

REPORT TO HUNTER & CENTRAL COAST JOINT REGIONAL PLANNING PANEL

TITLE DEVELOPMENT APPLICATION NO. 39511/2010 PART 1
APPLICANT: GM ARCHITECTS
PROPOSED: COMMERCIAL AND RESIDENTIAL DEVELOPMENT AND DEMOLITION OF EXISTING BUILDINGS (JRPP) ON LOTS: 1, 2 DP: 521241, LOTS: 2, 3, 4 DP: 513405, LOT: 9 DP: 238231, NOS 221, 223, 225 ALBANY STREET NORTH GOSFORD, NOS 141, 143, 145 ERINA STREET 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)

Clause 13 of SEPP (Major Development) 2005 as it has a CIV of over \$20 million.

Assessing Officer

R A Eyre

Reviewing By

Advisor - Planning
Advisor - Building
Director Environment and Planning
General Manager

Date Application Received

01/10/2010. Amended plans/Additional information lodged 20/5/2011 and 27/7/2011.

Proposal

It is proposed to demolish the existing buildings and erect a commercial and residential development with basement car parking containing 1506m² GFA for commercial use and 107 residential units.

Zone

B4 Mixed Use

Area

4096.7m²

City Vision 2025

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

Public Submissions

46 received

Pre-DA Meeting

A Pre-DA Meeting was held 26 November 2008 with Central Coast Design Review Panel.

Political Donations

None declared.

Relevant Statutory Provisions

- 1 Environmental Planning & Assessment Act, 1979 – Section 79C
- 2 Local Government Act 1993 – Section 89
- 3 Gosford City Centre LEP 2007
- 4 Gosford City Centre DCP 2007
- 5 SEPP 55 Rededication of Land
- 6 DCP 111 - Car Parking
- 7 DCP 106 - Controls for Site Waste Management
- 8 DCP 128 - Public Notification of Development Applications
- 9 DCP 159 - Character
- 10 DCP 163 - Geotechnical Requirements
- 11 S94A Contribution Plan Gosford City Centre
- 12 SEPP 65 - Design Quality of Residential Flat Buildings
- 13 Rural Fires Act 1997
- 14 SEPP 19 Urban Bushland
- 15 SEPP (Infrastructure)
- 16 Draft Gosford LEP 2009

Key Issues

- 1 Permissibility
- 2 Objectives/Character
- 3 Planning Controls
- 4 Draft Gosford LEP 2009
- 5 Central Coast Design Review Comments
- 6 Architectural Assessment
- 6 Safer by Design
- 8 Urban Bushland
- 9 Bushfire Risk
- 10 Public Submissions/Consultation

Recommendation

Approval subject to conditions

REPORT

Site and Locality



The subject site contains six (6) allotments on the corner of Albany street North and Erina Street East. Henry Wheeler Place, although sign posted and constructed, is not a public road, but is part of the site containing the Australian Red Cross, Senior Citizens and other Council buildings. **(Refer Attachment 1)**

The site contains a number of old existing industrial buildings or uses generally of single storey.

The land slopes toward Erina East and Albany Street North with a slope of about 12%-18% across the site north to south and about 8%-12% from the west to east.

The site does not have any significant vegetation and the eastern boundary adjoins Rumbalara Reserve.

To the north on the opposite side of Erina Street East is Rumbalara Reserve and the opposite side of Albany Street East is used by commuters for car parking.

To the south is a number of community buildings including the Red Cross, Senior Citizens Centre and others with on-site parking.

To the west on the other side of Albany Street North is a number of older commercial/industrial uses which are likely to be redeveloped in the future.

Background

Development Consent 31728/2006 granted consent on 23 April 2007 for a Commercial and Residential Building on Lot 9 DP238231 No 221 Albany Street North. This consent is still current but has not physically commenced.

The Proposal

It is proposed to demolish all the existing buildings and construct a new commercial and residential development.

The proposal will contain basement car parking with commercial and residential units above in 2 towers A and B.

Tower A is located at the eastern side of the site and Tower B is located on the western side of the site (corner of Albany Street North and Erina Street East).

Tower A will contain:

- 2 levels of basement car parking
- 1 level of commercial
- 7 levels with 65 residential units including 8 x 1 bedroom, 48 x 2 bedrooms, 9 x 3 bedrooms.

Tower B will contain:

- 2 levels of basement car parking
- 1 level of commercial
- 10 levels with 42 residential units including 14 x 1 bedroom, 28 x 2 bedrooms.

A total of 198 car parking spaces are proposed with access off the eastern end of Erina Street East. All the basement car parking levels under each tower are connected and a landscaped area is provided at ground floor level between the two towers.

The proposal has 1506m² of commercial floor space.

(Refer Attachment 2 – Amended Plans)

Referrals

The application as referred to the following external authorities:

- Central Coast Design Review Panel
- NSW Police Service
- NSW Rural Fire Service
- Roads and Traffic Authority

The application was referred to the following internal sections of Council:

- Development Engineer
- Water and Sewer
- Environment
- Waste Services
- Architect

Assessment

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

Permissibility

The land is zoned B4 Mixed Use under Gosford City centre LEP 2007. The proposal is a use permissible with consent under this zone.

Objectives/Character

(a) The objectives of the B4 Mixed Use zone are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To support the higher order Commercial Core zone, while providing for the daily needs of the Mixed Use zone.
- To encourage a diverse and compatible range of activities, including the following:
 - Commercial and retail development,
 - Cultural and entertainment facilities,
 - Tourism, leisure and recreation facilities,
 - Social, education and health services,
 - Higher density residential development.
- To allow development along the eastern edge of The Broadwater to take advantage of and retain view corridors while avoiding a continuous built edge along the waterfront.
- To create opportunities to improve the public domain and pedestrian links within the Mixed Use zone.
- To protect and enhance the unique qualities and character of special areas within the Gosford City Centre.

In this instance, it is considered that the proposal is consistent with the stated objectives of the B4 Zone as well as being consistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act 1993.

(b) Character

It is considered the proposal is not out of character with the future character of the area and the Gosford City Centre Masterplan.

Planning Controls

The following table shows the planning controls and that proposal.

(a) LEP

Item	Required	Proposed	Compliance
Height – Tower A	36m	35m	Y
Height – Tower B	30m	29m	Y
FSR - Tower A	4:1	3.4:1	Y
FSR – Tower B	2.5:1	2.4:1	Y

(b) DCP

Item	Required	Proposed	Compliance
Car Parking	186 spaces	198 spaces	Y
Maximum Building dimension above 24m	Not greater than 45m	Building A – 32m Building B – 36m	Y Y
Maximum Building	24m	Building A – 24.5m	N*

depth		Building B – 18m	Y
Max Site Coverage	75%	70%	Y
Deep Soil Planting	≥15%	15%	Y
Street Frontage Height	10.5m – 16m	Building A – 11m Building B – 8m	Y N*
Maximum Floor Plate above 16m	750m ²	Building A – 600m ² Building B – 584m ²	Y Y

Setbacks Commercial	Front/Side/Rear Required	Proposed	Compliance
up to 16m	2-2.5/0/6	2.2/-/6.6	Y

Setbacks Residential Habitable Rooms	Required Front/Side/Rear	Proposed Front/Side/Rear	Compliance
up to 12m	2-2.5/6/6	2.2/4/7	N*
12m to 24m	6/9/9	6/9/13	Y
Above 24m	8/13/13	8/13/13	Y

(a) Maximum Building Depth

The depth/width of Building A is 24.5m which exceeds the depth required by 0.5m or 2%. As building A is orientated to Albany Street North, the building depth is not excessive and is disguised by the balconies and articulation of the elevations to both streets.

(b) Street Frontage Height

The street frontage height required is 10.5m to 16m. Building B has a street frontage height of 8m.

Building B is located on the eastern side of the site adjoining Rumbalara Reserve. The variation to the street frontage height is not significant and reduces the impact on streetscape along Erina Street towards Rumbalara Reserve.

(c) Building Setbacks

The proposed setback to the southern side boundary with Henry Wheeler Place is 4m to the edge of the deck/balcony on ground floor level of Building A, whereas a setback of 6 metres is required.

However, the variation is warranted in this instance for the following reasons:

- The southern side boundary adjoins Henry Wheeler Place which although not a public road, will remain as a public access to the adjoining site.
- The 4m setback is to the edge of the deck/balcony, the setback to the wall of the building is 7 metres.
- There will be no significant impact on privacy or visual impacts.

Central Coast Design Review Panel

“Panel's Recommendation

C Recommend redesign to ensure compliance with the issues below prior to re-submission to the Panel.

Panel's Comments

The Panel is concerned with the quality of the documentation submitted. It appears that the resolution which is expected at development application stage has not been provided in terms of built form, massing, façade design, site planning and landscaping. Given the scale and significance of this development, and the sensitivity of the site from both an urban and environmental perspective, a higher quality, more complete set of documents would be anticipated. For example, a contextual massing model and a more extensive and compelling views analysis tied to a locality plan showing the view points.

Context

- *Insufficient documentation 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 or Masterplan, 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.*
 - *The site analysis should also include an evaluation of existing trees for protection and retention.*
- *A massing model.*

Scale

- *Although the dimensional height and bulk appear to comply numerically with the Gosford City Centre planning controls, there are significant concerns with the quality of the built form, architectural expression of the two buildings and the resolution at ground level.*

Built Form

- *The architectural character of the podium and the buildings rising above it do not relate well to one another, thus the overall composition lacks unity. While it might be anticipated that the commercial/retail podium would use slightly different scale materials and finishes, a consistent palette should underpin the entire design of the development.*
- *A curved form plan may be an appropriate way to acknowledge an important corner, however such a curve should be appropriately articulated particularly at its end points in order to both "turn the corner" and signal a key urban landmark. The curve also creates considerable internal planning challenges or amenity problems.*
- *The golden vertical curve applied in the façade seems arbitrary and should be deleted.*
- *The street presentation of the vertical spaces needs further resolution, especially at the Albany St/Erina St east corner to break down the scale of the spaces. An awning is essential related to the commercial frontages for weather protection at footpath level.*

- *The extent of balconies is excessive with large return balconies which could be reduced or deleted. This would help to reduce the visual impact of the building envelopes.*
- *The façade design of the Albany St building contains a number of slots at the podium level. These would not be attractive as part of the appearance of the façade.*
- *Concern is raised as to how the building and podium relate to the sloping site. It appears that more resolution is required to avoid large blank walls at the perimeters, particularly on the southern elevation where there is a 6 metre high blank retaining wall.*
- *Roof design: Further resolution is required of the roof design for both buildings (refer to pp 91-92 of the RFDC).*
- *The shadow study presented is inadequate as it appears that topography is not taken into consideration. The existing buildings and trees are also not adequately considered. It may be necessary for the envelope of the Erina St East building to step down at its eastern end to reduce the shadow impact on Rumbalara.*
- *The footprint of the car parking levels is extensive and it appears that the Albany St car park could be reduced in footprint by minimising dimensions. For example, the car parking aisles are 7 metres and 7.2 metres wide when they need only be 6 metres wide.*

Density

- *Although the development appears to comply with the numerical density control, it may need to be reduced in floor space and numbers of units to fully address the concerns expressed in this report.*

Resource, Energy and Water Efficiency

Consider inclusion of the following:

- *convenient storage space*
- *passive and active solar design (including solar hot water and PV)*
- *efficient energy and water systems*
- *non-toxic materials and finishes with low embodied energy / water content*
- *generous deep soil zones for gardens on natural ground*
- *capture and re-use of grey and rainwater*
- *biologically active forms of storm water management.*

Landscape

- *Provide large canopy locally native trees along the site edges, especially the eastern boundary at the interface with Rumbalara. The proposed species are too small and would not provide an adequate canopy mass.*
- *More consideration of the front facade and relationship of the building to the streets should be undertaken, as raised above under Built Form. Any such changes need to consider how the street can be activated at ground level and include an integrated landscape plan. The corner location is an opportunity to provide some additional outdoor space to service a future eatery.*
- *The retaining walls on the southern side are extensive and further design measures are needed to make this area acceptable in terms of aesthetics and general amenity.*

Amenity

- *The residential levels of the Albany St block should contain more dual aspect units.*
- *It is suspected that the overall proposal for the Albany St block would not comply with cross ventilation requirements of the RFDC.*
- *Provide additional information regarding the accessible roof terraces: What do they contain? What function do they serve? How is overlooking controlled?*

Safety & Security

- *Deeply recessed entries at footpath level may result in safety and security issues.*

Social Dimensions

- *Appears to be acceptable*

Aesthetics

- *The colours selected for the external materials should be recessive and blend in more effectively with the backdrop of Rumbalara. This is particularly important for this site because it is exposed to long distance view from the west.*
- *All external detailing including external attachments and services should be fully integrated with the design of the façades."*

Architectural Assessment

The applicant submitted amended plans in response to the Panel's comments.

The amendments include:

- street awnings to both Blocks A and B;
- revised balconies and layout of units in Block A;
- further refinement and resolution to all facades;
- submission of a 3D model.

Council's Architect advises:

"This is an amended proposal is for the construction of a residential flat development containing an eight and an eleven storey block located over a common underground car park. It has been amended in response to comments from Council and the SEPP 65 Design Review Panel.

The amended application is considered to generally comply with the recommendations of the RFDC and is supported.

Safer by Design

The proposal was referred to the NSW Police Service. The Crime Prevention Officer advises:

On 5 November 2010 a Crime Prevention Evaluation of the Development Application was conducted. A number of conditions were recommended.

(Refer Conditions 4.4 and 5.9)

Urban Bushland

The site adjoins land zoned and reserved for public Open space, being Rumbalara Reserve.

Under the provision of Clause 9 of the Policy, Council must consider:

- (a) the need to retain any bushland on the land;
- (b) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland;
- (c) any other matters relevant to the protection and preservation of bushland; and
- (d) access for bushfire fighting.

The adjoining reserve slopes uphill away from the site. Stormwater and runoff will be disposed into Council's street drainage system. No proposed landscaping adjoins the reserve. Therefore there is unlikely to be any spread of weeds exotic plants onto the reserve from the site.

The Rural Fire Service has considered the proposal and provided recommended conditions of consent. No additional access to the reserve is required through the site for bushfire fighting

Bushfire Risk

The site is identified as bushfire prone land and adjoins Rumbalara Reserve. The RFS have assessed the proposal under S79BA of the EPA Act and provided advice on bush fire protection measures.

(Refer Conditions 2.11, 3.11, 6.10-6.16)

Public Submissions/Consultations

In accordance with Council's DCP 128 Public Notification of Development applications, the application was exhibited from 3 November 2011 to 16 November 2010 and forty-six (46) submissions were received. The issues raised were:

1 Parking will not be available to the 150 odd Senior Citizens who attend the Senior Citizens Centre every day.

Comment

The submission may be concerned about the loss of car parking on Lot 9 DP238231 on the corner of Albany Street North and Henry Wheeler Place.

The subject site does not provide parking for and is not part of the Senior Citizens Centre.

A separate on-site parking area is provided for the nearby senior Citizens Centre and other community uses.

The proposal provides adequate parking in basement levels for the site.

2 When the development is under demolition and construction there will be a large number of truck and work vehicles around the site. Traffic control and parking should be made available to allow Senior Citizens to attend the Centre every day without having to park long distances away and have to walk up hills.

Comment

Access to and parking on the Senior Citizens site will be retained and is not affected by this development. Traffic control will be provided by the builder when necessary.

A Construction Management Plan is required as a condition of consent.

(Refer Condition 3.5)

Attachments: **Attachment 1 - Locality and Zoning Plan**
 Attachment 2 - Amended Plans
 Attachment 3 - Draft Conditions

Tabled Items: **Nil**

RECOMMENDATION

- A The Joint Regional Planning Panel as consent authority grant consent to Development Application No 39511/2010 for the proposed Commercial and Residential Development and Demolition of Existing Buildings on Lots: 1, 2 DP: 521241, Lots: 2, 3, 4 DP: 513405, Lot: 9 DP: 238231, Nos 221, 223, 225 Albany Street North Gosford, Nos 141, 143, 145 Erina Street Gosford, subject to the conditions in Attachment 3:
- B In accordance with section 95(1A) of the Environmental Planning & Assessment Act 1979, this consent shall be valid for a period of two (2) years.
- C The applicant is advised of JRPP's decision and of their right to appeal to the Land and Environment Court within 12 months after the date of determination.
- D The objectors are notified of the decision.
- E The External Authorities be notified of the Joint Regional Planning Panel's decision.

ATTACHMENT 3 – DRAFT CONDITIONS**1. PARAMETERS OF THIS CONSENT****1.1 Approved Plans and Supporting Documents**

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

Architectural Plans by G M Architects

Drawing	Description	Sheets	Issue	Date
	Cover Sheet	1	-	undated
01	Survey Plan	1	A	8/2/2011
02	Site Analysis Plan	1	A	8/2/2011
03	Basement 3 Plan	1	-	June 2010
04	Basement 2 Plan	1	-	June 2010
05	Basement 1 Plan	1	-	June 2010
06	Lower Ground floor plan	1	-	June 2010
07	Ground Floor plan	1	-	June 2010
08	Level 1 Floor Plan	1	-	June 2010

09	Level 2 Floor Plan	1	-	June 2010
10	Level 3 Floor Plan	1	-	June 2010
11	Level 4 Floor Plan	1	-	June 2010
12	Level 5 Floor Pan	1	-	June 2010
13	Level 6 Floor Plan	1	-	June 2010
14	Level 7 Floor Plan	1	-	June 2010
15	Level 8 Floor Plan	1	-	June 2010
16	Level 9 Floor Plan	1	-	June 2010
17	Roof Plan	1	-	June 2010
18	Elevations	1	-	June 2010
19	Elevations	1	-	June 2010
20	Elevations	1	-	June 2010
21	Sections	1	-	June 2010
22	Sections	1	-	June 2010
26	Driveway Profile	1	-	June 2010
	Materials Finishes Schedule	1	-	30 July 2010
L-03/1	Landscape Plan	1	B	26/2/2010
L-03/2	Landscape Plan	1	B	26/2/2010
L-03/3	Landscape Plan	1	B	26/2/2010

Supporting Documentation

Document	Title	Date
	Statement of Environmental Effects	May 2010
	Access Report	20 July 2010
	Waste Management Report	30 July 2010
	Traffic and Parking Report	May 2010
303027M	BASIX Certificate	19 April 2010
	Bushfire Hazard Assessment	18 November 2011
	Design Verification Statement	20 October 2010

1.2 Building Code of Australia

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

2. PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

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

- a Site investigation for the preparation of the construction, and/or
- b Implementation of environmental protection measures, such as erosion control etc that are required by this consent.

2.2 The payment of **\$263,897.00** in accordance with the Gosford City Council Section 94A Development Contribution Plan - Gosford City Centre. (Account No D9001.823 - Hot Key 710)

The total contribution amount of **\$263,897.00** is to be paid prior to the issue of a Construction Certificate.

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

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

A copy of the Contribution Plan may be inspected at the office of Gosford City Council, 49 Mann Street Gosford or on Council's website

www.gosford.nsw.gov.au/customer/document_gallery/contribution_plans

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

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

The required works to be designed are as follows:

- a. Footway formation graded at +2% from the top of kerb to the property boundary, across the full frontage of the site in Erina Street East, Albany Street North and Henry Wheeler Place.
- b. Full width reinforced (SL72 steel fabric, 100mm thick) concrete footpath across the full frontage of the site in Erina Street East, Albany Street North and Henry Wheeler Place.
- c. Heavy-duty vehicle crossing that has a width of 6m at the property boundary and 10m at the kerb line and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.
- d. All redundant dish crossings and/or damaged kerb and gutter are to be removed and replaced with new kerb and gutter.
- e. Roadside furniture and safety devices including fencing, signage, guide posts, chevrons, directional arrows and guard rail in accordance with RTA and Australian Standards.
- f. A pram ramp at the intersection of Erina Street East and Albany Street North.

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

- 2.4 A dilapidation report is to be prepared by a practising structural engineer at no cost to Council or adjoining property owners, detailing the structural adequacy of adjoining properties, including Council's property, and their ability to withstand the proposed excavation. This report must include any measures required to be incorporated to ensure that no damage will occur during the course of works. The report must be submitted to Council and relevant adjoining property owners prior to the issue of a Construction Certificate.
- 2.5 A dilapidation report must be submitted to Council prior to issue of a Construction Certificate and/or approval of engineering plans under the Roads Act. The report must document and provide photographs that clearly depict any existing damage to the road,

- kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development.
- 2.6 A security deposit of \$30000 must be paid into Council's trust fund prior to the issue of a Construction Certificate. The payment of the security deposit is required to cover the cost of repairing damage to Council's assets that may be caused as a result of the development. The security deposit will be refunded upon the completion of the project if no damage was caused to Council's assets as a result of the development.
- 2.7 Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000, must be obtained from the Water Authority (Council) prior to the issue of a Construction Certificate. Contributions may be applicable to the Section 307 Certificate.
- 2.8 Development constructed near or over the sewer main and/or adjacent to Council's water main must comply with Council's guidelines for "Building Over or Near Council Sewer and Water Mains". Details prepared by a practising structural engineer must be submitted to and approved by the Water Authority (Council) in accordance with the Water Management Act 2000 prior to the issue of a Construction Certificate.
- 2.9 Design of the following engineering works within private property:
- Driveways/ramps and car parking areas must be designed according to the requirements of the current Australian Standard AS2890 for the geometric designs, and industry Standards for pavement designs.
 - A stormwater detention system must be designed in accordance with Council's DCP165 - Water Cycle Management and Council's 'GCC Design Specification for Survey, Road and Drainage Works'. The stormwater detention system shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1%AEP storm event. A runoff routing method is to be used. An on-site stormwater detention report including an operation and maintenance plan shall accompany the design. On-site stormwater detention is not permitted within private courtyards, drainage easements, and/or secondary flowpaths.
 - Nutrient/pollution control measures must be designed in accordance with Council's DCP165 - Water Cycle Management. A nutrient/pollution control report including an operation and maintenance plan shall accompany the design.
 - Piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system.

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

- 2.10 Developer must consolidate the existing lots into one lot prior to decommission the existing council sewer main. Developer also to provide alternate sewer connection to Lot 202 DP 840680, if this lot is currently connected to the proposed decommissioned sewer main.
- 2.11 Compliance with the recommendations of the Bushfire Hazard Assessment dated 18 November 2011 Version A, prepared by Barry Eadie Consulting Pty Ltd, including:
- New construction on the southern and western elevation(s) shall comply with Section 6 (BAL 19) Australian standard AS3959-2009 '*Construction of Buildings in*

Bush Fire-prone Areas and Section A3.7 Addendum Appendix 3 of *'Planning for Bush Fire Protection'*.

- b New construction on the northern and eastern elevations shall comply with Section 7 (BAL 29) Australian standard AS3959-2009 *'Construction of Buildings in Bush Fire-prone Areas'* and Section A3.7 Addendum Appendix 3 of *'Planning for Bush Fire Protection'*.

3. PRIOR TO COMMENCEMENT OF ANY WORKS

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

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

- 3.2 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- 3.3 Site works are not to commence until the sediment control measures have been installed in accordance with the approved plans.
- 3.4 A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:
 - a) The name, address and telephone number of the principal certifying authority for the work; and
 - b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
 - c) That unauthorised entry to the work site is prohibited.

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

- 3.5 A Construction Management Plan (CMP) shall be prepared and approved by council. The CMP shall provide for workers parking, storage and delivery of materials, traffic controls, provision for traffic, construction times, contact details, and any other measures needed during demolition and construction.
- 3.6 Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer.
- 3.7 Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures must be in accordance with the NSW WorkCover publication titled, *'Site Security and Public Access onto Housing Construction Sites'* and installed prior to the commencement of any demolition, excavation or building works and be maintained

throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

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

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

- 3.9 Prior to commencement of any demolition work, the property's sewer connection must be disconnected at the Inspection Shaft and capped.

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

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

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

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

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

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

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

- 3.11 At the commencement of building works and in perpetuity, the entire property shall be managed as an Inner Protection Area (IPA) as outlined within Section 4.1.3 and Appendix 5 of '*Planning for Bush Fire Protection 2006*' and the NSW Rural Fire Service's document '*Standards for Asset Protection Zones*'.

4. DURING WORKS

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

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

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

a No work is permitted on Sundays and Public Holidays

b No work is permitted on:

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

- Clause b does not apply to works of a domestic residential nature as below:
- i Minor renovation or refurbishments to single dwelling construction.
 - ii Owner occupied renovations or refurbishments to single dwelling construction.
 - iii Owner builder construction of single dwelling construction; and/or
 - iv Any cottage constructions, single dwellings or housing estates consisting of predominantly unoccupied single dwellings.
- 4.2 Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Code of Practice of Erosion and Sedimentation Control.
- 4.3 Should any Aboriginal objects or artefacts be uncovered during works on the site, all works shall cease. The Department of Environment and Climate Change shall be contacted immediately and any directions or requirements complied with.
- 4.4 To minimize the opportunity for crime, the development must incorporate the following:
- a Adequate lighting to AS1158 is to be provided to common areas.
 - b The ceiling of the car park must be painted white.
 - c Landscaping adjacent to mailboxes and footpaths must not provide for the concealment opportunities for criminal activity.
 - d The development must be designed to avoid foot holes or natural ladders so as to minimize unlawful access to the premises.
 - e Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- 4.5 A third pipe system shall be incorporated into the development for alternate water supply, which may include rainwater, treated stormwater, treated effluent (internal supply) or recycled water from an external source.
- 4.6 The works within the road reserve that required approval under the Roads Act shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 4.7 The engineering works within private property that formed part of the Construction Certificate shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 4.8 Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.
- 4.9 If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made is responsible to notify the neighbour and responsible for the protection and preservation of the adjoining allotment of land.
- 4.10 This development is subject to Council's DCP106 – Controls for Site Waste Management. The Waste Management Plan submitted as supporting documentation with this development consent is required to be implemented during all stages of demolition and construction.

- 4.11 Buildings are to be demolished in a safe and systematic manner in accordance with the requirements of Australian Standard *AS 2601-2001 - Demolition of Structures*, and disposed of in an approved manner.
- 4.12 The works within the road reserve that required approval under the Roads Act shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 4.13 The engineering works within private property that formed part of the Construction Certificate shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 4.14 The internal road strength used by the waste trucks must be sufficiently strong enough to withstand a truck loading of 22.5 tonnes.
- 4.15 The road surface used by the waste trucks must be constructed of reinforced concrete.
- 4.16 No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.
- 4.17 The driveway design and loading area layout is to be designed in accordance with AS 2890.2-2002 Parking Facilities - Off Street Commercial Vehicle Facilities.
- 4.18 The waste truck servicing grade is to be 3% or less for the following areas:
- within the enclosure.
 - for bulk bin roll out pads.
 - within the 13m bulk bin and truck service area.
- 4.19 The installation of a third pipe system within the development to facilitate supply of recycled or captured rainwater for non-potable uses including: toilet/urinal flushing, laundry and non-potable garden/hard surface uses. The third pipe system shall satisfy the following criteria;
- be installed in accordance with AS/NZ 3500:2003, the NSW Plumbing Code of Practice 2006 and the Water Supply Code of Australia (Sydney water Edition) WSA 03-2002.
 - be connected to all toilets, garden/outdoor taps and laundry.
 - Incorporate a connection point outside the building alignment in the event external recycled water is supplied to the property by the local water Authority.

5. PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

- 5.1 Application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.
- 5.2 The premises not being occupied until an occupation certificate has been issued.
- 5.3 Lots 2, 3 and 4 DP 513405, lots 1 and 2 DP 521241, and lot 9 DP 238231 must be consolidated into a single allotment under one Certificate of Title prior to the issue of an Occupation Certificate.
- 5.4 The driveway, vehicle manoeuvring area and car parking spaces as shown on the approved plan must be properly constructed, graded, drained, sealed and line marked

- including directional arrows with impervious paving material, in accordance with Australian Standard 2890.1-2004 Off Street Parking.
- 5.5 The street number is to be at least 100mm high and be clearly visible from the street frontage.
 - 5.6 Mail receptacles shall be provided and appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.
 - 5.7 The requirements of the BASIX Certificate for development and shown on the approved plans must be complied with prior to the issue of an Occupation Certificate.
 - 5.8 An Occupation Certificate is to be issued by a consent authority, the Council or an accredited certifier for the change of building use prior to the occupation of the building.
 - 5.9 After dark and when the commercial premises are closed, public access to the building and car parking levels shall be restricted by a security system such as gates to the parking level.
 - 5.10 Works within the road reserve that required approval under the Roads Act are to be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', and documentary evidence for the acceptance of such works obtained from the Roads Authority prior to the issue of an Occupation Certificate.

Note 1: A maintenance bond shall be paid on completion of the works in accordance with Section 1.07 Maintenance of the 'Civil Construction Specification'.
 - 5.11 Any damage not shown in the dilapidation report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Occupation Certificate.
 - 5.12 The internal engineering works within private property that formed part of the Construction Certificate shall be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', prior to the issue of an Occupation Certificate.
 - 5.13 Prior to the issue of an Occupation Certificate the Deposited Plan must be amended to include a Section 88E Instrument under the Conveyancing Act 1919 for the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants shall be defined by bearings and distances shown on an attached diagram.
 - a To create a Restriction as to User over the lot containing an on-site stormwater detention system restricting any alteration to such a facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
 - b To create a Restriction as to User over the lot containing a nutrient/pollution facility restricting any alteration to such a facility or the erection of any structure over the facility or the placement of any obstruction over the facility.

- 5.14 A Section 88E instrument under the Conveyancing Act 1919 must establish the following positive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Contact Council for wording of the covenant(s).
- a To ensure that for any on-site stormwater detention system/s shown on the approved Construction Certificate documentation:
 - The facility will remain in place and fully operational,
 - The facility is maintained in accordance with the operation and maintenance plan so that it operates in a safe and efficient manner,
 - Council staff are permitted to inspect and repair the facility at the owners cost,
 - Council is indemnified against all claims of compensation caused by the facility.
 - b To ensure that for any nutrient/pollution control facility/s shown on the approved Construction Certificate documentation:
 - The facility will remain in place and fully operational,
 - The facility is maintained in accordance with the operation and maintenance plan so that it operates in a safe and efficient manner,
 - Council staff are permitted to inspect and repair the facility at the owners cost,
 - Council is indemnified against all claims of compensation caused by the facility.
- 5.15 Council will require an indemnity against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service prior to the issue of an Occupation Certificate together with the creation of a S88B instrument under the Conveyancing Act to this effect and at the applicant's cost.
- 5.16 External doors are to be sealed with draft excluders or weather strips to prevent the entry of embers.
- 5.17 Vents and weepholes shall be screened with corrosive resistant steel mesh with an aperture not greater than 2mm.
- 5.18 Landscaping to the site is to comply with the principles of Appendix 5 of '*Planning for Bush Fire Protection 2006*'.

6. ONGOING OPERATION

- 6.1 Nothing associated with the business is to be located on the footpath or adjoining public area, including the parking of vehicles, storage of goods, materials, waste or the like.
- 6.2 No materials, waste matter or products shall be stored outside the building or the approved waste storage area, at any time.
- 6.3 Provision must be made for illumination of the common areas in the front of the site, throughout the hours of darkness.
- 6.4 All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.
- 6.5 All car parking areas and spaces required by this consent are to be maintained and periodically reline-marked. Such spaces are to be made available to all users of the site at all times during trading hours.

- 6.6 All loading and unloading of goods are to be conducted wholly within the site. Loading facilities, internal docks or goods handling areas are to be maintained free of obstruction for the sole use of delivery vehicles.
- 6.7 Visitor car parking spaces are to be physically identified on site, and maintained free of obstruction. Under no circumstances are these spaces to be used for the storage of goods or waste products.
- 6.8 Maintenance of the on-site stormwater detention facility in accordance with the operation & maintenance plan.
- 6.9 Maintenance of the nutrient/pollution control facilities in accordance with the operation & maintenance plan.
- 6.10 The whole site be managed as an Inner Protection Area in accordance with '*Planning for Bushfire Protection*' (2006).
- 6.11 For Landscaping:
 - a. Vegetation is not to touch or overhand dwellings (Canopy vegetation must not be within 5 metres of any building/dwelling;
 - b. Vegetation is not species that retain dead material or deposit excessive quantities of ground fuel in a short period or in a danger period; and
 - c. Vegetation is located far enough away from dwellings so that it will not ignite the dwelling by direct flame contact or radiant heat emission.
- 6.12 Woodpiles, combustible material storage sheds, large areas/quantities of garden mulch and stacked flammable building materials should not be located within IPA of dwellings.
- 6.13 Reticulated or bottled gas shall be installed and maintained in accordance with AS/NZS 1596-2002: *Storage and Handling of LP Gas* and the requirements of the relevant authorities.
- 6.14 Water, electricity and gas are to comply with Sections 4.1.3 of '*Planning for Bush Fire Protection 2006*'.
- 6.15 Property access roads for community title developments shall comply with Sections 4.1.3(2) and 4.2.7 of '*Planning for Bush Fire Protection 2006*'.
- 6.16 An Emergency/Evacuation Plan is to be prepared consistent with the NSW Rural Fire Service document '*Guidelines for the Preparation of Emergency/Evacuation Plan*'.

7. ADVICE

- 7.1 The public authorities may have separate requirements and should be consulted in the following aspects:
 - a *Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
 - b *Jemena Asset Management* for any change or alteration to the gas line infrastructure;
 - c *Energy Australia* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;

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

8. PENALTIES

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

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

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

Warnings as to Potential Maximum Penalties

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

9. RIGHT OF APPEAL

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

<<Insert Attachment Link/s Here >>