and surrounding development.**

Comment

Amendments to the design (i.e. balcony additions, varied external materials, stone stacked feature walls) have provided a greater level of articulation to the building. Additional landscaping treatment at the frontage of the site has improved streetscape presentation of the proposal.

**8. Relocation of the Sewer**

Comment

The proposed development is located over a sewer main. The sewer main will require relocation and suitable access provision to manholes, etc. The applicant has submitted details for the diversion of the sewer main plan, prepared by Ryan Consulting Group (Job No 08127 drawing SK01 Rev A dated 25.03.09) and amended plans on 30.3.2010 in response to sewer design issues. The amended plans provide for a step in the alignment of the south western corner of the building and a cantilevered ground floor slab in the north western corner of the building in order to provide the required 1.5m radial clearances to proposed sewer manholes.

The applicant advises the proposal allows 24 hour unobstructed/unrestricted pedestrian access to the proposed sewer manholes from the street front and the realignment of the sewer main is now wholly contained within the subject property. The land owner will be required to meet the costs of creating the new sewer easement and extinguishing the redundant easement which will be subject to conditions of consent.

However, recent plans submitted on 9 June 2010 have relocated the proposal closer to the side northern boundary and as a result the required 1.5m radial setback to the

proposed sewer manhole (northern boundary) is not provided and further redesign will be required. This has been incorporated as a condition of consent with details provided prior to CC. **(Refer Condition Nos. 2.2 and 2.9)**

**9. Unsafe location of vehicle access**

**Locating the entrance into Jarrett Street directly adjacent to the existing access (North Gosford Private Hospital/Jarrett Street Medical centre) is particularly hazardous.**

**Comment**

The traffic report advises that the traffic access off Jarrett Street will have adequate sight distance that is in accordance with AS2890.1 requirements.

**Conclusion**

The application has been assessed in accordance with the relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, relevant provisions under the Gosford Planning Scheme Ordinance, and DCP159 and DCP 111. The proposal is considered to be of an appropriate height and visual bulk despite non compliance with the floor space ratio development standard and is inconsistent with the desired character and zone objectives for the locality.

The SEPP 1 objection to the floor space ratio development standard as prescribed under Clause 28B of the GPSO is considered to be well founded and accordingly, the proposal is recommended for approval.

**RECOMMENDATION**

- A The Joint Regional Planning Panel as consent authority grant consent to Development Application No. 37907 for Medical Centre (Health Services Facility) on LOT: 10 DP: 612457, No 12 Jarrett Street NORTH GOSFORD, subject to draft conditions of Consent **(Refer Attachment B)**.
- B The applicant be advised of the JRPP's Councils decision and of their right to appeal to the Land and Environment Court within 12 months after the date of determination.
- C The objector(s) be notified of JRPP's decision.
- D The Rural Fire Service and RTA be notified of the JRPP's decision.

## ATTACHMENT B - Draft Conditions of Consent

### 1.. PARAMETERS OF THIS CONSENT

#### 1.1. Approved Plans and Supporting Documents

The development shall be implemented substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "*Development Consent*" unless modified by any following condition.

##### Architectural Plans by

Drawing	Description	Sheets	Issue	Date
DA.01	Location Plan	DA.01	C	20.10.2008
DA.02	Existing Site Plan	DA.02	B	20.10.2008
DA.03	Upper Car Park Level Plan	DA.03	C	08.06.2010
DA.04	Lower Car Park Level Plan	DA.04	C	08.06.2010
DA.05	Ground Floor Plan	DA.05	C	08.06.2010
DA.06	First Floor Plan	DA.06	C	08.06.2010
DA.07	Section AA	DA.07	C	08.06.2010
DA.08	Jarrett Street and North Elevations	DA.08	C	08.06.2010
DA.09	West and South Elevations	DA.09	C	08.06.2010
DA.10	Winter Shadow Diagrams	DA.09	C	20.10.2008
LCC.01	Landscape Plan as amended by revised building footprint.	1		05.04.2010

##### Supporting Documentation

Document	Title	Date
	Waste Management Plan (Andrews Neil Pty Ltd)	
	Statement of Environmental Effects (Andrews Neil Pty Ltd) and supplementary report and SEPP 1 Objection report (Doug Sneddon Planning Pty Ltd), as amended in red and by conditions of this consent.	October 2008 and 7.11.2009
REF8127B	Bushfire Assessment Report (Conacher Environmental Group)	November 2008
REFEF	Tree Assessment Report (Conacher Environmental Group)	10.10.2010
Figure 1	Tree Plan (Conacher Environmental Group)	03.10.2008
	Traffic Assessment Report (TPK & Assoc. Pty Ltd.)	March 2010

#### 1.2. Building Code of Australia

All building works must be carried out in accordance with the Building Code of Australia.

### 2.. PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

2.1. No activity is to be carried out on site until a Construction Certificate has been issued. Other than:

- a Site investigation for the preparation of the construction, and/or

- b Implementation of environmental protection measures, such as erosion control etc that are required by this consent.

## 2.2. Modification of details of the development (s80A(1)(g) of the Act)

The *approved plans* must be amended. The *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to Clause 139 of the *Regulation*, must detail:

- a) The location of the building is not in accordance with Council's guidelines for "Building Over or Near Council Sewer and Water Mains" and shall be redesigned/relocated to provide a minimum 1.5 metre radial clearance to the proposed sewer manholes.

## 2.3. The finished surface material, colours and texture of any building and/or hard paved areas must be non-glare.

## 2.4. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional, in accordance with Council's "Civil Construction Specification", "GCC Design Specification for Survey, Road and Drainage Works" and "Policy 'D6.46 Erosion Sedimentation Control'".

The required works to be designed are as follows:

- a. Half width road including kerb and guttering, subsoil drainage, footpath formation, drainage and a minimum 6.5m wide road pavement across the full frontage of the site in Jarrett Street.
- b. Footway formation graded at +2% from the top of kerb to the property boundary, across the full frontage of the site in Jarrett Street.
- c. 1.2m wide reinforced (SL72 steel fabric, 100mm thick) concrete footpath in an approved location across the full frontage of the site in Jarrett Street.
- d. Tapered heavy-duty vehicle crossing that has a minimum width of 6m at the property boundary and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom. The vehicle crossing shall be tapered to accommodate the vehicle swept path of the largest service and waste collection vehicle required to service the site.
- e. The piping of stormwater from within the site to Council's drainage system located in Jarrett Street.
- f. Signage and line marking. The signage and line marking plan shall be approved by the Council Traffic Committee.

The engineering plans must be approved by Council prior to the issuing of a Construction Certificate required under this consent.

## 2.5. A pavement report for works within a public road reserve shall be prepared by a practising Geotechnical Engineer. This report must be submitted with the engineering plans and approved by Council under the Roads Act, 1993.

The pavement depths must be determined in accordance with Council's specifications and the following traffic loadings:

Name of Street	Traffic Loading (ESAs)
----------------	------------------------

Jarrett Street                      2 x 10<sup>6</sup>

- 2.6. A dilapidation report must be submitted to Council prior to issue of a Construction Certificate and/or approval of engineering plans under the Roads Act. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development.
- 2.7. A security deposit of \$6,000 must be paid into Council's trust fund prior to the issue of a Construction Certificate. The payment of the security deposit is required to cover the cost of repairing damage to Council's assets that may be caused as a result of the development. The security deposit will be refunded upon the completion of the project if no damage was caused to Council's assets as a result of the development.
- 2.8. Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000, must be obtained from the Water Authority (Council) prior to the issue of a Construction Certificate. Contributions may be applicable to the Section 307 Certificate.
- 2.9. Development constructed near or over the sewer main and/or adjacent to Council's water main must comply with Council's guidelines for "Building Over or Near Council Sewer and Water Mains". Details prepared by a practising structural engineer must be submitted to and approved by the Water Authority (Council) in accordance with the Water Management Act 2000 prior to the issue of a Construction Certificate.
- 2.10. Design of the following engineering works within private property:
  - a. Driveways/ramps and car parking areas must be designed according to the requirements of the current Australian Standard AS2890 for the geometric designs, and industry Standards for pavement designs.
  - b. A stormwater detention system must be designed in accordance with Council's DCP165 - Water Cycle Management and Council's 'GCC Design Specification for Survey, Road and Drainage Works'. The stormwater detention system shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1%AEP storm event. A runoff routing method is to be used. An on-site stormwater detention report including an operation and maintenance plan shall accompany the design. On-site stormwater detention is not permitted within private courtyards, drainage easements, and/or secondary flowpaths.
  - c. Nutrient/pollution control measures must be designed in accordance with Council's DCP165 - Water Cycle Management. A nutrient/pollution control report including an operation and maintenance plan shall accompany the design.

The design of these details and any associated reports shall be included in the construction certificate.

- 2.11. Piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system located in Jarrett Street.
- 2.12. The existing sewer main shall be relocated. The plans for the sewer main relocation shall be submitted to and approved by the Water Authority (Gosford City Council's Water and Sewer Directorate) prior to issue of a Construction Certificate.

- 2.13. Provision shall be made for service and garbage collection to be made on site which shall be designed to comply with AS/NZS 2890.2:2002 Part 2 "Off Street Commercial Vehicle Facilities".
- 2.14. Vehicle swept paths of service and garbage collection vehicles to be designed in accordance with AS/NZS 2890.2:2002 Part 2 "Off Street Commercial Vehicle Facilities".
- 2.15. The following contributions are payable under Section 94 of the Environmental Planning and Assessment Act 1979 in accordance with the relevant Council Contribution Plan No 164 – **Gosford Regional Centre** as amended and are subject to quarterly review as detailed in the Contribution Plan.

Recreation Facilities - Embellishment	A	(Key No 851)	\$46,833.00
Roadworks - Capital	A	(Key No 850)	\$65,998.00
Community Facilities - Capital	A	(Key No 852)	\$38,486.00
Environmental Protection	A	(Key No 853)	\$19,475.00
<b>TOTAL AMOUNT</b>			<b>\$170,792.00</b>

The total contribution amount of \$170,792.00 is to be paid prior to the issue of a Construction Certificate.

The basis of the calculation and the total contribution amount is subject to quarterly review. An adjustment amount will become payable if the contribution is not paid prior to the next review.

A Construction/Subdivision Certificate is not to be issued by a certifying authority until the developer has provided the certifying authority with a copy of a receipt issued by Council that verifies that the section 94 contributions have been paid in accordance with the wording of this condition. A copy of this receipt is to accompany the documents required to be submitted by the certifying authority to Council under Clause 104 of the Environmental Planning and Assessment Regulation 2000.

A copy of the Contribution Plan may be inspected at the Customer Service Centre of Gosford City Council, 49 Mann Street, Gosford or on the Council website [http://www.gosford.nsw.gov.au/customer/document\\_gallery/contribution\\_plans](http://www.gosford.nsw.gov.au/customer/document_gallery/contribution_plans)

### 3.. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. A construction certificate for the building work is to be issued and the person having the benefit of the development consent must appoint a principal certifying authority prior to the commencement of any building works.

The principal certifying authority (if not the Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than 2 days before the building work commences.

- 3.2. A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- 3.3. Site works are not to commence until the sediment control measures have been installed in accordance with the approved plans.

- 3.4. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:
- a) The name, address and telephone number of the principal certifying authority for the work; and
  - b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
  - c) That unauthorised entry to the work site is prohibited.

The sign is to be removed when the work has been completed.

- 3.5. Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer.
- 3.6. Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures must be in accordance with the NSW WorkCover publication titled, '*Site Security and Public Access onto Housing Construction Sites*' and installed prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

- 3.7. A suitable hoarding or fence is to be erected between the building or site of the proposed building and any public place to prevent any materials from or in connection with the work, falling onto the public place.

If it is intended or proposed to erect the hoarding or fence on the road reserve or public place a separate application made under the *Roads Act 1993* will need to be lodged with Council together with the associated fee.

- 3.8. Separate application for a vehicular access crossing, accompanied by the current fee as prescribed in Council's Schedule of Fees and Charges shall be submitted to Council. The application form can be obtained by contacting Council's Customer Service Staff or visit Council's web site [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au)

- 3.9. Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 318 of the *Occupational Health and Safety Regulation 2001*.

The person having the benefit of this consent must provide the principal certifying authority with a copy of a signed contract with such a person before any development pursuant to the development consent commences.

Any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered.

In this condition, bonded asbestos material, bonded asbestos removal work, friable asbestos material and friable asbestos removal work have the same meanings as in clause 317 of the *Occupational Health and Safety Regulation 2001*.



Note 1. Under clause 317 removal work refers to work in which the bonded asbestos material or friable asbestos material is removed, repaired or disturbed.

Note 2. The effect of subclause (1) (a) is that the development will be a workplace to which the *Occupational Health and Safety Regulation 2001* applies while removal work involving bonded asbestos material or friable asbestos material is being undertaken.

Note 3. Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Department of Environment, Climate Change and Water.

- 3.10. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of '*Planning for Bush Fire Protection 2006*' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

## 4.. DURING WORKS

- 4.1. Clearing of land, excavation, and/or earthworks, building works, and the delivery of building materials shall be carried out between the following hours:

Mondays to Fridays - 7:00am to 6:00pm

Saturdays - 8:00am to 4:00pm except as noted in Clause 'b'

a No work is permitted on Sundays and Public Holidays

b No work is permitted on:

- Saturdays when a public holiday is adjacent to that weekend.
- Construction industry awarded rostered days off.
- Construction industry shutdown long weekends.

Clause b does not apply to works of a domestic residential nature as below:

- i Minor renovation or refurbishments to single dwelling construction.
- ii Owner occupied renovations or refurbishments to single dwelling construction.
- iii Owner builder construction of single dwelling construction; and/or
- iv Any cottage constructions, single dwellings or housing estates consisting of predominantly unoccupied single dwellings.

- 4.2. Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Code of Practice of Erosion and Sedimentation Control.

- 4.3. To minimize the opportunity for crime, the development must incorporate the following:

- a Adequate lighting to AS1158 is to be provided to common areas.
- b The ceiling of the car park must be painted white.
- c Landscaping adjacent to building entries must not provide for the concealment opportunities for criminal activity.
- d The development must be designed to avoid foot holes or natural ladders so as to minimize unlawful access to the premises.
- e Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- F Access to basement car park to be restricted and after hours security provided outside of normal operating hours of the medical centre.

- 4.4. Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.

- 4.5. The works within the road reserve that required approval under the Roads Act shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 4.6. The engineering works within private property that formed part of the Construction Certificate shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 4.7. This development is subject to Council's DCP106 – Controls for Site Waste Management. The Waste Management Plan submitted as supporting documentation with this development consent is required signed and dated by the applicant and shall be implemented during all stages of demolition and construction.

## **5.. PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE**

- 5.1. Application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.
- 5.2. The premises not being occupied until an occupation certificate has been issued.
- 5.3. The driveway, vehicle manoeuvring area and 52 car parking spaces as shown on the approved plan must be properly constructed, graded, drained, sealed and line marked including directional arrows with impervious paving material and designed in accordance with Australian Standard 2890.1-2004 Off Street Parking and AS/NZS 2890.2:2002 Part 2: "Off Street Commercial Vehicle Facilities".
- 5.4. Six car parking spaces located within the upper car park level numbered 1,2,3, 12, 13 and 14 shall be designated and sign posted as time limited spaces (i.e. 15 minutes duration) and shall be restricted for the drop off/pick up of patients attending the day surgery. Temporary spaces are not to be used by staff or service providers.
- 5.5. The street number is to be at least 100mm high and be clearly visible from the street frontage.
- 5.6. Works within the road reserve that required approval under the Roads Act are to be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', and documentary evidence for the acceptance of such works obtained from the Roads Authority prior to the issue of an Occupation Certificate.

Note 1: A maintenance bond shall be paid on completion of the works in accordance with Section 1.07 Maintenance of the 'Civil Construction Specification'.

- 5.7. Any damage not shown in the dilapidation report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Occupation Certificate.
- 5.8. The internal engineering works within private property that formed part of the Construction Certificate shall be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and

Policy 'D6.46 Erosion Sedimentation Control', prior to the issue of an Occupation Certificate.

- 5.9. Prior to the issue of an Occupation Certificate the Deposited Plan must be amended to include a Section 88B Instrument under the Conveyancing Act 1919 for the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.
- a To create a Restriction as to User over all lots containing an on-site stormwater detention system restricting any alteration to such a facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
  - b To create a Restriction as to User over all lots containing a nutrient/pollution facility restricting any alteration to such a facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
- 
- a To ensure on any lot containing an on-site stormwater detention system that;
    - The facility will remain in place and fully operational,
    - The facility is maintained in accordance with the operation and maintenance plan so that it operates in a safe and efficient manner,
    - Council staff are permitted to inspect and repair the facility at the owners cost,
    - Council is indemnified against all claims of compensation caused by the facility.
  - b To ensure on any lot containing a nutrient/pollution control facility that:
    - The facility will remain in place and fully operational,
    - The facility is maintained in accordance with the operation and maintenance plan so that it operates in a safe and efficient manner,
    - Council staff are permitted to inspect and repair the facility at the owners cost,
    - Council is indemnified against all claims of compensation caused by the facility.
- 5.10. Replacement trees are to be planted along the front boundary, with at least three (3) native tree species capable of achieving a minimum height of 10m. Replacement trees are to be advanced specimens (min 25lt pot size), should be evenly located within the area provided between the two street accesses and adequately staked/protected to prevent vandalism.

Trees are not to be located within an authority's underground service easement and are not to affect over head service wires if present. Trees are to be planted prior to the issue of the Occupation Certificate.

## 6.. ONGOING OPERATION

- 6.1. The hours of operation of the use are to be restricted to those times listed below, i.e.:

Weekdays and weekends- 7.00am to 6.00pm

Any variation to these hours is to be subject to the prior consent of Council.

- 6.2. Nothing associated with the business is to be located on the footpath or adjoining public area, including the parking of vehicles, storage of goods, materials, waste or the like.

- 6.3. The sound level output from the development or business (including plant and equipment) shall not exceed 5dBA above the ambient noise level measured at the boundary of the property.
- 6.4. No materials, waste matter or products shall be stored outside the building or the approved waste storage area, at any time.
- 6.5. All external lights shall be operated and maintained in accordance with the *Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting* so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.
- 6.6. The consent of Council must be obtained prior to any change of use of the premises as defined in the planning instrument.
- 6.7. Visitor car parking spaces are to be physically identified on site, and maintained free of obstruction. These spaces are not to be used for the storage of goods or waste products.
- 6.8. All loading and unloading of goods are to be conducted wholly within the site. Loading facilities, internal docks or goods handling areas are to be maintained free of obstruction for the sole use of delivery vehicles.
- 6.9. No advertisement shall be erected on or in conjunction with the proposed development without prior development consent unless the advertisement is exempt development under Council's exempt and complying development schedule.
- 6.10. Maintenance of the on-site stormwater detention facility in accordance with the operation & maintenance plan.
- 6.11. Maintenance of the nutrient/pollution control facilities in accordance with the operation & maintenance plan.
- 6.12. Medical waste will be stored in a secure area and be disposed of in a manner that meets the Environmental Protection Agency - NSW requirements.
- 6.13. The proposed development should be designed such that any road traffic noise increase induced by traffic generation from the proposed development along surrounding roads is managed in accordance with the EPA criteria for "new land use developments with potential to create additional noise on arterial/collector/local roads" (*The Environmental Criteria for Road Traffic Noise*, May 1999).

Where existing road traffic noise levels already exceed the noise criteria, all feasible and reasonable noise control strategies should be applied in endeavouring to meet the noise criteria. In all cases, traffic from the development should not lead to an increase in noise levels of more than 2dB(A).

- 6.14. The proposed day surgery shall be used for out patients only with no persons staying overnight on the premises.
- 6.15. Water, electricity and gas are to comply with section 4.1.3 of '*Planning for Bush Fire Protection 2006*'.
- 6.16. Landscaping to the site is to comply with the principles of Appendix 5 of '*Planning for Bush Fire Protection 2006*'.

- 6.17. The total number of staff and medical practitioners present at any one time at the medical centre shall be restricted to a maximum of thirty-one (31). Any increase in the number of staff or medical practitioners may require additional car parking provision and will require further development consent.
- 6.18. The number of operating theatres or surgeries located within the day surgery shall be restricted to a maximum of three (3).

## 7.. ADVICE

- 7.1. The public authorities may have separate requirements and should be consulted in the following aspects:
- a *Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - b *Jemena Asset Management* for any change or alteration to the gas line infrastructure;
  - c *Energy Australia* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - d *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.
  - e *Gosford City Council* in respect to the location of water, sewerage and drainage services.
- 7.2. All work carried out under this Consent should be done in accordance with WorkCover requirements including the Occupational Health and Safety Act 2000 No 40 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- 7.3. It is the sole responsibility of the owner, builder and developer, to ensure that the proposed building or works complies with the requirements of the *Disability Discrimination Act*.
- NOTE: The *Disability Discrimination Act* (DDA) is a Federal anti-discrimination law. The DDA covers a wide range of areas including employment, education, sport and recreation, the provision of goods, services and facilities, accommodation and access to premises. The DDA seeks to stop discrimination against people with any form of disability including physical, intellectual, sensory, psychiatric, neurological, learning, disfigurement or presence in the body of a disease-causing organism. Whilst this development consent issued by Council is in accordance with the relevant provisions of the current *Building Code of Australia*, it does not indicate nor confirm that the application complies with the requirements of the DDA.
- 7.4. A fee for the approval of engineering plans under the Roads Act 1993 applies. The amount of this fee can be obtained by contacting Council's Customer Services on (02) 4325 8222.
- 7.5. The inspection fee for works associated with approvals under the Roads Act is calculated in accordance with Council's current fees and charges policy.
- 7.6. Developers should make early application for a Section 307 Certificate under the Water Management Act 2000 from the Water Authority (Council). For a copy of the application form 'Application for Certificate under Section 305' contact Customer Service on (02) 4325 8200 or visit Council's web site [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au) to download a form from the Water & Sewerage forms index.

- 7.7. No reliance has been given to on-street parking in Jarrett Street in the determination of parking needs relating to the proposed developments.

## 8.. PENALTIES

- 8.1. Failure to comply with this development consent and any condition of this consent may be a ***criminal offence***. Failure to comply with other environmental laws may also be a ***criminal offence***.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

### **Warnings as to Potential Maximum Penalties**

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

## 9.. RIGHT OF APPEAL

- 9.1. Sections 96(6) or 97 of the Act, where applicable, confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 60 days or 12 months respectively, from the date of determination.
- 9.2. To ascertain the date upon which the determination becomes effective refer to Section 83 of the Act.

**ATTACHMENT C - Applicant's Submission dated 9 June 2010**

doug  
sneddon  
planning pty ltd

The General Manager  
Gosford City Council  
49 Mann Street  
GOSFORD NSW 2250

Dear Sir,

**Attention: Diane Spithill**

**RE: DA 37907/2009 - PROPOSED MEDICAL CENTRE ON LOT 10 DP 612457, NO.12 JARRETT STREET, NORTH GOSFORD.**

I refer to the meeting of the Joint Regional Planning Panel held on the 13 May 2010 to consider JRPP 2009HCC016 and matters the applicant was requested to consider in order to address building design concerns expressed by the Panel.

**1. Submission of Amended Drawings.**

In responding to the matters raised by the Panel, an amended set of Architectural Drawings is herewith submitted for consideration by the Panel (provided at Appendix A):

- DA.03 - Upper Car Park Level Plan: This plan is substantially the same as that previously lodged with Council, providing for 22 car spaces and an ambulance parking bay, except for the following modifications:
  - the footprint of the building has been slightly reduced at its south-eastern corner in order to provide for greater articulation of the southern and eastern facades and to allow for an increase in deep soil planting at ground level.
  - car parking spaces 1-3 and 12-14 are marked as time limited drop off/pick up parking restricted for the use of day surgery patients; and
  - a new footpath/pedestrian door entry and a roller shutter door providing for after hours security to the basement car park, are provided at the building's driveway entry.
- DA.04 - Lower Car Park Level Plan: This plan is the same as that previously lodged with the Council, providing 30 car spaces, except for a slightly reduced building footprint at its south-eastern corner providing for an increase in provision for deep soil landscape planting and articulation of the building facade above natural ground level.
- DA.05 - Ground Floor Plan: This plan is substantially the same as that previously lodged, except for the following modifications:
  - the footprint of the building is slightly reduced in the south-eastern corner to provide for greater building articulation and an increase in deep soil planting at ground level;
  - a wrap around balcony is provided at the north-eastern corner;

- a small balcony is provided at the north-western corner; and
- the previously proposed driveway/porte cochere drop off at the front entry foyer has been removed and replaced by an amended pedestrian entry pathway and revised landscaping arrangements along the street frontage.
- DA.06 - First Floor Plan: This plan is substantially the same as that previously lodged, except for the following modifications:
  - the footprint of the building is slightly reduced in the south-eastern corner to provide for greater building articulation and an increase in deep soil planting at ground level;
  - a wrap around balcony is provided at the north-eastern corner; and
  - a small balcony is provided at the north-western corner.
- DA.07 - Section AA: This section is significantly amended from that previously lodged, in that the roofline, particularly at the southern end of the building, has been substantially lowered and the perception of a third storey above ground level contained in the previous Section AA, has been removed. There is also a minor increase (0.6m) in the indicated floor/ceiling height set down levels.
- DA.08 - Jarrett Street & North Elevations & DA.09 - West & South Elevations:  
These elevations are significantly different to those previously submitted, providing for reduced building bulk and scale reflecting reductions in roof/parapet height and providing for increased building articulation and variety in the use of materials and finishes. Glazing in the southern elevation is substantially reduced in order to minimise potential privacy impacts on the adjoining residential development.

## **2. Architect's Design Statement.**

Murphy's Health Consulting Pty Ltd has prepared a design statement responding to the issues raised by the Joint Regional Planning Panel (provided at Appendix B).

Mr. Greg Murphy will attend the reconvened meeting of the Joint Regional Planning Panel to address any further building design questions of Panel members.

## **3. Matters raised by the Joint Regional Planning Panel.**

### **(i) Landscaping and Jack of deep soil planting.**

Please refer to Item I of the Architect's Design Statement contained in Appendix B.

Whilst the modification to the south-east corner of the building and removal of the driveway entry to the front foyer enables increased provision of soft and deep soil plantings along the Jarrett Street frontage and along part of the southern property boundary, it is not possible to provide for additional deep soil plantings along the southern boundary due to the presence of the sewer main (which is required to be relocated) and the Australasian Health Facility Design Guidelines, which determines the minimum floor plate required for this facility.

The tree species selected in the previously submitted Landscape Plan prepared by Conus Landscape Design provides for four trees of 10-15 metres in height (when mature) along the Jarrett Street building frontage and a selection of shrubs of up to 4m in height (when mature).



This landscaping, together with the modified building facade design will provide for a high quality streetscape.

It will be necessary to make minor modifications to the Landscape Plan to reflect the proposed floor plate modification at the south-east corner and the removal of the previously proposed porte cochere driveway access to the Jarrett Street entry foyer. It is considered that this can be appropriately addressed through the imposition of an appropriate condition of consent requiring submission of a final Landscape Plan for Council's approval, prior to the issue of a construction certificate.

**(ii) Urban Design, articulation and materials.**

Please refer to Item 2 of the Architect's Design Statement contained in Appendix B which highlights a number of design modifications to improve the presentation of the proposed development to both the public domain (Jarrett Street) and its neighbours. This includes a reduction in the bulk and scale of the building by reducing the height of the upper level roof elements.

**(iii) Relationship with surrounding buildings and streetscape, including southern neighbour.**

Please refer to Item 3 of the Architect's Design Statement contained in Appendix B.

Significant modifications have been made to the southern facade of the proposed development, reducing overall building height by modifying the rooftop so as to remove the perception of a third floor level adjacent to the southern boundary; reducing glazing by 80%; and increasing building articulation.

**(iv) Car parking provisions, including comparative rates and drop off arrangements.**

A Traffic Assessment Report prepared by TPK & Associates Pty Ltd (March 2010) previously accompanied the development application. Section 3 of this report addressed potential traffic generation and parking requirements for the proposed development, based on information then provided by the proponents.

In response to the request of the JRPP for supplementary information on car parking provision and drop-off arrangements, the requirement for on-site car parking and suitable drop-off arrangements have been further considered following more specific discussions with medical colleagues and prospective tenants.

The following revised analysis is provided of the maximum number of staff and patients present within the centre at any one time:

	Staff	Doctors	Patients
Radiology	3	1	4
Hyperbaric	2	1	3
Pathology (automated)	2	-	2
Ultrasound	2	1	2
Neurosurgery	2	1	2
Day Surgery (3 theatres)	10	6	8
Totals	21	10	21

In summary, there will be 31 professionals/staff and 21 patients present within the centre at any one time. On the basis that the centre essentially comprises five (5) medical sections as indicated in the previously submitted traffic assessment and having regard to the above indicated staff numbers being present at any one time, the centre would generate a demand for 46 car spaces (i.e. 15 spaces for the 5 medical sections and 31 professional/staff spaces). The proposed development provides 52 spaces, thereby providing sufficient on-site car spaces to meet staff/patient demand.

The proposed development has two particular operational features which distinguish it from the calculation of car parking rates required for facilities typically categorised as medical centres for the purposes of Gosford Development Control Plan 111 - Car Parking, and which effectively reduce the real demand for car parking in this case:

- the proposed Day Surgery will contain three surgical theatres. As day surgery patients are 'fasted' and are not allowed to drive after their treatment, they do not generate a demand for car parking as such, other than as required for short term patient 'drop-off' and 'pick-up' by family members or others. Similarly, the treatment of patients in the Hyperbaric medical suite does not generate a real demand for car parking as patients are typically dropped off and picked up later.

In consultation with the project traffic engineer, the project design has been modified to remove the driveway/porte cochere drop-off arrangement and to instead provide for patient 'drop-off' and 'pick-up' by allocating six (6) dedicated short term car space Nos. 1-3 and 12-14 on the upper car park level, located in close proximity to the lift which provides access to all floors. This will be sufficient to accommodate the programmed arrival/departure of patients and any overlap due to delayed departure/arrival times; and

- the proposed development is a centre for Medical Specialists, not general practitioners and involves the timetabling of longer consultations per patient and more complex/longer investigations per patient than those typically provided in a 'general practice' medical centre. This consequently provides for a reduced demand for on-site car parking at any one time.

It is considered that the proposed on-site car parking and drop-off arrangements are appropriate to the operational requirements of the proposed Jarrett Street Specialist Centre and satisfy the rate of car parking required by Gosford Development Control Plan No. 111 in respect to Professional Consulting Rooms and Medical Practices.

Yours Sincerely

*Doug Sneddon*

Doug Sneddon  
9<sup>th</sup> June 2010.

## **APPENDIX B: ARCHITECT'S DESIGN STATEMENT**

**(Murphys Health Consulting — June 2010)**

**Design Statement**  
**12 Jarrett Street, North Gosford**

**MURPHYS**  
**Health Consulting**

**Proposed Medical Centre / Day Surgery**  
**JRPP 2009HCC016 - Gosford DA 3790712009**

The following notes are provided in response to the JRPP's concerns expressed at the meeting held on 13 May 2010.

1 Landscaping and lack of deep soil planting

It must be recognised that opportunities to provide deep soil planting zones along the western boundary and in the south western area of the site are severely limited by the relocation of the sewer main, which is an integral precursor for any viable development of the site. Another key limitation on the opportunity to increase deep soil planting areas is the requirement for clinical spaces (particularly those contained within the Day Surgery) to comply with the Australasian Health Facility Design Guidelines, which specify the number, type and minimum dimensions for patient care areas - thus setting the minimum floor plate required for this facility.

In consultation with the project Traffic Engineer, the design has been modified to remove the driveway / porte cochere drop-off bay (as originally proposed) because the existing gradient of Jarrett Street and the adjusted floor levels of the proposed building have made the geometry of the driveway unworkable within the gradients and vehicle manoeuvring allowable under current code. Patient drop-off is now provided in dedicated short term car parking spaces on the upper car park level, in close proximity to the lift which provides access directly to the occupied floors.

Consequently two new, large deep soil planting zones have been provided in lieu of the driveway within the 6 metre setback from the Jarrett Street (eastern) boundary, as well as in the increased building setback area in the south east corner of the site.

2 Urban design, articulation and materials

The eastern (Jarrett Street) façade has been modified to introduce a number of elements to better articulate the building from the public, streetscape perspective.

These elements include:

- a step in the façade at the south eastern corner created by the increased setback distances,
- a wrap around balcony at both occupied levels at the north east corner,
- introduction of alternating cladding treatments, including a large panel of stacked stone cladding with discrete glazing elements within it, and
- the shadow patterns resulting from the differing planes of the eastern elevation that will enliven this façade each morning.

The random pattern of the stacked stone cladding will both soften the eastern façade and reflect the residential character of the property immediately south of the subject site and on the opposite (eastern) side of Jarrett Street.

**3 Relationship with surrounding buildings and streetscape, including southern neighbour**

The extent of glazing on the upper occupied level (first floor) in the southern elevation has been reduced by over 80%. This is the only level of the building that can be seen from or can

overlook Ashwood Lodge; since the lower occupied level (ground floor) glazing is effectively below the southern boundary fence height.

The rooftop plant and equipment has been reconfigured, and moved inwards from edges of the building to both minimise its visibility from ground level and to reduce the perceived overall building height from Ashwood Lodge.

The boundary setbacks in the south eastern corner of the site have been increased to provide additional separation from the Ashwood Grove site, to provide additional deep soil planting areas, and to increase the articulation of the southern façade, thus improving the outlook for the southern neighbour.

The building setback, height and character are consistent with neighbouring properties and the precinct as a whole, and the improved streetscape appearance of the building has been discussed in Item 2.

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**ATTACHMENT D - Notice of Council Resolution****NOTICE OF COUNCIL RESOLUTION****COUNCIL MEETING – 1 DECEMBER 2009****SF.44 REPORT ON S65 CERTIFICATE FOR PROPOSED DRAFT GOSFORD LEP 2009 (IR7051139)**

Directorate: Environment and Planning  
Business Unit: Integrated Planning

MOVED (Freewater/Doyle) that the recommendation of the Strategy/Policy Workshop be adopted subject to the addition of Part J as follows:

*J Council write to the Minister for Planning to request that the State Government make all efforts to ensure that Development Controls Plans prepared and adopted in association with gazetted Standard Instrument LEPs under the new Environmental Planning and Assessment Act legislation have the strongest statutory weight applied to them to assist with their enforcement in any legal challenges and that the legislation be amended as necessary to achieve this aim.*

On being put to the meeting the MOTION WAS CARRIED.

RESOLVED that:

- A The proposed Draft Gosford LEP 2009 & proposed Draft Gosford DCP 2009 be endorsed for public exhibition.
- B The 'Draft Gosford Community Strategic Plan 2031' be re-named to 'Draft Gosford Landuse Strategy 2031' and updated regarding the subsequently released Central Coast Regional Strategy 2031, and be endorsed for public exhibition.
- C The proposed Draft Gosford LEP 2009, proposed Draft Gosford DCP 2009 and Draft Gosford Landuse Strategy 2031 remain confidential until the commencement of the public consultation period.
- D Council liaise with the Regional team of the Department of Planning in accordance with the Section 65 Certificate to determine the extent of the land to which the requirement to initiate a planning proposal at Karalta Road Erina applies, and once determined write to the affected land owners inviting them to discuss the matter of a Planning Proposal with Council in relation to the rezoning of their land for residential purposes and to advise that this invitation from Council does not indicate its support or otherwise for the Planning Proposal.
- E A further report be presented to Council in relation to a timetable relating to those matters for which a commitment to prepare, and an agreed timetable is required by the Department of Planning, prior to the plan being returned to the Department at S69 stage.
- F A further report be presented to Council in relation to those matters identified by the Department of Planning to be completed before the plan is resubmitted to the Department.

- G The changes to the mapping layers as required by the Department of Planning in the Section 65 Certificate be undertaken by Council.
- H Council not proceed with the rezoning of the lot on the corner of Ash Street and Pinetree Lane from Residential 2(b) to a business zone, but include it as part of a review of the Terrigal Bowl Area Strategic Plan under the heading of possible expansion of the Terrigal Town Centre. A timetable for this review should be included in a response to the Department of Planning under the above heading *'Matters for which a commitment to prepare, and an agreed timetable is required, prior to the plan being returned to Department at S69 stage'*.
- I **Council resolve to include in the public exhibition of the draft Gosford LEP 2009 the rezoning of Number 12 Jarrett Street Lot 10 DP 612457 North Gosford to SP2 Hospital and the corresponding height and floor space maps be altered to reflect that of the adjoining North Gosford Private Hospital**
- J *Council write to the Minister for Planning to request that the State Government make all efforts to ensure that Development Controls Plans prepared and adopted in association with gazetted Standard Instrument LEPs under the new Environmental Planning and Assessment Act legislation have the strongest statutory weight applied to them to assist with their enforcement in any legal challenges and that the legislation be amended as necessary to achieve this aim.*

**ATTACHMENT E - Final Plan Set**  
**Latest Amended Plans DA37907 - Attachment E**



**ATTACHMENT F - Applicant's SEPP 1 Objection**

**SEPP 1 Objection DA37907 L10 DP612457 Jarrett St North Gosford Attachm...**