

REPORT TO HUNTER & CENTRAL COAST JOINT REGIONAL PLANNING PANEL

TITLE **DEVELOPMENT APPLICATION NO. 38097/2010**
APPLICANT: MST ARCHITECTS & PLANNERS PTY LTD
PROPOSED: RESIDENTIAL FLAT DEVELOPMENT 3-6 STOREY 87 UNITS &
DEMOLISH ALL EXISTING BUILDINGS ON LOT: A DP: 361327, LOT: B DP:
361327, LOT: C DP: 361327, 19-21 DONNISON STREET WEST AND 8
FIELDER STREET WEST GOSFORD
Directorate: Environment and Planning
Business Unit: Development

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

EXECUTIVE SUMMARY

Reason for Referral to Joint Regional Planning Panel (JRPP)

The proposal is general development under Clause 13B(1)(a) of SEPP (Major Projects) Amendment (Joint Regional Planning panels) 2009. The development has a capital investment value of more than \$10 million.

Assessing Officer

F W Dobbs

Reviewing Officer

Independent Development & Environment Panel (IDEP).

Application Received

01/02/2010

Proposal

Residential Flat Building 3-6 Storey 87 Unit & Demolish All Existing Buildings (JRPP)

Zone

General Residential R1-GCC LEP 2007

Area

3755.88m²

Public Submissions

Five (5)

Pre-DA Meeting

A Pre-DA Meeting was held on Thursday 13 August 2009.

Relevant Statutory Provisions

- 1 Environmental Planning & Assessment Act, 1979 – Section 79C
- 2 Local Government Act 1993 – Section 89
- 3 SEPP 65 - Design Quality of Residential Flat Buildings
- 4 SEPP (Building Sustainability Index ; BASIX) 2004
- 5 Gosford City Centre LEP 2007 and Gosford City Centre DCP 2007
- 6 Draft Gosford Local Environmental Plan 2009

Key Issues

- 1 Relevant Provisions of Gosford City Centre LEP 2007
- 2 Relevant Provisions of Gosford City Centre DCP 2007
- 3 Draft Gosford Local Environmental Plan 2009
- 4 Comments from SEPP 65 Panel including Applicant & Council's Response
- 5 Comments from Council's Architect
- 6 Visual Impact, Streetscape and Impact on Adjoining Development
- 7 Comments from Council's Senior Development Engineer
- 8 Comments from Council's Tree Management Officer
- 9 Bushfire Protection - Comments from NSW Rural Fire Service.
- 10 Climate change and sea level rise
- 11 Public Submissions

Recommendation

Refusal

REPORT

The Site

The site is rectangular with frontages to both Donnison Street West and Fielder Street of 38.22 metres and contains an area of 3755.88m². The site is located on the southern side of Donnison Street West approximately 40 metres east of Hely Street and falls approximately 8.6m from the highest point at the northern end of the site to the lowest point at the southern end of the site.

Existing buildings consist of a small shed only that is proposed for demolition. An easement is located running east - west across the middle of the site to accommodate drainage from adjoining properties. This easement is proposed for retention. The site also contains a sewer vent stack in approximately the middle of the site which forms an integral part of Council's sewer system. (Note that although requested the applicant has not provided relevant details of the sewer vent stack including accurate location).

(Refer Attachment 1 - Aerial Photograph and Attachment 2 - Zone map)

Background

DA 26793/2007, being a 3 storey Residential Flat Development consisting of 39 units and two levels of basement car parking for 66 spaces was approved by Council on 23/04/2007. This consent remains current and has not lapsed.

The Proposal

The proposed development consists of the following:

- Demolition of any existing structures on the land;
- Erection of a multi level building complex for 87 residential apartments;
- Basement carparking for 124 cars, including motor cycle parking, disabled car parking, visitor car parking and garbage storage;
- Pedestrian path traversing the site from Donnisons Street West to Fielder Street;
- Landscaping;
- An FSR of 1.92:1
- Total Height of 19.4m

(Refer Annexure 4 - Plans)

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 refusal of the application and has identified the following key issues which are elaborated upon for Council's information.

Relevant Provisions of Gosford City Centre LEP 2007

Aims of the Plan

Clause 2(2)(e) of Gosford City Centre LEP 2007 specifies the following aim:

(e) to facilitate the development of building design excellence appropriate to a regional city.

Comment - The proposal does not comply with this aim of the LEP. Refer to Clause 22B Design Excellence below for further details.

(Refer refusal 1)

Zone Objectives

The site is zoned R1 General Residential under Gosford City Centre LEP 2007. Clause 12(2) of the Gosford City Centre Plan 2007 requires the consent authority to have regard to the objectives for development in a zone when determining a development application in respect to the land within that zone. The objectives of the R1 zone are listed and commented upon as follows:

1 To provide for the housing needs of the community

Comment - The proposal complies with this objective.

2 To provide for a variety of housing types and density.

Comment - The proposal complies with this objective.

3 To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Comment - The proposal is residential therefore this objective is not relevant.

4 To allow some diversity of activities and densities if:

*the scale and height of buildings is compatible with the character of the locality, and traffic generation can be managed in a way that avoids adverse impacts on the local road system, and
there will be no significant adverse impact on the amenity of any existing or proposed development nearby.*

Comment - The proposal does **not** comply with this objective in that the height, bulk and scale of the buildings do not adequately consider the adjoining properties, particularly with regard to the non-compliant side setbacks and building separation from adjoining buildings. Further detail regarding this issue is provided below under Comments from SEPP 65 Panel, Comments from Council's Architect and Visual Impact/Streetscape/Impact on Adjoining Development. Regarding traffic generation and impacts on the road system, the applicant has not submitted sufficient detail to allow Council's Senior Development Engineer to properly assess this issue. Further detail is provided under the comments by Council's Senior Development Engineer.

5 To encourage increased population levels in locations which will support the viability of the Gosford City Centre, where any new development:

has regard to the desired future character of the Gosford City Centre described within the Gosford City Centre DCP 2007, and

does not significantly detract from the amenity of any existing or proposed development nearby.

Comment - The proposal does **not** comply with this objective and further details are provided under Comments from SEPP 65 Panel, Comments from Council's Architect and Visual Impact/Streetscape/Impact on Adjoining Development.

6 To allow development along the coastline to take advantage of view corridors while avoiding a continuous built edge along the waterfront.

Comment - The proposal does **not** comply with this objective as building separation between adjoining buildings is insufficient to provide appropriate view corridors. Further articulation or breaks in the buildings are required to reduce the perceived length of continuous walls. Further details are provided below under Side Setbacks and Building Separation, Comments from SEPP 65 Panel, Comments from Council's Architect, Visual Impact/Streetscape/Impact on Adjoining Development.

The proposal does not comply with the objectives of Gosford City Centre LEP 2007 relating to scale, traffic generation, building separation, desired character and impacts on amenity to adjoining properties.

(Refer refusal 1)

Permissibility

A Residential Flat Building as proposed is permissible with consent in the R1 Zone under Gosford City Centre LEP 2007.

Principal Development Standards

Following is a summary of the relevant development standards under Gosford City Centre LEP 2007 and how the proposal responds to those standards:

Gosford LEP 2007	Required	Proposed	Compliance
CI 21 Height of building CI 21B Arch Roof Feature	18m (ex arch roof feature) Additional height permitted subject to compliance with CI 21B provisions	17.7m (excl roof feature) 19.4m (incl roof feature) and compliant with CI 21B provisions	Yes Yes
CI 22 Floor Space Ratio	Maximum 2:1	1.92:1	Yes
CI 22B Design Excellence	High Standard of Architectural Design, materials & detailing appropriate to building type, does form & External appearance improve quality and public amenity of public domain, view corridors maintained, overshadowing of public areas, addresses requirements of City Centre DCP, site suitability, heritage issues, location of tower relative to others towers on adjoining sites.	The proposal does not exhibit design excellence and has a number of issues of concern, eg non-compliant side setbacks.	NO Refer Clause 22B Design Excellence below, SEPP 65 Panel Comments and Comments from Council's Architect.
CI 22E Building Separation	6m-9m Refer DCP provisions	3-4m side setbacks	NO

The proposal does not comply with the requirements of Clause 22B regarding design excellence and Clause 22E regarding building separation. The issues are assessed separately as follows:

Clause 22B - Design Excellence

Clause 22B requires new developments to exhibit design excellence. In considering whether development to which this clause applies exhibits design excellence, under Clause 22B(3) the consent authority must have regard to the following matters:

- (a) *Whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved*

The SEPP 65 Panel and Council's Architect have identified a number of architectural design issues including:

- Multiple acoustic and visual privacy conflicts with Buildings B and C at the re-entrant corners.
- The floor to ceiling heights of 2.4 metres are inadequate for the amenity of the dwellings
- Some of the bedrooms have inadequate floor area and dimension.
- Multiple bedrooms in blocks B and C have only small vertical slot windows leading to inadequate natural lighting and ventilation.
- Building A contains multiple amenity failures including inadequately sized dining rooms, living rooms, stairwells, courtyards and bedrooms. The inclusion of a second master bedroom is not warranted.
- The ground floor level of block A should be at or near footpath level.

- The narrow side entry to Building C is a safety and security issue.
- Repetitive design with continuous areas of external cladding emphasis bulk and scale.
- Narrow internal width of the townhouses in Building A severely restricts their amenity.

(b) Whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain.

The form and external appearance will not improve the public domain for the following reasons:

- Building A townhouses are up to 2 metres above ground level at the streetfront and will present as a wall contributing nothing to the public domain.
- The end walls of the townhouses are flat, blank and create a poor streetscape

(c) Whether the proposed development detrimentally impacts on view corridors.

The proposal provides a building separation from adjoining sites via side setbacks of 3 metres for the 4 lower floors and 6m for the upper floors. The required building separation under both SEPP 65 (RFDC) and Gosford City Centre LEP 2007 is 6m for the 4 lower floors and 9 metres for the upper floors. This reduced building separation will result in narrower view corridors and will set an undesirable precedent for similar proposals in the locality, thereby undermining the aims, objectives and provisions of Gosford City Council LEP & DCP 2007 and SEPP 65 including the Residential Flat Design Code (RFDC) **(Refer refusal reason 8).**

(d) Whether the proposed development detrimentally overshadows Kibble Park, William Street Plaza, Burns Park and the waterfront adjoining The Broadwater.

The proposal is not located within sufficient proximity of these sites to create overshadowing issues.

(e) The requirements of Gosford City Centre Development Controls Plan 2007.

The proposal does not comply with the minimum floor to ceiling height and side setback requirements of both Gosford City Centre LEP 2007 and SEPP 65 (RFDC). The impact of these non-compliances has been below assessed under Side Setbacks and Building Separation and Floor-Ceiling height

(f) How the proposed development addresses the following matters:

(i) the suitability of the land for development

The site is zoned to permit the proposal. Further consideration however is required regarding overall design and massing, side setbacks and floor to ceiling heights

(ii) the existing and proposed uses and mix

The proposal is residential in nature in accordance with the zoning.

(iii) heritage issues and streetscape constraints

There are no heritage issues. The main streetscape issues are the proposed wall along Fielder Street with a 2m setback which contributes nothing to the streetscape.

- (iv) *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form*

The proposed 6 storey buildings are not regarded as a tower, however the proposed setbacks from adjoining properties are deemed inappropriate. Additional information regarding this issues is detailed below under Side Setbacks and building Separation.

- (v) *Bulk, massing and modulation of buildings*

The bulk and massing of the proposal is considered inappropriate. A similar floor space ratio is achievable via a more even massing over the site rather than massing at the northern end of the site as proposed. More even massing would facilitate compliance with setbacks and building separation requirements.

- (vi) *street frontage heights*

The SEPP 65 Panel have indicated that the 6 storey building is excessive in height, footprint and bulk for its siting and does not suit the scale of the street. Further detail is provided below under Comments from SEPP 65 panel

- (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity.*

As indicated by the SEPP 65 Panel the proposal does not include passive and active solar design, efficient energy systems. capture and reuse of greywater and biologically active forms of stormwater management. Further details are provided below under Comments from SEPP 65 Panel (Resource, Energy and Water Efficiency).

- (viii) *the achievement of the principles of ecologically sustainable development, with particular emphasis on water saving and recycling.*

The proposal will use roofwater in accordance with BASIX requirements. As indicated by the SEPP 65 Panel the proposal does not include capture and reuse of greywater and biologically active forms of stormwater management. Further details are provided below under Comments from SEPP 65 Panel (Resource, Energy and Water Efficiency).

- (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements*

Insufficient information has been submitted to address traffic, vehicular and service issues. Further information is provided below under Comments from Council's Senior Development Engineer.

- (x) *the impact on, and any proposed improvements to, the public domain*

The proposal does not contribute to the public domain particularly along Fielder Street which has a 2m setback to a wall. The design should respond more closely to the topography.

Generally the proposed design solution has massed development to the northern end of the site presumably to achieve views south over the townhouses from the upper levels of Building C. The proposal has insufficient separation from adjoining buildings (refer below under building separation) and does not comply with the required 2700mm ceiling height requirements. This creates issues for both future occupants of the proposed units (eg reduced spaciousness due to

the small size of the units) and the current occupiers of the adjoining developments (eg an inappropriate bulk and scale exacerbated by the reduced non-compliant side setbacks).

The proposal has given inadequate consideration to adjoining properties and has insufficient regard to the height of existing buildings. As indicated by the SEPP 65 panel, the maximum permissible height under the planning controls is 18m, however this should only occur where existing development is respected. When considering adjoining development which is generally a maximum 2-3 storey in height, all planning controls should be complied with, particularly as this proposal is the first application under the new planning controls of Gosford City Centre LEP & DCP 2007 and will set the standard for future applications.

The internal layout of Buildings B and C creates issues for potential occupants with access being difficult causing problems such as delivery/removal of furniture. Access to Building C via a narrow pathway is poor and creates a security concern.

More detailed comments regarding the design are provided below under Comments from SEPP 65 Panel and Comments from Council's Architect which indicate that the proposal does not demonstrate design excellence.

(Refer refusal reason 1 and Annexure 4 - Development Photomontage).

Clause 22E - Building Separation

This Clause requires buildings to be erected so that the separation from neighbouring buildings and between separate towers or other separate raised parts of the same building is not less than that provided for in the Gosford City Centre DCP 2007. Non-compliance with this development standard is dealt with in detail below under relevant Provisions of Gosford City Centre DCP 2007 / Side Setbacks and Building Separation.

Relevant Provisions of Gosford City Centre DCP 2007

The following table represents an assessment of the proposal against the main requirements of Gosford City Centre DCP 2007:

Development Control	Required	Proposed	Compliance
Site Calculations			
Total Site area	Minimum 3455.40m ²	3755.88m ²	Yes
Total Floor Area	Maximum 7511.76m ²	7197.80m ²	Yes
Floor Space ratio	Maximum 2:1	1.92:1	Yes
Building Footprint (Site coverage)	Max 50% (1877.94m ²)	1803.47m ²	Yes
Deep Soil Planting Area (15% min of total site)	563m ² (15%)	617.2m ² (16.5%)	Yes
Site Cover	50% (1877.94m ²)	48% (1803.4m ²)	Yes
Parking			
Res Parking / 1 bed unit - 1/unit	22 units = 22.0paces	22 spaces	Yes
Res parking / 2 bed unit - 1.2/ unit	50 units = 60.0paces	60 spaces	Yes
Res parking / 3 bed unit - 1.5 / unit	15 units = 22.5 spaces	23 spaces	Yes
Total Resident Spaces	87 units =104.5 spaces	87 spaces	Yes
Visitor Spaces (0.2 per unit)	17.4 spaces	18 paces (inc Vis Disab)	Yes
Disabled Parking (Min 10% of sp)	10spaces	10paces	Yes
Motorcycle Parking (1/15 units)	6 spaces	None shown	NO
Bicycle Parking (1 sp / 3 units + 1 vis / 12 units)	35 spaces	Small bicycle storage areas shown	NO (requires enlargement)
Setbacks			
Building to street alignment	Min 3m to Max 4m	3m Fielder Street 2m Donnison St West	Yes NO
Building Depth & Bulk	Max Base Height 12-18m; Max 500m ² gross floor plate area; Max base depth 18m	Complies	Yes

Side Setback (up to 12m high)	Non-hab side 3m Hab side 6m	Non-hab side 3m Hab side 3m	Yes NO
Side Setback (above 12m high)	Non-hab side 4.5m Hab side 9m	Non-hab side 3m Hab side 3m	NO NO
Vehicle Footpath Crossings and Vehicular Driveways and Manoeuvring	1 vehicle access point max 5.4m wide	1 point 5.4m wide	Yes
Building Exterior	External walls high quality and durable materials and finishes with self cleaning attributes	No details provided Applicant indicates could be conditioned.	NO
Pedestrian Access and Mobility	Barrier free access to minimum 20% of units, continuous access paths of travel and unimpeded internal access	Eng details submitted does not verify this requirement is met (see Engineers comments)	NO
Residential Development Controls			
Ceiling Height	2700mm min floor to ceiling	2450mm	NO
Housing Choice and Mix	1 bed units 10% to max 25% 2 Bed not more than 75% 15% of units to be adaptable housing (slope less than 20%)	22 X 1 bed(25%) 50 X 2 bed (57%) 15 X 3 bed (18%)	Yes Yes Yes
Storage	7.5m3 for 1 bed units 10m3 for 2 bed units 12.5m3 for 3 bed units	None indicated-no secure area in basement	NO

Motorcycle Parking, Bicycle Parking, Storage Areas, Building Exterior and Pedestrian Access and Mobility

The proposal does not fully comply with Gosford City Centre DCP 2007 regarding these issues. If the application were to be supported these issues would be readily resolvable with minor amendments to the plans, submission of further information and / or appropriate conditions of consent.

Front Setback - Building to Street Alignment (Donnison Street West)

Section 2.4 of Gosford City Centre DCP 2007 requires a 3m front setback from Donnison Street West. The proposal is provided with a 2m setback for approximately 9.5 metres of the width of the building along the Donnison Street West frontage.

There are no issues with this reduced setback perse as the part of the building in question is balcony and lobby only on the ground floor and balcony and bedroom area only on the upper floors overlooking the street. This in itself provides minimal impact on amenity of adjoining properties and the proposal itself. Notwithstanding these comments, the utilisation of part of the setback area as building floorplate does contribute to an overall increase in the achievable bulk of the building particularly when considered in the context of the other non-compliances of the side setbacks and building separation from adjoining buildings.

Side Setbacks and Building Separation

Clause 22E of Gosford City Centre LEP 2007 requires buildings to be erected so that the separation from neighbouring buildings and between separate towers or other separate raised parts of the same building is not less than that provided for in the Gosford City Centre DCP 2007. This requirement is therefore a **development standard** and under the provisions of Clause 24 of Gosford City Centre LEP 2007 consent must not be granted for contravention of a

development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- That there are sufficient environmental planning grounds to justify contravening the development standard.

Section 2.4 of Gosford City Centre DCP 2007 requires a side setback of 3m to non-habitable rooms and 6m to habitable rooms on those elements of the building up to 12m in height. Side setback requirements are increased to 4.5m to non-habitable rooms and 9m to habitable rooms on those elements of the building above 12m in height.

The proposal has a side setback of 3-4m to many habitable and non-habitable areas of the buildings. The applicant has provided a written request to vary the development standard relating to side boundary setbacks within the submitted Statement of Environmental Effects (SEE) which is summarised as follows:

- It is unreasonable to include open balconies as habitable area therefore balconies are not subject to the side setback controls.
- The side boundary walls have only high level obscured, fixed, glazed windows to provide natural lighting therefore should not be subject to setback controls relating to habitable rooms.
- The side walls do not provide openings which would project noise, create overlooking or overshadowing issues therefore impacts are consistent with those associated with toilets, laundries and the like.
- Any habitable rooms that adjoin these walls do not orientate towards the side boundaries but rather to the south (views) or the North (Presidents Hill).
- The proposed walls, even though within a 6m setback in part result in minimal additional overshadowing of neighbouring properties.
- Although the minimum side setback is 3m, the maximum is 11m. The setbacks are an average of 6m for the overall length of Buildings B & C.
- The Buildings only extend to approximately 5% of the depth of the development site
- The BCA permits buildings without openings on walls to be erected on the boundary.
- The Enterprise Corridor Precinct provides for commercial/retail development which would encourage smaller side setbacks.
- For the above reasons the proposal is in accordance with the requirements of Gosford City Centre DCP 2007. Even if interpreted as not complying the non-compliance is minor creating minimal impact and should not warrant refusal of the application.

Although SEPP 1 is not applicable to the CBD area encompassed by Gosford City Council LEP 2007, Clause 24 is the basically equivalent of SEPP 1. It is therefore useful to use the Court adopted method of assessing a SEPP 1 objection in assessing the side setback development standard. 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 to determine whether compliance is unreasonable or unnecessary in the circumstances of the case as follows:

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 objectives of the standard are:

- To ensure an appropriate level of amenity for building occupants in terms of daylight, outlook, view sharing, ventilation, wind migration and privacy; and
- To achieve usable and pleasant streets and public domain areas in terms of wind mitigation and daylight access.

The proposed setbacks are approximately 50% of the minimum requirement. Proposed setbacks of 3-4 metres up to 12 metres in height and 6 metres above 12 metres will reduce available daylight, ventilation, and privacy to adjoining dwellings. Available view lines and separation between buildings will be substantially reduced creating an overbearing bulk and scale and impact on the street, the public domain generally and adjoining properties.

- 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 appropriate separation between the proposal and both existing and future adjoining buildings is achieved. The standard assists in ensuring development minimises height and visual bulk and scale 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.

- 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 side setback/building separation development standard and therefore compliance is considered reasonable.

- 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. Council has been consistent in requiring compliance with the development standard and has generally not supported any proposal which involve excessive variations to development standards under the provisions of Gosford City Centre LEP 2007.

- 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 zoning of the land is considered to be appropriate therefore the relevant controls applying to the General Residential R1 zone are also considered reasonable and appropriate. The applicant contends that the proximity of the Enterprise Corridor B6 Zone located opposite the site encourages smaller setback controls. This contention is flawed as the Enterprise Zone has a maximum height limit of 12m and a maximum FSR of 1.5:1. If the height and FSR of the proposed development were to be reduced consideration of reduced setbacks would need to be examined through the rigours of the assessment process if such a proposal were submitted.

The subject site is located within the Residential R1 Zone, the proposal is residential in nature and compliance with the relevant development standards is considered reasonable and necessary.

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. In this case this is the first application in this locality under the new planning controls of Gosford City Council LEP & DCP 2007. This proposal will therefore create a precedent for similar non-compliances if approved.

Notwithstanding that windows are either high-level fixed or generally not located in the eastern and western walls, the proposed side setbacks are a major non-compliance creating a number of issues and the variation to the development standard as proposed is not supported for the following reasons:

- 1 The proposed side setbacks impact on the ventilation, daylight access and privacy of both the adjoining development to the east and the subject proposal. These impacts will be exacerbated if / when the adjoining sites are redeveloped under the current planning controls. Fixed windows may cause the need for additional mechanical ventilation.

- 2 The proposed 3-4m side setbacks will create additional noise impacts to adjoining existing and future development. A 3-4 metre separation from the side boundary and the existing adjoining courtyards along the eastern boundary is insufficient. This creates a total building separation from the adjoining building to the east of 6-7 metres. Gosford City Centre DCP 2007 and the RFDC require a building separation of 12 metres up to four storeys and 18 metres above 4 storeys.
- 3 The proposed 3-4m side setbacks will impact on available light, air, sun, privacy, views and outlook generally for neighbouring properties and for the subject development.
- 4 The proposed side setbacks are insufficient to provide appropriate deep soil planting to include trees up to 10m in height to offset the perceived bulk and scale of the development.
- 5 The proposed side setbacks will accentuate the bulk and scale of the development, particularly Buildings B & C which at 6 storeys in height will dominate the adjoining development to the east in particular. Compliance with side setback requirements would significantly reduce the impact of the height, bulk and scale of the proposal on the adjoining properties.
- 6 Any potential redevelopment of the adjoining sites will be severely impacted and development potential of those sites substantially reduced due to the requirement for an additional side setback to achieve the required 12-18 metre building separation to offset the reduced setback applied to this proposal if approved.
- 7 It is considered inappropriate and poor design to provide blank walls to the ends of large buildings to minimise the impact on adjoining properties created by non-compliant setbacks. Such design provides poorly articulated and fenestrated buildings which detract from the streetscape generally.

The applicant has failed to demonstrate that the non-compliance with the development standard relating to side setbacks and building separation is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

(Refer refusal reason 3).

Floor- Ceiling Height

Section 2.5 of Gosford City Centre DCP 2007 under controls lists a minimum floor to ceiling height of 2700mm for residential development. This requirement is consistent with the requirements of SEPP 65 and the Residential Flat Design Code (RFDC).

The proposal has floor to ceiling heights of 2450mm. The applicant has indicated that the design seeks to accommodate a moderately priced housing market and that 2700mm floor to ceiling heights offer no significant benefit. The applicant submits that all apartments achieve adequate natural lighting and energy efficiency. The applicant further submits that compliance with the 2700mm requirement will add an unnecessary cost to the construction in a restricted Gosford market that may prove fatal to the viability of such projects.

The proposed reduced ceiling heights are not supported for the following reasons:

- 1 The townhouse Building A is provided with units that have internal measurements less than 4 metres wide. The units within Building C have floor areas varying between 47 - 102m². Most units within Building B & C have floor areas less than 88m². The reduced

floor-ceiling heights combined with the small floor area of most units will reduce the overall spaciousness and light of the units and create a "closed in" feel for potential occupants.

- 2 Penetration of daylight into the depths of many of the apartments will be reduced, particularly as some units have a total room length up to 11m. Living / dining areas that are shorter in length generally have one window and are south facing, further reducing light penetration.
- 3 Generally many of the units have a small floor area, contain small windows with no natural flow through ventilation and will therefore provide a poor standard of amenity to potential occupants. A reduction in the required ceiling heights as proposed will exacerbate the problems associated with these issues.
(Refer Refusal reason 2)

Draft Gosford Local Environmental Plan 2009

The application has been assessed under the provisions of Draft Gosford Local Environmental Plan 2009 in respect to zoning, development standards and special provisions. The assessment concluded the proposal is consistent with the Floor Space Ratio and Height requirements of the Draft Plan.

Comments from SEPP 65 Panel

Panel's Recommendation

Recommend refusal based on the following issues.

Panel's Comments

There are a number of major non-compliance and quality issues with the subject DA. Considering the scale of these issues, the Panel has confined itself to identifying these fundamental shortcomings with the design rather than attempt to correct them.

The Panel is disappointed with the extent and resolution of the documentation presented for this development application. A greater degree of contextual analysis is necessary, especially for such a large site in a locality such as this which is about to undergo significant change. It was also disappointing that a digital model integrated into the Council's 3D CBD model was not available to assist the Panel to assess the visual impact of the proposed development from a wide range of viewpoints, particularly against the backdrop of the locally significant landscape feature that is President's Hill.

Although the maximum height limit for this site and the locality is 18 metres, this should only occur where the proposal respects not only the desired future character, but the existing development which is likely to remain on the adjoining and surrounding properties.

These contextual issues are further discussed below.

Context

- Insufficient evidence of a formal site/context analysis was submitted – as a minimum, a full site and context analysis should include:
 - A formal urban design/landscape analysis with a set of architectural diagrams explaining the design (preferably at pre DA stage), and how it responds to the findings of the analysis (as set out on pages 39-43 of the Residential Flat Design Code).

- The set of diagrams should be to an appropriate scale and include site and context plans, sections and streetscape elevations showing the proposal and existing, and approved and likely future surrounding building envelopes, to ensure that the proposal is sympathetic to its surroundings and the desired future character of its locale.
- Views Analysis: It is essential for a development of this scale to provide an extensive and detailed view catchment analysis, especially for a development of this height which would be exposed to middle and long distance views including those from Brisbane Water, the western Kariong escarpment, and the Central Coast Highway that forms a main gateway to Gosford.
- Relationship to the adjoining properties in Donnison Street: The proposed six storey building would have a poor relationship with the immediately adjoining apartment buildings on both sides (which are presumably strata titled and likely to remain for the foreseeable future), which is well illustrated by the physical model presented.
- It is recognised that this locality is about to undergo significant built form change. The current proposal if approved would be one of the first developments in the area under the new building envelope controls. Therefore, it is essential that it be of the highest possible design standard as it would set a precedent for the locality.

Summary of Applicants Response

We included a site analysis, context plan and sections to show the relationship between the development, the existing buildings/environment and future development between Central Coast Highway and Fielder Street, site orientation and prevailing wind and sun path analysis, view corridors, visual and acoustic impact on existing and adjoining buildings, shadowing effects on neighbouring buildings and distance to major local facilities.

We also included a physical model and perspectives to show the proposed development in relation to existing adjoining buildings and possible future developments. We were not advised that a 3D computer model was required to be inserted into Council's 3DVR CBD Model and paid for by the applicant. The hard model provided and the information submitted are more than enough to make an informed assessment of the proposal.

An extensive site and view analysis has been undertaken and the Panel has ignored the information provided. Additional view assessment and more site context analysis plans to further illustrate the design criteria and explain our decision making have been submitted.

Council's Response

The submitted site analysis contains some of the basic required information but represents little more than the proposed site layout and how that layout impacts on views, winds, solar access of adjoining properties etc. The inclusion of the additional information showing site configuration, amenity and access has failed to provide sufficient detail, advice and/reasons for this particular design and does not show how or why the site analysis indicates this particular design is the best design solution. A building profile demonstrating relationships with existing adjoining buildings and potential future buildings is not provided and existing adjoining buildings have not been adequately considered as part of the site analysis.

As the applicant has refused to provide the required modelling for installation into the 3DVR CBD Model, Council has modelled the proposal and installed it in the 3DVR CBD Model. The impact of the proposal, particularly in relation to the reduced side setbacks has been clarified and is deemed excessive. The cumulative impacts of similar reductions in setbacks on adjoining

properties will undermine the aims, objectives and provisions of Gosford City Centre LEP and DCP 2007 and SEPP 65 including the Residential Flat Design Code (RFDC).

Scale

- The six storey building is excessive in height, footprint and bulk for its siting. It is considered that the bulk and height of the proposal would not suit the scale of the street or the adjoining development.
- Although the six storey building is documented as two buildings, it is actually one building mass and would read as such from adjoining properties and the public domain thereby exacerbating visual and related impacts.

Summary of Applicants Response

The building is within the prescribed height limit of 18 metres. The footprint and bulk are consistent with the requirements of the LEP. It is wrong and inappropriate to expect new buildings to suit the existing streetscape of 2-3 storey buildings as built under the old regulations. Neighbouring properties will be developed with similar density and height to the proposal.

Council's Response

The proposal does comply with maximum height requirements however the building setbacks are inappropriate and non-compliant with both Gosford City Centre LEP 2007 and the Residential Flat Design Code (RFDC). Compliant side setbacks and larger front and rear setbacks with some additional stepping back of the building would assist in creating a more appropriate development with regard to existing development both adjoining and in the locality generally, particularly considering that some of the more recently constructed existing development will likely be in existence for many years into the future.

Gosford City Centre LEP and DCP 2007 permit greater density and higher buildings than those of earlier planning regimes. It is therefore essential that all new buildings comply with setback controls to ensure adequate visual and acoustic privacy, solar access, view corridors and landscaping, both for existing neighbouring buildings and particularly for larger future developments. Approval of large non-compliances would set a precedent for future development and undermine the aims and objectives of the planning controls.

Built Form

- Building separation: The objectives of the Residential Flat Design Code (RFDC) for building separation are to achieve appropriate spaces between buildings, visual and acoustic privacy, control of overshadowing and provision for common open space with deep soil area. The current proposal fails to comply with these objectives especially because of its setback to the common side boundaries with adjoining developments and internal site planning. The following is not an exhaustive list, but includes some of the major non-compliance issues:
 - The indented courtyard spaces formed between the boundaries of Building B and C are approximately 9 metres x 9 metres yet the RFDC requires an 18 metre separation at the fifth and sixth levels and 12 metre separation below that level.
 - The setback for Buildings B and C to the side boundaries is currently 3 and 4 metres and should on average be 9 metres to habitable rooms. It would be preferable for a future design to propose 9 metre side boundary setbacks. This would allow the

façades facing east and west to contain windows and balconies. This aspect is vital for any design for this site as the east and west facades are visible from adjoining properties and the wider public domain.

- Increase the legibility of main entries and pedestrian access so that the entries to all parts of the development are clearly legible from the street. The entry to Building C via a narrow side pathway alongside Building B is of particular concern and a poor design outcome.
- The depth of Building B and C is excessive.

Summary of Applicants Response

Refer to the comments contained in the SEE on pages 25-32 outlining the response to aims and objectives. The section of building separation in the RFDC needs to be read in conjunction with the section Side & Rear Setbacks on page 33 & 34 of the RFDC which is more applicable in our case as a narrow suburban infill site, especially diagram 01.75.

Balconies and windows are carefully positioned to avoid overlooking and do not cause visual, acoustic or overshadowing problems to neighbouring properties

Council's Response

The details referred to by the applicant on pages 25-32 of the SEE quote the aims of Gosford City Centre LEP 2007 and the objectives of the R1 Zone and outline a number of broad reasons as to why the proposal complies with such aims and objectives. The SEE indicates that the proposal complies with building setback requirements and offers an opinion that balconies are not regarded as habitable space. The applicant's statement regarding setbacks have been noted however under the Building Separation controls of the Residential Flat Design Code (RFDC) balconies are required to have the same setbacks as habitable space.

The applicant has not adequately responded to the issue of 48 bedrooms including windows also being located within the setback area. The applicant has provided no specific detail as to how the objective of the building setback and building separation requirements have been met other than an opinion that the site is a "narrow suburban infill site". The site is not narrow and is not regarded as "an infill site" due to the site area, the number of lots and total area involved and the fact that this is the first proposal in the locality designed under the Gosford City Centre LEP 2007 controls. Many other applications will eventually be submitted on similar sites in the future and it is important that the first application sets the required standard and complies with setbacks and exhibits the required level of design excellence.

Density

- Although the proposal appears to comply with the numerical maximum floor space ratio it would be manifested in this location as unacceptable visually.

Summary of Applicants Response

The current application addresses all objectives of Gosford City Centre LEP 2007. The fact that the proposal is larger than surrounding existing buildings is due to the new planning controls. It is not realistic or appropriate to expect new development to be visually compatible with existing 2-3 storey buildings which will be redeveloped and replaced with new buildings with similar height, bulk and scale as the proposal. Future development character based on the new LEP is what is crucial.

Council's Response

It is an unreasonable contention that existing development should be basically ignored when considering appropriate design solutions for any site, particularly in this case where most of the existing multi unit buildings are only a few years old, most are separately strata titled with a proliferation of owners and will obviously not be redeveloped as outlined by the applicant within the foreseeable future. A design response that gives more consideration to existing development is required and such will only be achieved by increasing setbacks and building separation and use of greater articulation and stepping in the vertical height of the proposal.

Resource, Energy and Water Efficiency

The following are not incorporated and should be:

- o passive and active solar design (including solar hot water);
- o efficient energy systems;
- o further deep soil zones to retain existing mature vegetation and allow for additional native tree and understorey planting;
- o capture and reuse of grey and rain water; and
- o biologically active forms of stormwater management.

Summary of Applicants Response

This comment is wrong. The BASIX certificate shows full compliance with energy and thermal comfort requirements. This has been achieved by good orientation and cross ventilation. The proposal achieves and excels in all areas set by BASIX without using solar panels, a real advantage.

Council's Response

It is reasonable expectation of both Council and the community that a multi unit development exceeding \$14 million in value be more innovative than complying with the minimal requirements of BASIX. The refusal of the applicant to consider the Panel suggestions and the response offered indicates the development has been designed to be constructed as economically as possible with maximum height and density regardless of the site context and existing and desired character of the locality. Principal considerations are perceived to be achievement of an approval based on minimal documentation to a proposal that maximises the number of units and floor space, provides views to as many units as possible with insufficient regard to context and existing development.

Landscape

- The proposed site planning and allotment cover of the buildings has given limited scope for a high quality landscape design to be achieved. The common open space would be in shadow for a substantial part of the day and therefore provide a poor amenity for residents. Similarly, the townhouse courtyards would also be in shadow for most of the day and provide a poor outcome for residents.
- It is important that any landscape design for this site replaces all trees to be removed, and adds further, suitable large canopy trees in appropriate locations including on the site edges and street frontage, and provides street trees in accordance with Council's requirements.
- Refer comments above regarding the poor entry location to Building C.

Summary of Applicants Response

The site planning allows extensive landscaped area, especially the deep planting area in the central courtyard between building A & C. The area will be in shade for a few days of the year but is a better alternative than placing the landscaped area in the side setback area which would be in shade for half a day on most days of the year.

We will be providing replacement trees for all trees removed as indicated in the landscaping plan.

Council's Response

Good landscaping should relate to the design and scale of the buildings and contribute to the streetscape. It should be more than filling residual parts of the site with plants. The proposed landscaping is inadequate for the size of the development. Landscaping should include some large trees (10 metres minimum height) to break up the bulk and disguise the large flat areas of the building. Notably the non-complying side setbacks and entry path limit the area available for landscaping resulting in it being limited to shrubs.

Amenity

- There are multiple acoustic and visual privacy conflicts with Buildings B and C at the re-entrant corners.
- The floor to ceiling heights of 2.4 metres are inadequate for the amenity of the dwellings and do not comply with the minimum requirement of 2.7 metres (RFDC and LEP).
- Some of the bedrooms have inadequate floor area and dimension.
- Multiple bedrooms in blocks B and C have only small vertical slot windows leading to inadequate natural lighting and ventilation.
- Building A contains multiple amenity failures including inadequately sized dining rooms, living rooms, stairwells, courtyards and bedrooms. The inclusion of a second master bedroom is not warranted.
- The ground floor level of block A should be at or near footpath level.

Summary of Applicants Response

The comment relating to acoustic and visual privacy conflicts is wrong and lacks factual basis and its meaning is vague. Refer to comments on the SEPP 65 Design Quality Statement regarding floor to ceiling height.

All bedrooms have adequate size for at least a single bed, desk and wardrobe. All main bedrooms in 2 and 3 bedroom units have sufficient space for a double bed, bedside table and wardrobe.

Windows comply with the BCA Part F4-Light and Ventilation. In addition a vertical window provides more privacy than a horizontal window. The comment of inadequate solar access lacks credibility and the number of south facing units is small.

The proposed townhouses are 4m wide and 3.8m internally. This is adequate for a normal residential dwelling, the staircase is common in townhouse design, the front townhouse building facing Fielder Street has private back courtyards and the back townhouses have private front courtyards of 4m X 3m. The second master bedroom is an option for residents as the

townhouses have a flexible floor plan for different residential usages. The second master bedroom is one of the optional uses and does not mean it must be used as a master bedroom

Traditional townhouses are positioned above adjacent footpath level to provide privacy, physical separation and increased amenity of residents

Council's Response

The following are considered as significant amenity issues with the application:

- There are significant visual and acoustic privacy conflicts with balconies facing and located within 3 metres of bedroom windows and within 5 metres of balconies of adjoining units. The RFDC recommends 12 metres separation between habitable rooms/balconies and other habitable rooms.
- Proposed floor to ceiling heights are 2400mm or 12.5% below the 2700mm recommended in the RFDC. The non-compliance with the required ceiling height will reduce the overall spaciousness and light of the units and the applicant has not demonstrated that reducing it will not have a detrimental impact on the amenity of the units.
- There is inadequate solar access with lower units facing the internal courtyards receiving no direct sunshine at all during winter.

Safety & Security

- The narrow side entry to block C is a safety and security issue.

Summary of Applicants Response

On this long site with several buildings multiple entrances are necessary. A single entrance to the building will not satisfy the requirement for a connecting walkway to enable residents from the townhouses to access Donnison Street. There are no architectural or planning issues with entrance from the side of the building.

Council's Response

The side entry is considered both a security concern and also poorly designed for ease of access. The rear section is accessed by a 40 metre long external side passage before entering a narrow (1.2metre) kinked corridor with the lift hidden at the end. This design makes it difficult to move furniture, crowded if there is a group of residents in the foyer and noisy for adjoining units as the lift is directly adjacent to their entry doors.

Social Dimensions

- No comment at this stage.

Summary of Applicants Response

Refer to SEE and SEPP 65 Design Quality Statement

Council's Response

No issues regarding Social Dimensions

Aesthetics

- The Panel reserves its comments in this regard for a future proposal as the design has so many fundamental shortcomings.

Summary of Applicants Response

The proposed coloured precast external panel is only one of the external elements, and although a critical part of the external façade, does not represent a large proportion of the external appearance. It reduces the bulk and scale rather than increases it. There are many examples of architecture using varieties of elements other than a base, middle and top.

Council's Response

Repetitive design with continuous areas of uniform external cladding emphasise the bulk and scale of the building. Changing colours does not provide an adequate solution. The building should have a distinct base, middle and top. In particular a visual base could improve the appearance by breaking up the continuous walls and improve the streetscape by creating human scale elements rather than the continuous 5 storey walls. There could also be the option of providing larger ground level courtyards to ground floor units.

The use of small scale elements to disguise the bulk of the façade should also be considered. Horizontal sunshades would have the dual benefit of breaking up the bulk and improving thermal performance.

Comments from Council's Architect

Zoning Issues

The Gosford City Centre LEP 2007 clearly shows the site located within the R1 General Residential zone. The R1 General Residential zone is located away from the main roads to ensure relatively quiet conditions for residential buildings. The Enterprise Corridor character locality is located on the main roads of the Pacific Highway and Racecourse Road.

The applicant's implication that this site should be considered as being within the Enterprise Corridor character locality of Gosford City Centre DCP 2207 and the building not comply with the appropriate R1 Residential zone controls is not well founded. If the applicant's assertion that the site should be considered as being within the Enterprise Corridor character locality has merit the application should also comply with the relevant controls for that zone which include an FSR of 1.5:1 and a maximum height of 12 metres.

Setback Compliance and the RFDC

Side setbacks do not comply with Gosford City Centre LEP and DCP 2007 or the Residential Flat Design Code (RFDC). These planning controls require a 6 metre side setback for buildings up to 12 metres high and 9 metres side setback for heights above 12 metres.

Balconies are included with habitable rooms in the Building Separation controls in the RFDC. Balconies are clearly habitable spaces that are frequently used for domestic living and are subject to visual and acoustic privacy intrusions and in particular can be a source of noise. The applicant's assertion that balconies are not spaces that are used for normal domestic activity is not well founded.

Bedrooms are classed as habitable rooms and this application locates 48 bedrooms including their windows within the 6 metre setback. Even though some windows do not directly face the

side boundary, they are still subject to noise from adjoining sites. Again the applicant's suggestion that noise only travels in straight lines is incorrect and the units will be subject to noise impacts whether windows directly face the boundary or not.

The applicants statement that the side windows are fixed conflicts with the claim that the units are cross ventilated and is likely to negate the NATHERS rating. Sealed windows would also require bedroom doors to have ventilation grilles to comply with the Building Code of Australia (BCA) which introduces further amenity problems within the units.

Non-compliance with setbacks also contributes to visual bulk and scale. This is due not just to the fact that buildings are closer together but also that the reduced setbacks severely limit the opportunity for landscaping that is appropriate to the scale of the building. A 20 metre high building requires some trees at least 10 metres high to soften and disguise the bulk of the building. Low shrubs as proposed are ineffective in this role.

Ceiling Height and the RFDC

The ceiling height is non-complying. This is clearly a residential building and Gosford City Centre LEP and DCP 2007 and the RFDC require 2700mm floor to ceiling height in residential buildings.

It is clear that non-compliance with the required ceiling height will reduce the overall spaciousness and light of the units and the applicant has not demonstrated that reducing it will not have a detrimental impact on the amenity of the units.

Amenity and Streetscape

While town houses and flexible layouts are a viable form of residential development, the narrow internal width of less than 4 metres which includes staircases severely restricts the amenity of the proposed townhouses in Building A.

The town houses are up to 2 metres above ground level at the street front. This presents as a wall at street level and does not contribute to the streetscape or public domain. The design should respond more closely to the topography and should preferably be no more than 900mm above the street level and step in response to the slope.

The end walls of the town houses are completely flat and blank creating a poor streetscape.

Submitted photographic examples of other sample townhouse developments provided by the applicant clearly show buildings that step in response to slopes, have individual variety and a better connection with the street than the applicants design.

Pedestrian Entry to Building

The pedestrian entry to building C is via a narrow side pathway which creates a privacy conflict with the adjacent unit. There should be a single pedestrian entry to the tower building that creates a desirable residential identity and contributes to the streetscape.

External Appearance of Building

Repetitive design with continuous areas of uniform external cladding emphasizes the bulk and scale of the building. Changing colours is not an adequate solution. The building should have a distinct base, middle and top.

Conclusion

Gosford City Centre LEP 2007 sets out statutory controls but also lists Design Excellence as a matter for consideration in the assessment process. Factors that contribute to Design Excellence include bulk, massing and modulation of buildings; street frontage heights; whether a high standard of architectural design, materials and detailing appropriate to the building type and location, impact on view corridors and impact on the public domain.

This is the first new application in this locality under the Gosford City Centre LEP and DCP 2007 and it is desirable that it aims for design excellence as a precedent for future development. As an absolute minimum it should comply with all controls in Gosford City Centre LEP and DCP 2007, and SEPP 65 including the Residential Flat Design Code (RFDC).

As set out above, this application has a number of areas of non-compliance with the Gosford City Centre LEP and DCP 2007 and the RFDC which significantly reduce the design quality of the application. The non-complying setbacks result in excessive bulk and scale with a corresponding reduction in view corridors between buildings and limited area for landscaping. The height difference between the townhouses and the street level creates a wall above street level that has a detrimental impact on the public domain.

I agree with the comments of the SEPP 65 Design Review Panel that the application should be refused in its current form.

Visual Impact, Streetscape and Impact on Adjoining Development

The proposal will be clearly visible from the Central Coast Highway in the vicinity of the Racecourse, Adcock Park and Presidents Hill as it will be located on the lower slopes of Presidents Hill and has been designed under the planning controls of Gosford City Centre LEP and DCP 2007 with a height of 18 metres (6 storeys).

The proposal has an unacceptable visual impact on the streetscape and adjoining properties for the following reasons:

- 1 The end walls of the townhouses are flat, blank and devoid of articulation and fenestration.
- 2 The townhouses are up to 2 metres above ground level. Together with the minimal setback to Fielder Street an undesirable and closed feel to the streetscape of Fielder Street is created. The Fielder Street façade will present to the street as the rear elevation or "back side" of a building thereby contributing negatively to the future streetscape.
- 3 Building B fronting Donnison Street West is located on a minimal 2m front setback and upper floors are insufficiently set back. This creates an undesirable and closed feel to the streetscape of Donnison Street West.
- 4 The minimal side, front and rear setbacks result in adjoining 2-3 storey buildings being visually overwhelmed by the bulk, height and scale of the proposal. Buildings B & C have a series of balconies on all floors. The location of balconies within the required setback area are of particular concern. The balconies are designed in such a way that overlooking of adjoining development is minimised however some visual privacy issues will be created. Noise impacts will also occur to adjoining developments. The proposal has located 48 bedrooms within the 6m side setback area. Noise emanating both from and into these bedrooms is an issue that would be minimised with a compliant 6-9m side setback.

- 5 The privacy and noise issues are caused by a combination of the proposals design and the non-compliance with the side setback requirements. The design solution includes blank walls containing no fenestration on both the eastern and western ends of Building A (townhouses). Buildings B & C are provided with minimal fenestration to the eastern and western walls in an effort to minimise overlooking and other impacts such as noise on adjoining properties. The applicant has failed to demonstrate that the concentrated massing of the bulk proposal at the northern end of the site is the best design solution. The impacts created affecting adjoining properties are a direct result of the proposed design.
- 6 An alternative and better design solution would consist of compliant 6-9m side setbacks and a more even massing of development over the site possibly in two buildings of similar height appropriately stepped with larger setbacks on the upper levels. Such an alternative would also facilitate compliant side setbacks at 6-9 metres and ceiling heights of 2700mm with a consequent 1 floor reduction in the height of Buildings B & C to comply with maximum height requirement of 18m. Such a proposal would result in a more appropriate separation of buildings both on this site and adjoining sites. As there are alternative design solutions that achieve a better outcome for all stakeholders including the applicant the proposed design solution is regarded unreasonable.
- 7 The development potential of the adjoining sites will be heavily impacted as if / when these sites are redeveloped, an additional side setback would be required on those sites to compensate for the minimal setbacks of the proposal to meet the building separation requirements of both Gosford City Centre LEP and DCP 2007 and the Residential Flat Design Code (RFDC).
- 8 The proposal cannot rely on landscaping to minimise impact on adjoining properties as the proposed 3-4m side setbacks do not provide sufficient area for appropriate landscaping including larger 10m high trees to aid in minimising the bulk and scale of the building.
(Refer refusal reason 5 and Annexure 5 - Development Photomontage)

Comments from Council's Senior Development Engineer

Council's Senior Development Engineer provides the following comments regarding relevant Engineering issues:

Matters raised in previous assessment

1. Access, parking, & traffic

- a. *Future works associated with the development will require among other things that the footway across the frontage of the site in Donnison Street West be fully formed at 2% towards the kerb and gutter. The levels of the proposed pedestrian entry points are to be amended on the plans to ensure a future transition between the road reserve and the internal accesses for the development.*

Senior Engineers Comment:

From the survey information and the revised levels at the boundary indicated on drawing DA 02C, it appears that the levels at the boundary will still not correlate between the internal and external works.

- b. *A traffic study is to be prepared and submitted to address the following:*
 - i. *The traffic generated by the proposed development and its impact on the surrounding road network.*
 - ii. *The proposed access and parking arrangements including how these arrangements satisfy AS2890.1:2004, AS2890.2:2002, AS2890.1:1993 (for disabled access & parking arrangements).*

- iii The provisions for service vehicles associated with waste pickup and delivery services (removalist/furniture trucks, etc).*

Senior Engineers Comment:

No information has been submitted to address these matters associated with the traffic study.

- c. The internal access/parking arrangements are to be modified to comply with the following areas:*

- i. The vehicular access profile off Fielder Street is to be amended to provide a 'roll over' transition maintaining a 2% grade (towards the kerb) over the footway width to prevent stormwater entering the development.*

Senior Engineers Comment:

This appears to have been addressed in the amended drawing DA 02C.

- ii. The entry point into the development is to be a minimum of 6.1m wide allow for a 5.5m access with 0.3m clearance on either side, as required by AS2890.1:2004. This entry point may need to increase beyond the minimum 6.1m to cater for the largest vehicle required to enter the development to service it.*

Senior Engineers Comment:

Although the entry driveway has been widened to the minimum requirement of 6.1m, no details have been provided to indicate that this is suitable for the waste servicing vehicle and furniture delivery/removalist vehicles associated with this development.

- iii. As per AS2890.1:2004, car parking spaces that adjoin vertical obstructions greater than 150mm in height are to be widened an additional 0.3m. Therefore the following car parking spaces are to be widened to a minimum of 2.7m:*

- Building A car park: spaces 4, 5, 22, and visitor spaces 29, 30, 31 & 32.
- Building B car park: spaces 1, 20, 21 and visitor spaces 30 and 31.
- Building C car park: spaces 1, 20, 21, 27, 30 and 31.

Senior Engineers Comment:

This appears to have been generally addressed in the amended drawing DA 02C.

- iv. As per AS2890.1:1993, the following disabled car spaces are to have a minimum width of 3.2m:*

- Building B car park: disabled spaces 16, 17, 24, 25, 26, visitor 27, & 46.
- Building C car park: disabled spaces 16, 17, 24, visitor 26, & 46.

Senior Engineers Comment:

This appears to have been generally addressed in the amended drawing DA 02C. However, since my previous assessment, it has come to my attention that disabled parking is now to be designed in accordance with the revised standard AS2890.6:2009. The disabled spaces do not appear to comply with the requirements of the revised (2009) standard.

- v. As per AS2890.1:2004, a minimum 1m blind aisle extension is to be provided in the following locations:*

- Building A car park: between western side of spaces 4 & 5.
- Building B car park: between northern side of spaces 16 and 17 and between northern side of spaces 17 & 46.
- Building C car park: between northern side of spaces 16 and 17 and between northern side of spaces 17 & 46.

Senior Engineers Comment:

This appears to have been generally addressed in the amended drawing DA 02C.

- vi. Disabled spaces should all be located in close proximity to the lifts.*

Senior Engineers Comment:

Only some spaces are in close proximity to the lifts.

- vii. Conformation is to be provided as to compliance with the minimum height clearance to be provided above disabled car parking spaces AS2890.1:1993).*

Senior Engineers Comment:

This was addressed in the additional information submitted. Furthermore, the height clearance of 2.5m (not including ducting etc) indicated complies with AS2890.6:2009.

- viii. Directional signage and line marking is to be indicated on the architectural plans.*

Senior Engineers Comment:

The directional line marking has been indicated on the amended drawing DA 02C.

2. Landscape plan.

- a. The landscape plan is to be amended to remove the street tree planting from within the road reserves and reflect the levels at the boundary that will result from the required footway formation.*

Senior Engineers Comment:

A revised plan was not provided with the additional information submitted.

3. Drainage

- a. A stormwater management plan is to be submitted addressing the requirement of council's DCP 165 - Water Cycle Management for on-site detention, nutrient/pollution controls, and on-site retention.*
- i. On-site Detention. In relation to on-site detention, a report prepared by a qualified civil engineer is to be prepared. The OSD system is to be designed to limit post development flows back to predevelopment flows for all storms up to and including the 1%AEP storm event. A runoff routing method is to be utilised in the analysis. The on-site detention is not permitted within private courtyards. An operation and maintenance plan is to be included in the report.*
- ii. Nutrient/pollution controls. In relation to the required nutrient/pollution control, a report is to be prepared by a suitably qualified professional. The report is to provide measures in accordance with DCP 165 and the associated guidelines, and is to include an operation and maintenance plan.*
- iii. In relation to the requirements for on-site retention, the required retention volumes are to be provided as per the requirements of DCP 165 and the associated guidelines.*

Senior Engineers Comment:

The applicant states that this is contained in the plan by Jens Clemensen & Associates (Drawing H01A), however, this plan does not satisfactorily address Council's request as there is no OSD or pollution controls indicated in the plan. The detention indicated is actually retention for reuse, not detention.

- b. Drainage easement.*

The survey plan indicates the existence of a drainage easement and associated pipelines (utilised for the purposes of interallotment drainage associated with surrounding development). The location of the existing drainage easement is to be indicated in the architectural plans. Details are to be provided indicating how this drainage easement and associated stormwater pipeline will be maintained within the development else altered with alternate drainage easements created to discharge to a Council system. The stormwater associated with this interallotment drainage line is to be maintained as a separate system to that of the internal drainage associated with the development.

Senior Engineers Comment:

Although the location of the drainage easement was indicated on the revised drawing, DA 02C, inadequate information was provided to address the remainder of this request.

4. Sewer

Comments received from the water & sewer directorate have indicated the following to be addressed and submitted to Council for further consideration with the assessment of the development application.

- a. The applicant shall indicate the location of the existing sewer main / sewer vent stack in relation to proposed building, on the site plan and sections to assess the impact of the development to Council sewer main.*
- b. The existing sewer vent structure is to be maintained as it is an integral part of existing sewer system. The proposed development shall not obstruct the existing vent structure and ensure sufficient height clearance between the proposed building and the vent stack to enable the sewer gases to be dispersed without impact on surrounding properties. The developer shall maintain a minimum 2.4m wide access corridor to the vent for maintenance purpose. Alternatively, the sewer main and the vent stack may be relocated to a suitable location outside of the proposed building alignment. The feasibility for relocation of the sewer mains and vent stack shall be confirmed as this shall be dependant upon grades of the existing sewer mains and length of mains to be relocated. The developer shall be responsible for the full cost of relocating the sewer mains and for the design and construction of these sewer main relocations. The designs must be in accordance with Council's standards for sewer designs and shall be submitted to Council's Water and Sewer Directorate for assessment in conjunction with the development application submission. All designs shall be in accordance with WSAA Sewer Code.*
- c. Any building near the sewer main shall be designed in accordance with Council's Building over or near sewer main policy. Concrete encasement of the sewer main is to be in accordance with council's building over sewer guidelines. Typical sections across the zone of influence including piercing details to be certified by applicant's Engineer.*
- d. Council shall require 24 hour unrestricted /unobstructed access to any sewer deadend, and vehicular access to sewer vent contained within the site.*
- e. Pile driving is not considered appropriate within ten (10) meters of council's existing sewer main. Conditions associated with driving piles within ten (10) meters of the sewer are outlined in council's "Building over or near Council's Sewer and Water Mains" guidelines.*
- f. The applicant shall apply for water main pressure and velocity enquiry for the proposed development via council web site.*

Senior Engineers Comment:

The comments provided by the applicant have failed to address the requested information from the Water & Sewer Directorate (Water Authority).

5. Other

Council does not concur to the construction management notes 2, & 3 on the "site stormwater drainage and construction management plan" prepared by Jens Clemensen & Associates that was submitted with the application.

Senior Engineers Comment:

The comments provided by the applicant are noted, but the applicant has failed to revise this plan in conjunction with the required information requested in point 3 above.

"In view of the above comments, the application is not supported as there is insufficient information to complete assessment of relevant engineering issues."

Comments from Council's Tree Management Officer

The following comments are provided by Councils Tree management Officer:

"The subject application has been assessed and it is noted that the development will require removal of all existing trees on site except for one (1) Fig tree located centrally on the lot.

Other trees on site to be removed consist of Tea tree, Cheese tree, Camphor laurel and palm which are not considered specimens of merit which would require retention or redesign of the proposal. It was noted that the two (2) large trees located on the western adjoining property (Eucalypt and Brush box) will be close to the development, but should not be affected providing all care is taken during construction.

The landscape plan proposes use of tree species such as Tuckeroo within the property and Lilly Pilly as a street tree. However if found that taller trees are required to provide greater screening, consideration could be given to replace the Lilly Pilly with a species capable of achieving a greater height (eg. Spotted Gum)".

Bushfire Protection - Comments from NSW Rural Fire Service.

The site is located within a bushfire prone area therefore the application was referred to the Rural Fire Service regarding adequate bushfire protection. The Rural Fire Service have advised by letter dated 17 February 2010 that the following conditions should be included in any consent:

- 1 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 Bushfire Protection 2006" and the NSW rural Fire Service's document 'Standards for Asset Protection Zones'
- 2 New construction shall comply with Australian Standard AS3959-1999 'Construction of Buildings in Bushfire Prone Areas' Level 1

Comment

The application has not been supported therefore the information from the RFS is noted.

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.

Public Submissions

A number of 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 submission is detailed hereunder.

1 Gross overdevelopment of the site. Overbearing scale, form and massing. Excessive bulk and scale. Minimal side boundary setback of 3m limiting and debilitating any landscape buffer

Comment

The FSR of the proposal is 1.92:1 which complies with the maximum FSR of 2:1. The design and massing of the proposal combined with the minimal non-compliant setbacks will create a feeling of overbearing bulk and scale for adjoining properties. Refer to the body of the report under Design Excellence, Comments from SEPP 65 Panel, Comments from Councils Architect and Visual Impact, Streetscape and Impact on Adjoining Development for further information regarding these matters.

2 Invasion of privacy and amenity. Excessive height of Buildings B & C and 4 storey height of townhouses intrudes on amenity of adjoining properties. Intrusive proximity of elevated pathway on boundary. Minimal Fielder street building line setbacks are poor urban design. Circuitous pedestrian access throughout the development adjacent to boundaries. Overshadowing, overlooking and visual incursions.

Comment

The non-compliant side setbacks will impact on the amenity of adjoining properties, particularly in relation to noise issues. Generally the proposed design is regarded as a poor design solution with inadequate separation from adjoining buildings, compressed ceiling heights to achieve an additional storey on Buildings B & C and is not supported by Council. Refer to the body of the report under Design Excellence, Comments from SEPP 65 Panel, Comments from Councils Architect and Visual Impact, Streetscape and Impact on Adjoining Development for further information regarding these matters.

3 Imposing impacts on development potential of adjoining sites

Comment

The minimal side setbacks at 3-4 metres will impact on the development potential of the adjoining sites. Future development on adjoining sites would be required to provide greater setbacks than the minimum requirement to achieve appropriate building separation of up to 18 metres as required under Gosford City Centre DCP 2007 and SEPP 65 via the RFDC.

4 Poor site analysis and neighbour impact assessment.

Comment

The SEPP 65 Design Review Panel have indicated issues with the level of documentation provided including the site analysis. The site analysis submitted is inadequate for a development such as the proposal which exceeds \$14 million. No acceptable explanation of how the design has responded to the site analysis has been submitted. The reason for the chosen design solution remains unclear and assessment staff including the SEPP 65 Design Review Panel and Council's Architect have been unable to find any justification within the site analysis for a reduction in the side setback requirements and compression of ceiling heights as proposed.

5 Incongruous scale, form and spatial arrangement with adjoining development. Debilitating contextual setting and neighbourhood amenity.

Comment

The main issue with the proposal is the non-compliant side setbacks. Compliance with side setbacks may resolve some issues of building separation and the consequent impacts on the amenity of adjoining properties. The comments made by the SEPP 65 Design Review Panel indicate that the contextual analysis is inadequate. The building separation between the proposal and adjoining buildings is inappropriate and will impact on the amenity of adjoining sites, particularly in relation to noise and the impression of the increased bulk and scale of the proposal. The proposal is generally inappropriate in its contextual setting, due mainly to the proposed massing of Buildings B and C.

6 The proposal at up to 6 storeys is out of character with the locality as existing buildings are a maximum height of 3 storey.

Comment

The applicant has argued that the proposal complies with the maximum height requirement of Gosford City Centre DCP 2007 and this is correct. However as indicated by the SEPP 65 Design Review Panel, the bulk and height of the proposal does not suit the scale of the street or adjoining development. Increased setbacks and appropriate stepping of the upper floors would be one method of achieving more adequate consideration of the amenity of adjoining properties and the character of the locality generally.

7 A development of 87 units is likely to leave a large number of apartments unsold and / or unoccupied for a long period, impacting on the confidence of developers and possibly stifling further development. A development in Moore Street a couple of streets away still has unsold units, even after prices were dropped and the developer went into receivership.

Comment

This issue is not a relevant head of consideration under s79C of the EP & A Act 1979. Notwithstanding this, large developments such as the proposal are normally marketed prior to commencement of construction which does not usually occur until enough units are sold and the developer is reasonably confident the project will be viable.

8 The proposal has 22 X 1 bedroom units which is inappropriate as there is little demand for 1 bedroom units.

Comment

The proposal complies with the requirements of Gosford City Centre DCP 2007 regarding the required mix of 1, 2 and 3 bedroom units.

9 Surrounding road infrastructure is poor and surrounding roads including Donnison and Young Streets should be improved prior to further development.

Comment

The applicant was required to submit a traffic report from a recognised consultant to address relevant issues. The required report has not been submitted. If the application were to be approved, any consent may require roadworks and footway construction depending on the result of the assessment of relevant traffic and engineering issues.

10 The 6 storey building is set back only 4 metres and will impact on the privacy and sunlight received by the townhouses adjoining the eastern boundary. The proposal negates the ability for the adjoining townhouses to the east to install solar panels.

Comment

The proposed 3-4 metre side setback is regarded as insufficient to minimise impacts such as overshadowing, privacy and acoustic issues on the townhouses adjoining the eastern boundary. Refer to the body of the report under Design Excellence, Comments from SEPP 65 Panel, Comments from Councils Architect and Visual Impact, Streetscape and Impact on Adjoining Development for further information regarding these matters

11 As an adjoining owner I need to know if the development is for government housing purposes.

Comment

Although irrelevant in the assessment of the application, the applicant has not indicated that the proposal is for public housing.

12 The 2 metre front setbacks will give a sense of encroachment and high density housing which this area is not.

Comment

The building is setback 3 metres from Fielder Street and complies with the front setback requirement. Approximately 13 metres of the frontage to Donnison Street West is setback 2 metres and is not compliant with the 3m minimum setback. In isolation, this non-compliance with front setback creates no issues. The non-compliant side setbacks will however contribute to a sense of encroachment and inappropriate bulk and scale due to inadequate building separation. Refer to the body of the report under Design Excellence, Comments from SEPP 65 Panel, Comments from Councils Architect and Visual Impact, Streetscape and Impact on Adjoining Development for further information regarding this matter.

(Refer Annexure 3 - Location Plan of Public Submissions)

Conclusion

Following is a summary of relevant issues and reasons why the application is not supported by Council:

- 1 Zone objectives** - The proposal does not comply with the zone objectives of Gosford City Centre LEP 2007 regarding scale, traffic generation, building separation, desired character and impacts on amenity to adjoining properties. This results substantially from

the non-compliance with setback and building separation requirements of both Gosford City Centre LEP & DCP 2007 and SEPP 65 (RFDC).

(Refer refusal reason 1)

- 2 **Gosford City Centre LEP and DCP 2007** - The proposal does not comply with the aims of GCC LEP 2007 relating to **design excellence**. Relevant issues regarding the design include acoustic and visual privacy conflicts at the re-entrant corners, floor to ceiling heights of 2400mm, bedrooms with inadequate floor area and dimension, multiple bedrooms in Buildings B & C with inadequate lighting and ventilation, inadequately sized dining rooms, living rooms and bedrooms and inappropriate side entry to Building C creating a safety, security and access issue.

The proposal does not comply with the **side setback and building separation** requirements of SEPP 65 as outlined in the RFDC, Gosford City Centre LEP and DCP 2007. Proposed setbacks at 3m for the first four (4) floors and 6m for the top two (2) floors are approximately half of the requirements under these planning controls. The reduced setbacks will impact on the ventilation, daylight access and privacy of both adjoining development to the east and the subject proposal itself. Additional noise impacts will also be created to adjoining properties. Redevelopment of adjoining sites will also be impacted as those sites will require additional setbacks to achieve the required building separation if the setbacks of the subject site are reduced. The application has failed to demonstrate that compliance with this development standard is both unreasonable and unnecessary. The proposal to provide minimal fenestration of the eastern and western elevations of all buildings to justify reduced setbacks is regarded as a "flawed design" that creates streetscape and visual amenity issues.

The proposed **floor - ceiling heights** at 2400mm do not comply with the requirements of SEPP 65 and Gosford City Centre DCP 2007. This creates issues relating to overall spaciousness, light penetration and flow through ventilation.

(Refer refusal reason 2)

- 3 **Precedent and Cumulative Impact** - Gosford City Council LEP and DCP 2007 have been based on the requirements of SEPP 65 and the Residential Flat Design Code. The proposal is the first development in this locality to be designed under these planning controls. The reduced setbacks and building separation and reduced floor-ceiling heights will set an undesirable precedent that could lead to similar future proposals in the locality, creating a cumulative impact that would undermine the aims, objectives and provisions of Gosford City Council LEP & DCP 2007 and SEPP 65 including the Residential Flat Design Code (RFDC).

(Refer refusal reason 8)

- 4 **SEPP 65 Panel** - The SEPP 65 Panel recommend refusal of the application for a number of reasons as follows:

- Inadequate extent and resolution of submitted documentation.
- Inadequate contextual analysis and view analysis.
- Poor relationship with adjoining buildings.
- Excessive height, bulk and footprint for its siting.
- Inadequate and non-compliant building separation.
- Inappropriate legibility of main access and poor solution in access to Building C.
- Excessive depth of Buildings B & C.
- Visually unacceptable density.
- No use of innovative sustainable design.
- Limited scope for high quality landscape design.
- Multiple amenity issues.

- Safety and security issue regarding access to Building C.
(Refer refusal reasons 3 & 7)

5 **Architectural Assessment** - Council Architect has recommended refusal of the application citing the following issues:

- Non-compliance with side setbacks resulting in excessive bulk and scale with a corresponding reduction in view corridors.
- Non-compliant floor-ceiling heights reducing overall spaciousness and light to units.
- Amenity and Streetscape issues including blank end walls of townhouses and inappropriate presentation to Fielder Street.
- Height difference between townhouses and street level creates a wall above street level impacting detrimentally on the public domain.
- Pedestrian entry to Building C and privacy conflict with adjacent unit.
- External appearance of building is repetitive and continuous external cladding emphasises bulk and scale. Building should have distinct base, middle and top.
- As the first application under the new planning controls, all controls in GCC LEP & DCP 2007 and SEPP 65 should be complied with.

(Refer refusal reason 3)

6 **Visual Impact, Streetscape and Impact on Adjoining Development** - The proposal has an unacceptable impact on the streetscape and an unfair impact on adjoining properties for the following reasons:

- End walls of townhouses are flat, blank and devoid of articulation and fenestration
- The townhouses are up to 2m above ground level at the streetfront presenting to the street as the rear of a building and creating a closed feel to the streetscape.
- The minimal front, side and rear setbacks result in the adjoining buildings being overwhelmed by the bulk, height and scale of the proposal.
- The development potential of adjoining sites will be reduced as when those sites are redeveloped, additional setbacks will be required to achieve compliant building separation from the proposal.
- The proposal will create sunlight, privacy and noise impacts to adjoining properties.
- The proposal will create an overwhelming sense of bulk and scale to adjoining developments.

The design solution is regarded as inappropriate regarding impacts particularly when compliant alternatives having less impact and likely to achieve similar yields are available.

(Refer refusal reason 5)

7 **Engineering Issues and Insufficient Information** - Insufficient information has been submitted to enable completion of the assessment of the application with regard to the following issues:

- The applicant has not established that the required pedestrian footway along the Donnison Street frontage can be fully formed with a 2% cross fall. The internal and external works do not correlate.
- The required traffic study has not been submitted to address traffic generated, proposed access and parking arrangements and how disabled requirements are met. The traffic study is also required to address provision for waste service and delivery vehicles (removalist/furniture trucks). Under the present plan trucks cannot access the building.

- Disabled parking spaces do not comply with the revised standard AS2890.6.2009. Only some spaces are located in close proximity to lifts.
- An Amended landscaping plan is required removing proposed trees within the road reserve and reflect levels at the boundary that result from required footway formation.
- Details regarding OSD and pollution controls have not been submitted.
- Details have not be submitted regarding the interallotment drainage easement associated with surrounding development and how it will be maintained within the development site as a separate system to that of the internal site drainage.
- Details regarding the sewer vent stack are required including its location in relation to buildings, maintenance, Council access and pile driving due to proximity of the sewer main.

(Refer refusal reason 6)

The proposed design solution is inappropriate and does not respond properly to the site constraints. The extent and resolution of submitted documentation generally and the contextual analysis in particular is minimal. The proposal is regarded as inappropriate for this large site located in an area about to undergo significant change. For the above reasons the application is recommended for refusal.

Attachments: Attachment 1 - Aerial Photograph
Attachment 2 - Zone Map
Attachment 3 - Location Plan of Public Submissions
Attachment 4 - Development Photomontage
Attachment 5 - Plans

Tabled Items: Nil

RECOMMENDATION

A The JRPP as consent authority refuse consent to Development Application No. 38097 for Residential Flat Building 3-6 Storey 87 Unit & Demolish All Existing Buildings on Lot: A DP: 361327, Lot: B DP: 361327 and Lot: C DP: 361327, Nos 19-21 Donnison Street West and 8 Fielder Street WEST GOSFORD for the following reasons:

- 1 The proposal does not comply with the aims and objectives of Gosford City Centre LEP 2007 relating to building design excellence, scale, traffic generation, desired character and impact on amenity to adjoining properties.
- 2 The proposal does not comply with the requirements of Gosford City Centre LEP and DCP 2007, the requirements of SEPP 65 and the Residential Flat Design Code regarding front setback, side setback and building separation and floor to ceiling height.
- 3 The applicant has failed to demonstrate that the non-compliance with the development standard relating to side setbacks and building separation is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.
- 4 The proposal is not supported by the Central Coast Design Review Panel due to the major non-compliances with relevant planning controls and design quality issues.

- 5 The proposal has an unacceptable impact on the streetscape and adjoining properties in relation to visual impact, privacy, acoustic amenity and bulk and scale.
 - 6 Insufficient information, documentation and plans have been submitted to enable a complete assessment of the application, particularly in relation to engineering issues such as access (including waste trucks and delivery vehicles), traffic, disabled parking, OSD and pollution controls and sewer.
 - 7 Insufficient evidence of a formal site/context analysis to substantiate the design and how it responds to the findings of the analysis.
 - 8 The reduced setbacks and building separation and reduced floor-ceiling heights will result in narrower view corridors and will set an undesirable precedent that could lead to similar future proposals in the locality, creating a cumulative impact that would undermine the aims, objectives and provisions of Gosford City Council LEP & DCP 2007 and SEPP 65 including the Residential Flat Design Code (RFDC).
- B The applicant be advised of Council's decision and of their right to appeal to the Land and Environment Court within 12 months after the date of determination.
- C The objectors be notified of Council's decision.
- D The External Authorities be notified of the Panels decision.

ATTACHMENT 1 - AERIAL PHOTOGRAPH



[illegible]

ATTACHMENT 3 - LOCATION PLAN OF PUBLIC SUBMISSIONS



ATTACHMENT 4 - DEVELOPMENT MONTAGE



DONNISON STREET ELEVATION

PROPOSED DEVELOPMENT



PROPOSED DEVELOPMENT

FIELDER STREET ELEVATION

ANNEXURE 5 - PLANS

<<Insert Attachment Link/s Here >>