

JOINT REGIONAL PLANNING PANEL (Hunter Central Coast Region)

JRPP No	2010HCC048
DA Number	39936/2010
Local Government Area	Gosford
Proposed Development	MIXED USE DEVELOPMENT - OFFICES/BUSINESS & RESIDENTIAL UNITS (77) (JRPP) ON LOT: 11 DP: 1046189, 7 WATT STREET GOSFORD
Street Address	7 Watt Street, Gosford
Applicant/Owner	Tilrox Developments Pty Ltd

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 regional development pursuant to Part 3 Clause 13B (1)(a) of SEPP (Major Development) 2005 as the proposed development has a capital investment value of more than \$10 million and Clause 13C(b) as the proposed building has a height which is greater than 13m and is non-compliant with the maximum height development standard under GCC LEP.

Assessing Officer

D Spithill

Reviewing By

Independent Development & Environment Panel (IDEP)
Director Environment and Planning
General Manager

Date Application Received

17/12/2010

Proposal

Mixed use, multi storey development comprising business and office premises, residential flat building (77 Units) and car parking (128 spaces) (JRPP)

Zone

B3 Commercial Core-GCC LEP 2007

Area

3020m²

City Vision 2025

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

Public Submissions

One (1)

Pre-DA Meeting

Not Held

Political Donations

None declared

Relevant Statutory Provisions

- 1 Environmental Planning & Assessment Act, 1979 – Section 79C, 79BA
- 2 Local Government Act 1993 – Section 89
- 3 State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development
- 4 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- 5 State Environmental Planning Policy (Infrastructure) 2007
- 6 State Environmental Planning Policy (Major Development) 2005
- 7 Draft Gosford Local Environmental Plan 2009
- 8 Gosford City Centre Local Environmental Plan and Gosford City Centre DCP 2007

Key Issues

1. Background
2. Proposal
3. Site Description
4. State Environmental Planning Policy (Major Development) 2005
5. Gosford City Centre LEP - Relevant Provisions
 - Permissibility and Zone Objectives
 - Compliance with Principal Development Standards
 - Exceptions to Development Standards
 - o Maximum Building Height Clause 21
 - o Building Separation Clause 22E
 - o Design Excellence Clause 22B
6. Gosford City Centre DCP -Relevant Provisions and Variations Sought
 - Accessibility
 - Disabled Parking Provision
 - Adaptable Housing,
 - Building Depth and Bulk,
 - Pedestrian Amenity - Watt Street,

- Pedestrian Pathway Link
- Underground Car Park Design
- Redevelopment Potential Adjoining Property
- Overshadowing Impact
- 7. SEPP 65 - Design Quality of Residential Flat Development
 - Comments from SEPP 65 CCDD Panel including Applicant's Response
 - Comments from Council's Architect
- 8. Submission of Amended Plans
- 9. State Environmental Planning Policy (Infrastructure) 2007
 - Road Noise
 - Traffic Generating Development
- 10. Engineering Assessment
- 11. Bushfire Assessment
- 12. Draft Gosford Local Environmental Plan 2009
- 13. Climate change and sea level rise
- 14. Public Submission
- 15. Section 94 Contributions
- 16. Conclusion and Recommendation

Recommendation

Deferred pending amendments

REPORT

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 pending further amendments and has identified the following key issues which are elaborated upon for Council's information.

Background

Development Consent No 25902/2004 granted consent on 13 May 2005 for a Residential Flat Building consisting of 105 Residential Units in 8 Storeys with 2 basement levels of car parking under a previous planning regime. The proposal was not commenced.

Further Development Consent 34204/2007 for a mixed use development was granted by Council in 2008 and involved the following works:

- demolition of the existing buildings on the site;
- construction of four (4) basement parking levels and ground floor level accommodating 328 car parking spaces and loading bays;
- construction of retail areas and supermarket on Level 1;
- construction of medical centre on level 2;
- construction of commercial areas and serviced officers on Levels 3 and 4;
- construction of forty-six (46) residential apartments on Levels 5 to 11;
- construction of fifty-five (55) serviced apartments on Levels 5 to 10;
- construction of plaza, arcades and common open spaces with swimming pool, spa, pool and gymnasium;
- construction of associated landscaping and amenities to service the development;
- strata title subdivision on completion of the construction

The applicant has advised that:

“The development was not feasible due to the extensive amount of excavation required to accommodate the four (4) basement parking levels and extensive shoring of the excavation along Henry Parry Drive.

The project has been redesigned after an extensive market assessment, estimate of construction and feasibility on completion was undertaken by the new owners. The proposed design now seeks to develop only one (1) of the original allotments and excludes “Scott House” located at 150 Henry Parry Drive (SP4827). The existing two storey residential apartment building will be extensively restored and renovated for sale as individual residential apartments.”

The Proposal

The current development application seeks approval for a mixed use development comprising a building with 12 levels and will include the following works:

- demolition of the existing sheds on site;
- construction of four (4) car parking levels located above natural ground, levels G,1 to 3, accommodating 128 car spaces, bicycle racks, motor cycle bays and loading bays;
- construction of business premises (162.33m²) on Level 3;
- construction of 12 office suites (965.47m²) on Level 4;
- construction of residential flat building comprising 77 residential apartments on Levels 5 to 11;
- construction of associated landscaping and amenities to service the development;

Three lifts will service the building and vehicle access to the site is via the existing driveway from Watt Street which provides access into the southern side of the semi basement ground level. A separate pedestrian pathway will be provided along the southern side of the driveway and there is additional pedestrian access from Henry Parry Drive.

The car park levels will accommodate a total of 128 car spaces including commercial, residential and visitor car parking spaces, 8 adaptable spaces, a car wash bay, service loading bay and waste facilities, motor cycle spaces and bicycle spaces/racks. **(Refer Figure 1: Architect’s Drawing of Proposed Building).**

A rooftop terrace provides an extensive common open space area with perimeter planter boxes, BBQ setting and seats, centralised building structure with communal amenities, plant and equipment.

Key site calculations are:

- Total site area – 3,020m²;
- Gross floor area – 7,903.3m²;
- Floor space ratio – 2.61:1;
- Site coverage – 1,265m² (41.8%);
- Deep soil planting – 651m² (21.5%);
- Landscaped area 1,001m² (33.1%);
- Residential density – 77 residential units ranging in area from 74.5 m² to 113.7m²;
- Commercial suites – 965.7m²;
- Business suite – 162.3m²;
- Basement car parking – 4 levels, 128 car spaces (including disabled spaces).

The Site

The subject site (Lot 11 DP 1046189) has an area of 3020m² and is irregular in shape with frontage to Henry Parry Drive (55.075m wide) to the east with a battleaxe access handle (8.865m wide) to Watt Street which provides vehicle/pedestrian access to the site and serves as a shared right of carriageway to the adjoining property at 9 Watt Street ("Centrelink" Building).

The site is currently vacant and the land falls from the high point in the north-east corner (29.12m AHD) to the low point in the south-west (18m AHD) corner with the western end of the driveway being the lowest part of the site (12.34m AHD) with a slope of approx 20%.

The site is located towards the northern end of the Gosford City Centre at 5 Watt Street Gosford and immediately adjoins commercial buildings to the south (Workshop) and west (Centrelink Building). An existing two storey residential flat building nearing the end of its economic life is located on the northern boundary of the site and adjoining this building is a more recent residential flat building eight storey or approximately 20m in height. The older two storey residential flat building known as "Scotts House" will no longer form part of the development site and will be restored and renovated. The two storey building will be located between the two larger multi storey buildings. Gateway Shopping Centre is located to the west on the opposite side of Watt Street and Rumbalara Reserve is located to the east on the opposite side of Henry Parry Drive. **(Refer Figure 2 and 3: Aerial Photograph)**

State Environmental Planning Policy (Major Development) 2005

The proposal is regional development and is subject to the provisions pursuant to Part 3 Clause 13B (1)(a) of SEPP (Major Development) 2005 as the proposed development has a capital investment value of more than \$10 million. – Transitional.

Relevant Provisions Gosford City Centre LEP 2007

Permissibility / Zone Objectives

Under the Gosford City Centre LEP 2007, the subject land is zoned B3 - Commercial Core as indicated on the zoning map. The proposal for a mixed use development (residential flat building/business premises) is permissible with consent on the subject land. A residential flat building as permitted as a component of a development containing other uses permitted in the zone (i.e. business premises). No limits are specified as to the size/proportion of the residential component. **(Refer Figure 4: Zoning Map)**

Clause 12(2) of the Gosford City Centre Plan, stipulates that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within that zone.

The stated objectives of the B3 – Commercial Core Zone are:

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To strengthen the role of the Gosford city centre as the regional business, retail and cultural centre of the Central Coast.*
- *To provide for land uses of a higher order and density within the Commercial Core zone than those located within 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.*

- *To provide for residential uses where compatible with neighbouring uses and employment opportunities in the zone.*
- *To create opportunities to improve the public domain and pedestrian links throughout the Gosford city centre.*
- *To provide for the retention and creation of view corridors.*
- *To protect and enhance the unique qualities and character of special areas within the Gosford city centre.*

The proposal is consistent with the objectives of the zone in relation to the following:

- The proposal provides a mixture of commercial business and residential apartments with varied housing mix which are considered suitable land uses in the zone to service the needs of the community.
- The office premises will provide continuing employment opportunities in a central and readily accessible location within the city centre.
- The subject site is a highly accessible central location within walking distance of city centre services and facilities and is well served by existing public transport services (rail and bus).
- The proposal is consistent with the strategy to promote higher order developments within the commercial core of the city centre.

In general, it is considered that the proposal is consistent with the stated objectives of the B3 – Commercial Core zone as well as being consistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act 1993.

Compliance with Gosford City Centre Local Environmental Plan 2007: Principal Development Standards

Compliance with the principal development standards under the GCC LEP is demonstrated in the following table:

Gosford LEP 2007	Required	Proposed	Compliance
Cl. 21(2) Height of Buildings	Height map 30m maximum (existing ground level to highest point of building)	Heights vary from 24.3m to 35.5m due to topography.	No , portions of building (external walls) exceed height limit. variation sought under Clause 24 of LEP
Cl. 21B Architectural Roof Feature	Architectural roof feature may exceed height map	Roof exceeds 30 metre height limit. Roof feature to roof top terrace, stairwell and lift overrun	Variation sought under Clause 21B
Cl. 22 (1),(2) and (3) Floor Space Ratio	FSR Map 4.75:1 (site over 2000m ² and street frontage over 24m) for commercial component. reduced to FSR: 2.82:1 – cl22(3)B3 Commercial Core zone due to residential component *	Site Area: 3020m ² GFA: 7,903.3m ² FSR: 2.61:1 *Residential: 85.7% GFA @ 2.5:1 (0.68) + Commercial: 14.3% GFA @ 4.75:1 (2.14) = Total FSR 2.82:1 maximum permitted.	Yes
Cl. 22A Minimum	Minimum frontage 24m	N/A as site is zoned B3	N/A

Building Street Frontage	in B4 and B6 zones	55.075m frontage to Henry Parry Drive	
CI. 22C Car Parking	Car Parking must be provided on site. 1 space per 75m ² for commercial component 1,128m ² = 15 spaces Car Parking above existing ground level is included as part of a buildings gross floor area, except to the extent permitted by the GCC DCP	Basement Car Parking (131 car spaces). 16 spaces provided for commercial component GCC DCP permits above ground car parking where such parking is fully integrated into the design of the building (commercial /retail developments) For all development b) Car parking is to be provided wholly underground unless Council is satisfied unique site conditions prevent achievement of parking in basements. Council may require the provision of a supporting geotechnical report	Yes No - Refer Assessment Comments GCC DCP– underground parking
CI. 22B Design Excellence	High standard of architectural design, materials and detailing, form and external appearance, view corridors maintained addresses DCP provisions	Refer SEPP 65 Design Panel and Architect's comments. The proposal does not exhibit design excellence and has a number of issues related to building form and scale.	No refer issues raised by SEPP 65 panel/Council Architect.
CI. 22E Building Separation	Refer DCP provisions.	Noted compliance with DCP.	Yes, however non compliance with RFDC
CI.22D Active Street frontage	Building in Commercial Core B3 must have active street frontages	Limited application due to battleaxe shaped allotment with 8m frontage to Watt Street, minor activation commercial premises Henry Parry Drive	Acceptable having regard to physical characteristics of the site and limited opportunity for street activation.
CI. 22F Ecologically sustainable development	ESD Principles to be applied	Noted	Yes

The design complies generally with relevant planning controls contained in Council's LEP for development within the B3 commercial core with the exception of the maximum building height and design excellence requirements.

Exceptions to Development Standards

Clause 24 of GCC LEP 2007 contains provisions for exceptions to development standards. Subclause (3) requires the applicant to submit a written request that seeks to justify the contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Clause 24(4)(a) states:

Consent must not be granted for development that contravenes a development standard unless:

- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Council has power to **assume the concurrence** of the Director General for exceptions to development standards under clause 24 of the GCC LEP 2007 as per planning Circular PS 08-003 issued 9 May 2009.

Building Height Variation

In accordance with Clause 21(2) of the Gosford City Centre (GCC) LEP 2007 - Height of Buildings, the maximum height of the building is not to exceed 30 metres except as provided by Clause 21B (architectural roof feature) and 22B (design excellence).

The applicant contends that the rooftop structure is considered to be an "architectural roof feature" which is justified, despite being in excess of the maximum 30m height control, as the feature:

- "(a) provides a decorative element on the uppermost portion of the roof, modestly contributing to the architectural variety and modulation of the building, being a roofed structure that is part of the open space that includes planter boxes;*
- (b) is not a structure for advertising;*
- (c) comprises lifts, stairs or is part of the rooftop terrace area;*
- (d) is remote from the edges of the rooftop terrace hence will not cause any significant overshadowing impacts."*

The architectural roof feature does not contain or support any building identification signage but may contain equipment for servicing the building which will be fully integrated (internalised) into the design of the roof feature."

Notwithstanding the provisions under clause 21(b) of the GPSO, other elements of the building, including external walls are also in excess of the 30m height limit and the proposal thereby does not comply with the maximum 30m height development standard under Clause 21(2) of the GPSO. **(Refer Attachment Figure 5: Building Height Map)**

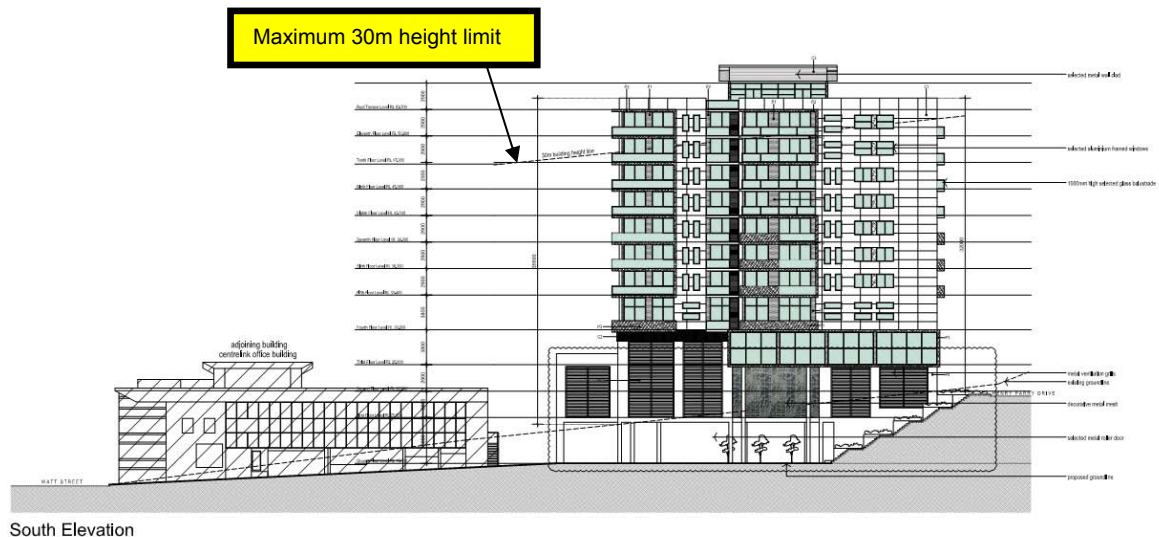
Building height (or height of building), as defined under the GCC LEP means: *"the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like."*

The proposed building height is variable and reflects the topography of the site as follows:

- North-eastern corner 24.29m
- North-western corner 29.99m
- South-eastern corner 32.00m
- South-western corner 35.50m

The plans indicate the extent to which the proposed building is higher than 30m, with the 30m height line indicated on the south elevation and Section BB below:





As shown on the plans, the height is exceeded at the lowest south-western and south eastern corners of the building where maximum height of 35.5m (variation of 18%) and 32m (7%) respectively is calculated. The area of the building which is non-compliant with the height control is most evident on the south and west elevations and represents one storey or approximately 75% of the top floor residential level to varying extents. Excluding the roof top stair structure, the building has a parapet height at RL 54.9 (at NGL 19.4m) with a maximum height of 35.5m at the SW corner of the building.

Accordingly, the applicant has submitted a request to vary the maximum 30m building height in accordance with the provisions under Clause 24 of the GCC LEP 2007. The applicant's submission is detailed in the *Statement of Environmental Effects* (Aclaim Town Planning, Greg Smith, 10 December 2010) and is summarised below:

Applicant's Submission - Justification for contravention of the 30m maximum building height

The Design Statement advises in part the following:

"Due to the complex topography of the site, the building envelope or height plane is a constantly changing alignment, measured vertically above natural ground level, which has now been significantly altered.

Due to the complexity of the topography of the site and the excavation that has occurred below natural ground level, the proposed height of the development has been determined by illustrating a natural height plane of thirty (30) metres above what would have been natural ground level, before the extensive excavation occurred on the western side of Henry Parry Drive.

This building height plans would provide the most accurate guideline of what would be appropriate in the context of the overall setting of the site within the surrounding area, taking into account the levels of the Rumbalara Reserve and Watt Street.

The bulk and scale of the development generally remains within the building height plane established. Due to the extreme variations in the natural ground levels, the building is not one height at any consistent level."

Building Height Development Standard - Clause 21(2) Assessment Comment:

Clause 24 (4)(a)(ii) - The Public Interest.

Clause 24 (4)(a)(ii) of Gosford LEP 2007 requires the consent authority to be satisfied that:

"The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out."

Consistency of the proposed development with the objectives of the zone:

Under Gosford City Centre LEP 2007, the subject land is zoned B3 –Commercial Core and the proposed development is permissible with consent. An assessment of the consistency of the proposed development with each of the zone objectives is provided in the preceding section of the report. The proposed mixed use development on the subject land is considered to be generally consistent with the objectives of the B3 –Commercial Core Zone except with respect to impact on development of immediately adjoining sites which may be redeveloped in the future. Such sites may be compromised by the lack of appropriate separation distances as stipulated under the Residential Flat Design Code.

Consistency of the proposed development with the objectives of the 30m maximum building height development standard:

Clause 21(1) of Gosford LEP 2007 provides objectives for the control of height of buildings. The consistency of the proposed development with the stated height objectives is provided in the following assessment:

"(a) to ensure that taller development occurs on sites capable of permitting height while protecting the natural environmental setting of the Gosford city centre,"

Applicant's submission

"(a) The photomontages demonstrates that the site is capable of permitting the proposed taller building height while protecting the natural environment of the City Centre. The closed natural areas are within Rumbalara reserve to the east of the site, and the photomontage taken from the western perspective demonstrates that the bulk of the natural backdrop will not be detrimentally affected by the part of the building which encroaches into the building height. A building which maintains a height at or near the 30m limit would be visually unattractive within the context."

Assessment Comment – Visual Bulk

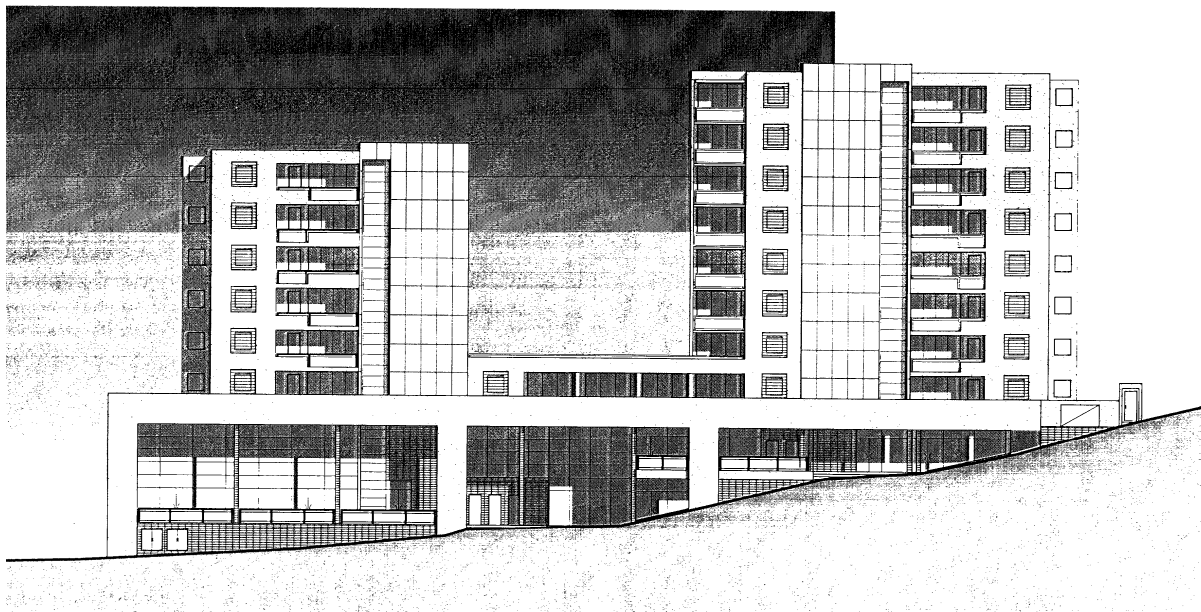
The building height map (GCC LEP) indicates a maximum building height of 30 metres generally for land within the commercial core of Gosford City centre, which has frontage to Henry Parry Drive and is located at the base of Rumbalara Reserve, which forms a natural vegetated backdrop to the city centre. The formulation of the height controls under the LEP has regard to appropriate heights for the natural environmental setting. Taller building forms may generally be accommodated at the base or lower slopes of vegetated hillsides as they are visually contained by the steep natural vegetated backdrop, providing view lines of the vegetated backdrop from public domain areas are maintained.

The proposal will not have a visual impact when viewed from open public land (Kibble Park) at ground level or immediate street frontages. The height and bulk of the building only becomes apparent when viewed at a distance, at a higher hillside location or from upper floors of surrounding buildings and the southern end of Henry Parry Drive. Whilst the height of the proposal by itself does not restrict view lines, concern is raised if adequate building separation distances are not maintained which may contribute to a perceived continuous wall or merging

of development along the lower slopes of the reserve when viewed from distant vantage points. The applicant has provided three perspectives (photo montage) with the development superimposed from various mid to distant vantage points. **(Refer Attachment - Figure 10))**

When compared to the previous approved development (DA 34204), the proposal is considered to be more visually dominant in terms of height with the building presenting as a single monolithic structure. The building does not step down the block to follow the natural fall of the land, nor is the building bulk broken up by varied height or separation of building form. In this regard the approved development was positioned on a larger site which incorporated the adjoining residential flat building to the north and the building form was broken into two distinct buildings at upper levels with separation provided between the two building wings. The building height of the two towers was varied to reflect the topography. As a result the approved building was largely compliant with the 30m height control apart from a small section of the roof at a maximum of 32.45m, despite the larger scale of the approved development.

Refer Figure 9: Approved plans DA34204 and drawing below:



The current proposal is a one storey or more (excluding roof top structure) above the height limit, maintaining a consistent floor level within one tower. The height could be reduced by removing in part or in full residential level no. 11 which contains 11 units, providing greater building setback at the south and west boundaries for topmost levels, or lowering basement car park levels which are largely above ground level. The applicant has not included any changes in the amended plan set to alter the building form thereby reducing the visual bulk and height of the building or increase separation distances to address issues raised by the SEPP 65 panel and Council's Architect. As a result the visual impact of the proposal is considered to be unsatisfactory.

"(b) to ensure taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area."

Applicant's submission

"(b) The photomontages demonstrate that the proposed taller building is appropriately located having regard to view corridors and view impacts. The building is compatible with and blends into the natural topography of the broader area. The

proposed building appropriately nestles into the significantly altered existing topography of the site within minimal impact on the surrounds.

Assessment Comment - View Loss

There will be some impact on available view corridors from existing residential flat building development located on higher land to north of the property, which presently obtain some views over the existing development to public domain areas Gosford Town Centre and distant water views/glimpses of Brisbane Water. However such impact would occur irrespective with a fully complying development designed in compliance with the setback and building height controls. Available public views towards Rumbalara reserve from distant public domain vantage points will be maintained. The immediately neighbouring property to the north containing "Scotts House" which is no longer part of the developments site will have no view corridor through the site. The extent of view loss is reasonable in the context of the precinct and planning initiatives as contained in the Gosford City Centre LEP and DCP. However a better planning outcome could be achieved for this site if it was included as part of a consolidated site as part of the proposed development.

"(c) to allow sunlight access to key areas of the public domain by ensuring that further overshadowing of certain parks and community places is avoided or limited during nominated times,"

Applicant's submission

"(c) The proposal will not affect sunlight access to key areas of public domain."

Assessment Comment – Sunlight Access (Public Domain)

Sunlight access to Kibble park or public domain areas, will not be affected by the proposal. The submitted shadow diagrams (winter solstice) show overshadowing during the morning will extend partly over the Watt Street footpath during the morning 9.00am however shadows will retreat well before midday. Henry Parry drive frontage will be overshadowed in the latter part of the afternoon.

- ***"(d) to provide high quality urban form for all buildings,"***

Applicant's submission

"(d) The building incorporates appropriate articulation, architectural features and design elements to ensure that it reflects high quality urban form. These are discussed in detail in the Design Statement and elsewhere in this SEE (refer to the discussion above relating to LEP clause 22B). The encroachment is not readily perceivable from any of the local street views and would have minimal impact within the City Centre in general."

Assessment Comment – Urban Form

It is considered that the proposal does not represent a high standard of architectural design. The current building form is not supported by the SEPP 65 Central Coast Design Review Panel and Council's Architect. The buildings southern/western façade where the maximum height of 35.5m is most evident will be visible from distant vantage points, upper levels of surrounding developments and southern hillside end of Henry Parry Drive.

(Refer SEPP 65 Panel Comments)

"(e) to maintain satisfactory, sky exposure and daylight to existing buildings, to the sides and rear of higher buildings and to public areas, including parks, streets and lanes,"

Applicant's submission

"(e) The proposal maintains satisfactory sky exposure and daylight to existing buildings having regard to their current use, to the sides and rear of the proposed development and to public areas. The building will not overshadow any dwelling. The building will not significantly overshadow any public areas, with the only overshadowing of a public area being in the later afternoon on the winter solstice with respect to Henry Parry Drive (which is not considered to be a key public area)."

Assessment Comment

The proposal will impact on daylight access to neighbouring buildings. The existing single storey fibro workshop building is nearing the end of its economic life and the adjoining site to the south is likely to be redeveloped in accordance with the increased height and density provisions applicable to these sites under the GCC LEP. Shadow diagrams submitted with the application show that more than 50% of the adjoining site to the south will be overshadowed up until midday and shadows will gradually retreat to approximately 30% of the site by 3.00pm during the June Solstice.

The retention of the exiting two storey residential flat building at No 150 to the north, resulting height disparity between the proposed building and two storey building creates poor amenity outcomes for future residents of this building as well.

A better design could be achieved by increasing building separation to the southern and western boundary and incorporation of the adjoining residential flat building site owned by the developer to maintain adequate landscaped buffer between buildings (i.e. between the multi storey residential building to the north at No.152 and the proposal).

(Refer Figure 10: Photo Montage)

"(f) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan".

Applicant's submission

"(f) The proposal is compatible with the desired height of buildings in the commercial core and is not located close to a boundary of the B3 Zone which might warrant stepping down on the building height to provide a transition to an area with a lesser building height development standard."

Assessment comment

The building height map shows the extent of the 30m height limit (Area "U") which generally follows along the base of Rumbalara reserve except for some sections which have lower building heights (i.e. 18m – Area "P") it is assumed, in order to maintain view lines from public domain areas including Kibble Park . **(Refer Figure 5: Building Height Map)**

The proposal is in part a full storey or more above the 30m height limit and upper levels are not stepped to follow the natural slope of the land. Development immediately to the west, north and south of the site may also be developed to a 30m height. The steep bushland hillside containing Rumbalara reserve is located to the east and will remain the dominant backdrop to

the city centre. While the proposal is contained within an area designated for 30m height within the commercial core, the proposal does not provide a transition in built form which reflects the topography of the land rather height has been maintained to provide a consistent finished floor level within one tower.

"(g) to ensure an appropriate height transition between new buildings and heritage items."

Not Applicable: The proposed development does not adjoin a heritage item.

Summary

Whilst the height variation is largely confined to the western and southern facades of the building, the design of the proposal is considered to be unsatisfactory when considered in terms of building bulk and form (building separation), and is inconsistent with the maximum height objectives as stated in Clauses 21(1) (d) and (e) of Gosford LEP 2007 above. In terms of visual impact, concern is raised that if adequate building separation distances are not maintained in accordance with the requirements of the RFDC the proposal may contribute to a perceived continuous wall of development which appears to merge along the lower slopes of the reserve when viewed from distant vantage points (i.e. the existing development to the north and adjoining redevelopment sites to the south). Approval of the proposal could create an undesirable precedent for the immediately adjoining sites to the south to be redeveloped in a similar manner with inappropriate building separation and excess height.

Accordingly, compliance with the development standard is considered to be reasonable and necessary in the circumstances of the case. Variation of the maximum height development standard may be considered acceptable if building separation distances are increased and building form amended to reflect the requirements of the SEPP 65 Panel.

In addition, the applicant has not adequately demonstrated (i.e. Geotechnical report) that the building car parking levels could not be lowered further to achieve a greater level of compliance with the 30m height control.

It is recommended that the application be deferred subject to further amendments to the design to reduce the extent of non compliance with the maximum height development standard. **(Refer Recommendation)**

Clause 21(5) - Matters for consideration by the Director-General.

Clause 21(5) of Gosford LEP 2007 requires the Director-General to consider specified matters in deciding whether to grant concurrence to a development which contravenes the 30m maximum building height development standard. The following analysis addresses the relevant considerations:

- "(a) whether contravention of the development standard raises any, matter of significance for State or regional environmental planning, and***
- (b) the public benefit of maintaining the development standard, and***
- (c) an other matters required to be taken into consideration by the Director-General before granting concurrence"***

Applicant's submission

"Director-General, the proposed contravention of the development standard is not considered to raise any matter of significance for state or regional environmental planning as this is a local matter within the context of the Gosford City Centre, and

maintaining the development standard is likely to result in adverse public impacts due to the design outcome of under-utilisation of the site."

Assessment Comment

It is considered that the proposed generally does not raise any matters of significant with respect to applicable State and regional planning policies/strategic directions apart from the building separation requirements and provisions of SEPP 65- Design Quality of Residential Flat Development – Refer SEPP 65 Panel Comments.

The Director-General has not specified any other matters required to be taken into consideration.

Variation to the maximum building height requirement as proposed does not raise any matters in relation to environmental planning or the public interest which would prevent the Director-General from granting concurrence to the proposed development pursuant to Clause 24 (4)(a) (ii) of Gosford LEP 2007.

Gosford LEP 2007 is a relatively new LEP and it is considered that there is a public benefit of maintaining the development standard (in these early days of the LEP). It should also be noted that the previous consents referred to previously in this report were granted under previous LEPs that applied to the site.

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,*
- (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
- (c) *whether the proposed development detrimentally impacts on view corridors,*
- (d) *whether the proposed development detrimentally overshadows Kibble Park, William Street Plaza, Burns Park and the waterfront open space adjoining The Broadwater,*
- (e) *the requirements of the Gosford City Centre Development Control Plan 2007,*
- (f) *how the proposed development addresses the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (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,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) *the achievement of the principles of ecologically sustainable development, with particular emphasis on water saving and recycling,*
 - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) *the impact on, and any proposed improvements to, the public domain.*

The proposed design does not exhibit design excellence in relation to the following matters:

- An acceptable relationship is not achieved with other towers (existing or proposed) on neighbouring sites in terms of separation and urban form and potential amenity impacts on adjoining development – objective 22B (f)(iv)
- The appearance of above ground car parking does not result in high standard of architectural design - objective 22B(a)
- The building form has not been varied sufficiently to minimise the visual bulk, massing and scale of the proposed development - objective 22B (f)(v)

Such issues are discussed in more detail elsewhere in the report. **(Refer SEPP 65 Panel comments).**

While certain design elements are unsatisfactory, they may be addressed by appropriate conditions of consent and amendments to the building design by lowering the basement, reducing the building height (level 11 southern end), increasing separation (removing the central void area) and varying the building form (southern end). Such changes can be made without significant redesign.

Subject to such amendments, the proposal is considered on the whole to be generally consistent with the design excellence objectives under Clause 22B of the GCC LEP.

Building Separation - Clause 22E

Clause 22E of the Gosford City Centre LEP 2007 requires building separation distances (a) from neighbouring buildings and (b) between separate towers or other separate raised parts of the same building to be not less than that provided in the Gosford City Centre Development Control Plan 2007. Separation distances are not nominated under the DCP, rather minimum setback distances from property boundaries are provided in accordance with the unnumbered Table referenced under Clause 2.4 of the DCP. The proposal complies with all front, side and rear boundary building setback controls under GGG DCP and thereby achieves compliance with Clause 22E of the LEP. However the proposal is inconsistent with the separation distances under the Residential Flat Design Code.

While the DCP states that: *“separation for mixed use buildings containing residential and commercial uses is to be in accordance with specified distances for each component use”*, the building setback controls under the GCC DCP for the commercial core zone do not differentiate between commercial and residential uses, or habitable and non-habitable rooms.

Under the referenced table - Clause 2.4 of the DCP, the minimum setback distance from property boundaries are as follows:

Zone	Setback Condition	Front	Side	Rear
Commercial Core	Up to 16m	Street Setback	0m	0m
	Above 16m	6m	4.5m	6m
	Above 36m	8m	6m	6m

By comparison the Residential Flat Design Code suggests the following building separation distances within a development, for internal courtyards and between adjoining sites:

Up to four storeys/12 metres:

- 12 metres between habitable rooms/balconies
- 9 metres between habitable/balconies and non-habitable rooms
- 6 metres between non-habitable rooms.

Five to eight storeys/up to 25 metres:

- 18 metres between habitable rooms/balconies

- 13 metres between habitable rooms/balconies and non-habitable rooms
- 9 metres between non-habitable rooms.

Nine storeys and above/over 25 metres:

- 24 metres between habitable rooms/balconies
- 18 metres between habitable rooms/balconies and non-habitable rooms
- 12 metres between non-habitable rooms.

The RFDC also allows zero building separation in appropriate contexts, such as in urban areas between street wall building types (party walls). Generally, building separation distances increase in proportion to building height to ensure appropriate urban form, adequate amenity and privacy for building occupants.

The proposal provides the following separation distance to boundaries, noting that these setback distances would need to be doubled to equate to the RFDC building separation distances, allowing a similar boundary setback to be applied to new development on adjoining sites.

Levels G, 1 to 3 parking levels (non-habitable) up to 12m in height

Front eastern boundary (Henry Parry Drive) - 5.85m

Side northern boundary - 5.98m

Side southern boundary - 7.07m

Rear western boundary - 400mm to 7.12m

Level 4 commercial and Levels 5 to 11(Habitable)

– Levels 6 to 9 are over 12m less than 25m, levels 10 and 11 are over 25m

Front eastern - 6m building wall, 5.4m balcony

Side northern - 6m building wall, 5.4m balcony

Side southern - 7m building wall, 6.4m balcony

Rear western - 7m building wall, 6.4m balcony

The proposed setback distances are below the building separation distances required under the RFDC (allowing for similar setbacks on adjoining common boundaries) for higher levels of the building (5 storeys and above) and for section of ramp/parking level built 400mm off western boundary Levels G, 1, 2 and 3). For example, the RFDC requires a 24 metres building separation between habitable rooms/balconies for higher levels of the building which are over 25m in height. The proposal provides a boundary setback distance of 7m which equates to a building separation distance of 14m if a similar setback is applied to the adjoining site which is likely to be redeveloped.

Clause 6 of the GCC DCP advises that SEPP 65 and the RFDC 2002 will be applied as the design controls for residential development within the Gosford City Centre. However, the plan also states that: *“where a conflict exists between this DCP and the Residential Flat Design Code, the provisions of the DCP will prevail”*. The plan was adopted to specifically apply to the Gosford City Centre in 2007, well after the adoption of the RFDC guidelines in 2002. Council has also been reminded more recently by the Department of Planning on 7 September 2011, that the Residential Flat Design Code should continue to be applied as a “guideline”.

However in this instance, it would appear that the setback distances for the commercial core zone under the DCP are more appropriate for commercial/retail developments noting residential flat buildings are only permitted with consent in the commercial core zone as a component of a development containing other uses permitted in this zone. The residential component for the proposal represents approximately 85% of the floor space of this development and further consideration has been given in the assessment of the proposal to appropriate setback distances for this form of mixed use development. – **Refer Comments SEPP 65 and Council Architect**. Other controls (i.e. maximum FSR) in the GCC LEP have

regard to the residential component of a mixed use development in the B3 commercial core zone by reducing maximum achievable density for the site (maximum 4.75:1) as the residential component increases (i.e. maximum FSR of 2.82:1 for the proposal). If the controls for residential uses above 24m in height which related to development on the “city edge” are applied to the development, a side and rear boundary setback distance of 13m would be required and 9m for the portions of the building 12 to 24m in height.

The applicant was provided the opportunity to submit amended plans to specifically remove the central void Levels 4 to 11 to increase the setback to the mid section of the building and utilise this space more efficiently to permit greater setback distances to the southern and northern boundaries. The applicant has refused to make further amendments to the plans to resolve the setback issues raised by Council’s Architect and the SEPP 65 Design Panel.

Notwithstanding the issues raised above, the proposed setback distances achieve numerical compliance with the DCP setback to boundary controls and thereby are in accordance with Clause 22E of the GCC LEP 2007.

Gosford City Centre Development Control Plan 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		3020m ²	N/A
Total Floor Area		7,903.30m ²	N/A
Site Requirements			
Floor Space Ratio	Maximum 2.82:1	2.61:1 (7903m ² : 3020m ²)	Yes
Building Footprint (Site coverage)	Max 100% (3020m ²) however proposal is mixed use with largely residential component.	41.8% (1265m ²)	Yes
Soft Landscaping			
Deep Soil Planting Area (15% min of total site 6m dimension - except commercial core) section 2.6	Not required in commercial core, however residential component min 15% applied.	21.5% (651m ²)	Yes
Parking and Access			
Resident Parking		Total basement car spaces = 128 spaces	
1 bed unit - 1/unit	14 units = 14 spaces		
2 bed unit - 1.2/ unit	56 units = 67.2 spaces		
3 bed unit - 1.5 / unit	7 units = 10.5 spaces		
Total Resident Spaces	77 units = 92 spaces	97 resident spaces	Yes, excess 5 spaces
Visitor Spaces (0.2 per unit)	77 units = 16 spaces	19 visitor spaces	Yes, excess 3 spaces
Total (visitor and resident)	108 spaces	116 basement car spaces	Yes
Disabled Parking (Min 10% residential component,	10.8 spaces (resident and visitor)	8 spaces (level1 and 2)	No - 3 space shortfall with

4% commercial component or min 2 spaces)	2 spaces (commercial) Compliance with AS2890.1-2006	2 spaces (ground level)	respect to resident / visitor disabled spaces and non-compliance with AS2890.6
Motorcycle Parking (1/15 units)	5.2 spaces	3 spaces (3 at ground level) condition to comply	Yes
Bicycle Parking (1 sp / 3 units + 1 visitor /12 units)	25.6 spaces (resident) 6.4 spaces (visitor)	44 bike lockers cyclone mesh 13 visitor bike spaces	Yes
<u>Commercial Parking</u> (1,128m ²) 1 space per 75m ² 1 motorcycle per 25 spaces 1 employee bicycle per 200m ² 1 visitor bicycle per 750m ²	15 spaces (1,128m ²) 1 motorcycle space 3 bicycle spaces	12 car spaces + excess "visitor" spaces ground level (3 spaces) = 15 spaces. 1 motorcycle space 4 bicycle spaces	Yes Yes Yes
Vehicle Footpath Crossings and Vehicular Driveways and Manoeuvring	1 vehicle access point min 6m from intersection Encourage shared access Vehicle access Henry Parry Drive denied	1 vehicle access from Watt St (existing) level 3 Shared access provided 8.865m 14% gradient	Yes
	max 5.4m width over footpath (double crossing)	6.1m double lane No change to existing shared vehicle access off Watt street is proposed.	No , however existing shared access
	Access integrated into building design visually recessive.	Not visible Henry Parry Drive.	
	Underground unless site conditions prevent basement car parking or otherwise fully integrated into the design of the building with 2.8m ceiling heights.	Car parking partly above ground due to topographical constraints. 2.7m height (levels 2 and 3), 3.3m (ground and level 3).	No No , minor, under by 100mm, levels 2 and 3 ceiling height
	Minimise impact of above ground parking on the public domain. Where integration is not achieved, car parking will count towards GFA for the	Maximum FSR is 2.82:1 applies to development. If floor area of above ground car parking areas (minor SW corner level 1, 50% of level 2 (825.2m ²))	No , applicant contends integration of car parking is achieved and has not sought variation to the FSR requirement

	purpose of calculating FSR.	and all car parking of level 3 excluding commercial 1083.6m ²) are included, FSR is 3.25:1 and exceeds maximum FSR of 2.82:1	
Building Form / Setbacks			
Building to street alignment s2.1	Minimum 5m to Max 6m landscaped setback to (Henry Parry Drive) 600mm balcony projections (50%) width	6.0m to building (level 3/4) 5.4m setback to balcony projections. (Henry Parry Drive)	Yes
Street Frontage Height s2.2	10.5 - 16m (Henry Parry Drive) at street frontage 6m front setback for buildings under 36m in height	Building not built to the frontage of the site. 27.9m building height with 6m front setback to street frontage provided.	Yes, setback of 6m adopted for full height of building
Building Depth & Bulk s2.3	Max Floor Plate Size 1200m ² for buildings over 24m;	1265m ²	No 5% variation
	Maximum building depth excluding balconies 30m Over 24m in height no building dimension over 45m	35mx35m floor plate 41.5m (front) x 34.4m (side) Levels 5 to 11	Yes
	Offices 12.5m from a source of daylight	Internal light well not more than 12.5m	Yes
Front Street Setback Up to 16m 16m to 36m	Commercial core Street Setback 5 to 6m 6m	6m	Yes
Side Setback Up to 16m 16m to 36m	Commercial core 0m 4.5m	Northern side setback (Levels 5 to 11): 6 to 8m. Southern side: 7- 9m	Yes
Rear Setback Up to 16m 16m to 36m	Commercial core 0m 6m	Western rear setback: 7 to 9m	Yes
Building separation between buildings within the site	36m separation distance for buildings with height over 36m	Not applicable only one building and less than 36m height	N/A
Ceiling Height (residential)	2700mm min floor to ceiling heights	2700mm to all levels	Yes

Ceiling (commercial)	Heights	3300mm for commercial	3300mm for commercial	Yes
Loading Docks		Separate commercial service loading docks from residential	Dock located on ground floor level visually and physically separated	Yes
Pedestrian Amenity				
Building Exterior		External walls high quality and durable materials and finishes with self cleaning attributes.	Articulated facades High quality and durable finishes with sample board provided.	Yes
Active Street Frontage		Watt St – active street frontage and Street address to Henry Parry Drive	Battleaxe allotment activation to Watt Street not feasible. Henry Parry Drive limited activation commercial office, street address provided level 4 glazed entry to commercial /residential lobby	Yes
Desired Pedestrian Links		4m minimum width as identified Fig. 3 of DCP	Pedestrian link between Watt Street and Henry Parry Drive with 2m to 4m width.	No
Pedestrian Access and Mobility		Barrier free access to minimum 20% of units (16 units), continuous access paths of travel and unimpeded internal access.	Access compliance report submitted. Barrier free access is provided to all units. Pedestrian entry barrier free access to ground floor level, Continuous access paths of travel from public roads/spaces.	Yes
		15% of all dwellings (12 units) capable of adaptation	7 units nominated as “adaptable” on plans (Units 11,22,33,44, 55,66,77)	No shortfall of 5 adaptable units – conditioned to comply.
		Compliance with AS1428.1-2009 and DDA 1992	Conditioned to comply with recommendations Access Consultant report	Yes
		Ground floor location	Not located on ground floor however lift access available	Yes
Mixed Use Buildings Flexible Building Layout		Variable tenancies and use on first floor.	Level 4 commercial floor layouts allow for variable tenancies.	Yes

Separate commercial and residential entries	Clearly demarcated residential entries directly from the public street clearly separate and distinguish commercial and residential entries and vertical circulation.	Commercial and residential lifts separate, residential entry Henry Parry Drive Level 3 separate from commercial	Yes
		Watt street entry ground floor level not separate from commercial entry and service vehicles	No
Safe pedestrian routes	safe pedestrian routes through site, security access controls at entrances private areas, one main pedestrian entrance with convenient barrier free access to ground floor	Security access controls to be provided to entrances, private areas and car park. Safe pedestrian route is compromised Watt street entrance by shared access with service vehicles	Watt Street pedestrian route amended plans partly resolve issue.
Residential Development Controls			
Housing Choice and Mix	1 bedroom units 10% to max 25% 2 bedroom units not more than 75%	14 x 1-bedrm (18%) 56 x 2-bedrm (73%) 7 x 3- bedrm (9%)	Yes
Adaptable Housing	15% of units to be adaptable housing (slope less than 20%) where possible located on ground floor or where lift access is available Certification from access consultant	Conditioned to comply with AS4299 -1995. Access compliance report provided. As access requirements have changed July 2011. Any consent will be conditioned to comply with current requirements.	Yes
Storage	7.5m ³ for 1 bed units 10m ³ for 2 bed units 12.5m ³ 3-bed units. 50% of storage provided within dwelling	8m ³ 10m ³ 18m ³	Yes

Variations Sought

The proposed development is demonstrated to be generally consistent with the design guidelines/controls of DCP 2007 except in relation to the following controls:

Accessibility

The application is accompanied by an *Access Compliance* report, prepared by PSE Access consulting dated 24 November 2010. The report predates the changes made in May 2011 with the introduction of the DDA premise standards into BCA 2011. The changes included increased dimensional requirements for accessible toilets, lifts and doorways. Accessible car parking will need to have shared zones in accordance with AS2890.6:2009 and AS1428.1-2009 has additional requirements.

Disabled Parking Provision (Shortfall 3 spaces / AS 2890.6:2009)

GCC DCP stipulates the following disabled car parking requirements:

(i) Residential Component

Parking for residential flat buildings (Table 4.1) stipulates that disability accessible car parking is required at the rate of not less than 10% of the required resident and visitor parking. The required number of car spaces for visitors and residents is 108 spaces, on this basis, 10.8 (10%) say 11 spaces are required to be disability accessible car parking.

The submitted plans nominate eight (8) dedicated accessible (disabled) car spaces, which are located near a wheelchair accessible lift and comply with AS4299-1995 – Adaptable Housing. While the provision of accessible car parking is in accordance with AS4299-1995 (i.e. 6m x 3.8m), the proposal does not comply numerically with the number of disabled car parking spaces required under the GCC DCP representing a shortfall of 3 spaces. As there is excess resident/visitor car parking provided, a condition may be imposed requiring the provision of a total of thirteen (13) disabled car parking spaces designed to comply with the dimensional, shared access and minimum headroom requirements under AS2890.6:2009 - Off street parking for people with disabilities. It would appear that six spaces located in the vicinity of the lifts (Level 1 or 2) could be converted to four disabled spaces with 2.4m wide shared access between to comply with AS 2890.6:2009. **(Refer Condition No.2.11)**

(ii) Commercial Component

Clause 4.3(f) of GCC DCP requires car parking for all development at a minimum of 4% of the required car parking spaces, or minimum of 2 spaces. The commercial offices generate a requirement for 16 car spaces of these 4% or 2 spaces are required to be disabled spaces disabled parking.

The submitted plans nominate 2 disabled car parking spaces (commercial suites) designed to meet the requirements under Clause 4.3(f) of GCC DCP. The dedicated accessible (disabled) car spaces provided are located in close proximity to the lift which services the ground/parking/commercial levels of the building and all residential levels. The location of these dedicated spaces satisfies the requirements of AS2890.1-2004, Off Street Parking, Part 2.4.5 (d) in being in a location near a wheelchair accessible lift and are of the required technical dimensions as set out in the AS2890.6:2009.

Adaptable Housing (shortfall 5 units)

In accordance with Section 6 - Residential development controls subclause (d) of the GCC DCP, for residential apartment buildings on land with less than 20% slope, 15 % of all dwellings must be capable of adaption for disabled or elderly residents. Dwellings must be designed in accordance with the Australian Adaptable Housing Standard AS4299-1995, which includes “pre Adaptation” design details to ensure visitability. The submitted plans nominate 7 units as adaptable housing representing 9 % of the total apartments.

The access consultant advises that:

“At a minimum no less than fifteen percent (>15%) of the apartments are to the technical specifications/requirements of AS4299 1995 Adaptable housing as required by Council DCP Clause 6 Residential development controls Part 1 Housing choice and mix (d). These are distributed within the building with Apartments No. 11, 22, 33, 44, 55 and 66 being “typical” examples but not limited to as other units could meet the adaption requirements/needs of people with disability.”

If the application is approved, a condition of consent may be imposed requiring a minimum of 12 units to be designed as capable of being adapted for disabled or elderly residents in compliance with AS4299 1995. Such units to be nominated on plans with details submitted prior to the issue of a Construction Certificate. **(Refer Condition No 2.12.)**

Building Depth and Bulk Controls (Floor plate size and building depth)

Clause 2.3 of the GCC DCP stipulates a minimum floor plate size of 1200m² for buildings above 24m in height with a maximum building depth of 30m (excluding balconies). Subclause (b) also requires that no building above 24m in height is to have a building dimension in excess of 45m. **(Refer Figure 7: Building depth and bulk controls for commercial core)**

The proposal has a floor plate of approximately 1265m² and thereby does not comply with the minimum floor plate size and building depth controls. The extent of variation is not considered significant (5%) however such non compliance when considered with other areas of non compliance (i.e. overall height and building separation-RFDC) contributes to the overall visual bulk of the development) with limited modulation of building form as provided under the previous consent.

Safe Pedestrian Routes (Watt Street)

An objective under Section 3 of GCC DCP is to provide for pedestrian amenity and safety. The design and location of vehicle access to developments should minimise conflicts between pedestrians and vehicles. Initial concern was raised over adequate physical and visual separation between the pedestrian walkway (which could be partly or fully covered) and the vehicular carriageway from Watt Street and the main pedestrian entry located in the middle of the underground car park and potential conflict with vehicle movements past the lift lobby, including service vehicles/garbage trucks.

In response to these issues the applicant has submitted amended plans which make the following changes:

Main Pedestrian Entry

“The architectural drawings of the Ground Floor Plan and Access Pathway to Watt Street illustrate the proposed amendments to improve the access from the new walkway to the central core and foyer area. The main pedestrian access has been elevated to a plaza entrance with less vehicles crossing the area. Only trucks servicing the waste collection will continue to cross the plaza area, all other vehicles will leave the parking area via the entry driveway on the western side. This will reduce any potential conflicts between vehicles and pedestrians. Waste collection is normally less frequent and outside normal hours. The access roller shutter has been relocated so that the majority of the car parking area is now secured and not visible by pedestrians.”

Main Pedestrian Access Pathway

“The architectural drawings of the Access Pathway to Watt Street illustrate the proposed design to improve the access from Watt Street along the new walkway to the central core and foyer area of the building. The main pedestrian access will provide a sheltered

structure with landscaped areas and safety rails to protect pedestrians from adjacent vehicles.”

Vehicle access arrangements and pedestrian amenity are considered satisfactory following design amendments.

Pedestrian Pathway link

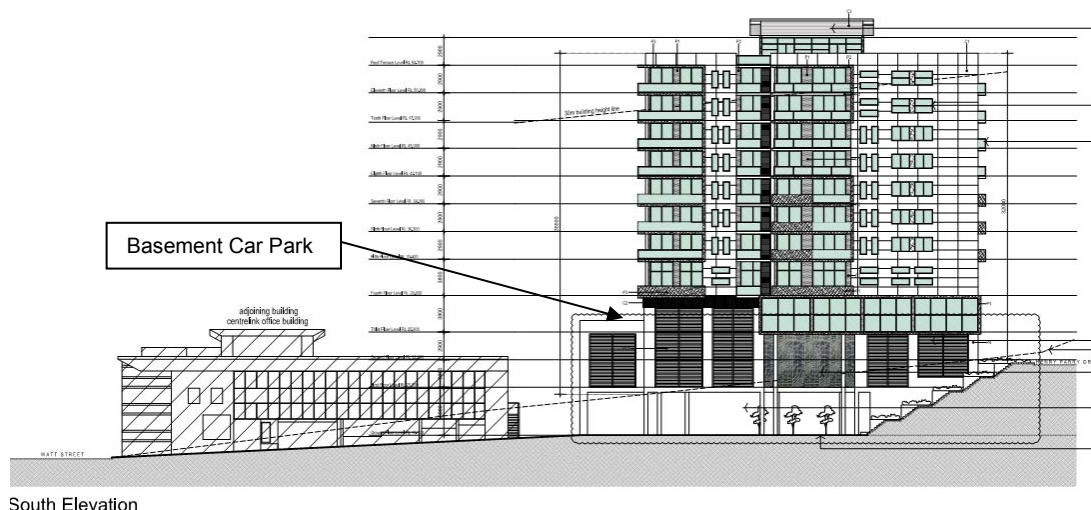
The Gosford City Centre DCP recommends the provision of a 4m wide through site pedestrian link between Watt Street and Henry Parry Drive. The traffic report advises that: *“A through site pedestrian link is proposed between the two streets along the southern boundary. Whilst this link is 4m in width in the vicinity of Henry Parry Drive, the width of the pathway is reduced to a minimum 2m through the access handle on approach to Watt Street. This reduction in width is necessary to obtain a satisfactory vehicular access driveway width and is similar to that which was approved by Council in 2008.”*

The width of the proposed pedestrian link to Henry Parry Drive is considered satisfactory.

Underground Car Parking Design

Clause 4.3(b) of GCC DCP stipulates that: *“car parking is required to be provided wholly underground unless Council is satisfied unique site conditions prevent achievement of parking in basements. such requirement is consistent with the objective to minimise the visual impact of on-site parking Council may require the provision of a supporting geotechnical report prepared by an appropriately qualified professional as information to accompany a development application to Council”.*

The proposed car parking is partly located above ground level as indicated on the south and west elevations and will be visible from view as it extends above the single storey height of the adjoining development to the south, approaching traffic/pedestrians Henry Parry Drive and will extend above the height of the adjoining Centrelink building to the west which has frontage to Watt Street.





West Elevation

Section 4.3 of the DCP recognises that:

“There are particular constraints in certain areas of Gosford city centre on the provision of car parking in underground structures. Due to the high water table, excavation on certain sites may become difficult beyond one level of basement parking. This may necessitate site design which locates the parking above ground. In these cases, minimising the impacts of above ground parking on the public domain is important.”

The application is accompanied by a geotechnical report for the previous proposal, dated 6 September 2005 prepared by Geotechnique Pty Ltd. ref:10857/1. The previous proposal comprised two basement levels requiring excavation to lowest basement level at RL 13m AHD. Excavation conditions were considered in the previous report. The current proposal provides four levels of car parking with the lowest level at RL 15m AHD.

The applicant contends that “the (previous) development was not feasible due to the extensive amount of excavation required to accommodate four basement parking levels and extensive shoring of excavation along Henry Parry Drive.”

The applicant has not submitted an updated geotechnical report for the current proposal, prepared in accordance with DCP 163. The previous geotechnical assessment drilled only 3 boreholes within the subject allotment and a more extensive geotechnical assessment will be required prior to the issue of a CC. As such no information has been submitted by a geotechnical engineer to identify unique site conditions which prevent basement car parking being provided underground.

In terms of visual impact, the applicant contends that: *“The car parking levels are deliberately designed as a podium level or base of the building, which provides a contrasting element to the residential tower above. The podium is rarely visible from any public domain due to the location below street level or at the rear of the Centrelink building. The building has very little of the podium exposed and the topography of the site ensures that the majority of the development is below street level.”*

Parking levels including ventilation grills on the southern elevation will be visible from more distant view lines to the south from Henry Parry Drive. Notwithstanding, as redevelopment is likely to occur on the adjoining allotments to the south, the above ground parking levels area is likely to be screened from public view (Henry Parry Drive). The car park levels will also be visible from Watt Street as they will extend above the height of the adjoining Centrelink Building to the west.

Requirement for Underground Car Parking

Clause 4.3 of GCC DCP 2007 (J) requires on-site parking for commercial and retail development within the commercial core to be accommodated underground, or otherwise fully integrated into the design of the building as illustrated in Figure 4.2. Where integration is not achieved, car-parking areas will count towards gross floor area for the purposes of calculating FSR.

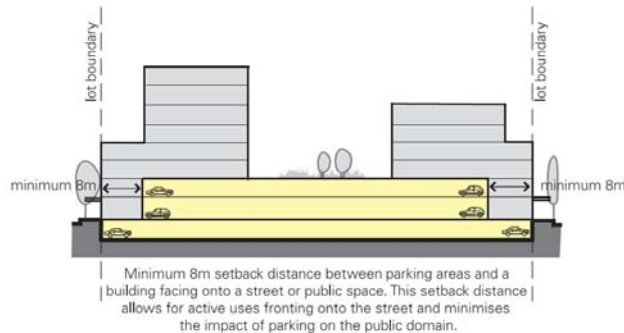


Figure 4.2: Integrated on-site parking for commercial developments within the Commercial Core and City Edge zones

If above ground car parking levels are included in the FSR calculations for the site, the proposed will have an FSR of 3.25:1 in excess of the maximum FSR of 2.82:1 which applies to mixed use (i.e. with a residential component) on the subject land. The applicant contends that the proposed car parking is underground from the perspective of the principal street frontage (i.e. Henry Parry Drive) and is provided in a manner which is fully integrated into the design of the building. Notwithstanding it is considered that the above ground parking still contributes to the height and visual bulk of the development and could be lowered by at least by 1m to achieve a greater level of compliance with the maximum height control.

This issue has been raised as a matter of concern by the SEPP 65 Panel. It is recommended that the design be amended requiring the basement car park level to be lowered by a minimum of 1 metre this would also assist in addition to other suggested amendments in lowering the height of the building to achieve a greater level of compliance with the height controls. **Refer recommendation**

Minimum Floor to Ceiling Heights- Car Parking Levels

The proposed car parking levels 2 and 3 do not comply with the minimum floor to ceiling height of 2800mm for car parking levels above ground. The intent is to provide flexibility so that the area is capable of being adapted to another use in the future. It is unlikely that all car parking levels would need to be adaptable to accommodate other uses. Sufficient floor space exists on ground and level 3 car parks which have a height of 3.3m and may be adapted to other uses if required.

Redevelopment Potential – Adjoining Property

The adjoining property (No 150 Henry Parry Drive) containing an older style residential flat building known as “Scott House” previously formed part of the development site. This building is nearing the end of its economic life. Under the current application this site is no longer included and as a result the redevelopment potential for this property is significantly limited due to land size without site consolidation. The land size is small (945m²) and the existing development will be located between the two large scale developments (i.e. the proposed development and the existing multi storey units at No. 152). The applicant advises that the

existing two storey residential flat building will be extensively restored and renovated for sale as individual residential apartments.

Following requests by Council assessment staff and the SEPP 65 Panel to include this site in the redevelopment proposal, the applicant has advised that:

"The decision to exclude this site has already been made and the property is in the process of being renovated for strata sub-division and sale of the five (5) existing units. The exclusion of the property was made for several reasons listed below:-

- *The finance from the sale of this property provides the finance for the proposed development on the subject site. Without the sale of the land the proposed development would not proceed to construction;*
- *The topography of the adjacent site would increase the slope of the land in the north-eastern corner by a further 3.8 metres (RL33.66 to RL29.85) which would add another floor level to be below street level and natural ground level, with no external access to natural light and ventilation;*
- *The exclusion of the site increases the building separation from the subject site to the northern development on 146 Henry Parry Drive by a further twenty (20) metres to generate an overall separation between taller developments of twenty-nine (29) metres, which guarantees solar access, natural ventilation and privacy between residential towers;*
- *The exclusion of the site ensures that the proposed development does not repeat the criticisms from the Panel of the previous design in regards to excessive length, bulk and scale of the Henry Parry Drive facades. The façade to the street would extend from the current forty-two (42) metres, which the Panel is concerned about bulk and scale to a longer sixty-two (62) metres;*
- *The inclusion of the site would generate a larger project with an increase in the façade length of twenty (20) metres, greater bulk and scale, generating a development which is clearly out of context with the only adjoining development of similar size."*

Several judgements of the Land and Environment Court have dealt with the principles to be applied in the assessment of isolation of site by redevelopment of adjacent site(s) - where intensification of development is anticipated. General questions to be considered included:

1. Whether amalgamation of the sites is feasible?; and
2. Whether orderly and economic use and development of the separate sites can be achieved if amalgamation is not feasible?

The principles to be applied in determining the answer to the first question are set out by **Brown C in Melissa Grech v Auburn Council [2004] NSWLEC 40**. The Commissioner said:

"Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.

Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.

Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed

reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.”

In the decision **Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189**, the principles of Brown C were extended to deal with the second question (i.e. for applications which will result in an isolated site, particularly where the planning controls envisage a greater intensity and size of development than currently exists on the site). The commissioner considered whether the proposed development would unreasonably constrain development of the adjoining property. The details of this case are different to the one above in that there is no amalgamation clause or minimum allotment size which apply to the sites.

The commissioner stated that:

“The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.

To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.

The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.”

In applying these principles to the subject application, the amalgamation of the sites is considered feasible and reasonable as both sites including units within the strata plan are owned by the developer (Tilrox Developments Pty Ltd./CSTM). The site previously formed part of the development site under the previous Development Consent 34204/2008.

The other issue is whether orderly and economic use and development of the separate sites can be achieved if amalgamation is not feasible and whether a reasonable development can be achieved on the adjoining isolated site. Limited redevelopment potential exists for the adjoining two storey residential flat building development nearing the end of its economic life if this site is not incorporated into the development site.

The retention of the existing two storey residential flat building at No 150 to the north, resulting height disparity as surrounding sites are redeveloped for multi storey developments up to 30m in height creates poor amenity outcomes for future residents of this building, particularly if inadequate building separation is provided.

In addition, should the existing residential flat building on the smaller site be redeveloped to the maximum permissible site density and height under the GCC LEP, adequate separation distances may not be achieved or maintained to minimise amenity and visual impacts. Without natural vegetated separation between the two larger buildings being maintained, the two buildings would visually merge when viewed from distant vantage points and intrude upon the vegetated backdrop of Rumbalara reserve. The amalgamation of the two sites would prevent this from happening by ensuring adequate landscaped buffer area within the site for the approved development.

It is considered the proposed development will prevent the adjoining allotment from being developed in accordance with the higher density and height achievable under the Gosford City Centre LEP and DCP 2007. Accordingly, amalgamation of the sites is desirable and is likely to achieve a better planning outcome. This issue remains unresolved.

Overshadowing impact – Adjoining Development to the south

The proposed setback would reduce the amenity and creates overshadowing issues to the neighbouring property to the south when it is redeveloped in the future. To a certain extent overshadowing to the south is unavoidable having regard to the topography and site orientation and may still occur with a development which is compliant with the development controls under the GCC LEP and DCP. However increased separation distances in accordance with the Residential Flat Design Code and lowering the height of the building would lessen such impact.

State Environmental Planning Policy No. 65 (SEPP 65) - Design Quality of Residential Flat Development

SEPP 65 applies to the erection of a new residential flat building comprising three or more storeys and four or more self contained dwellings. The proposed mixed use development comprises a building of twelve levels with 77 residential units over seven levels, commercial floor space on part of level 3 and level 4, car parking on levels G to 2 and part level 3 and a roof top terrace with roof top structure.

The design and assessment of the proposed development is therefore subject to the provisions under SEPP 65. The proposal was referred to the Central Coast Design Review Panel on 19 January 2011 who provided the following minutes in relation to the ten SEPP 65 Design Quality Principles:

SEPP 65 - CCCR Panel Comments

Panel's Recommendation

D Recommend refusal based on issues identified below.

Panel's Comments

The Panel is assessing the present DA with full awareness of past proposals for this site from the developer. The previous DA approval for this site had several positive features which the present proposal lacks. These positive features include incorporation of the adjacent Scott House (150 Henry Parry Drive), the division of the building bulk into two volumes and a better relationship between units and ground floor access achieved by excavated levels of car parking. All of these features are lacking in the new scheme.

The decision not to incorporate Scott House (also currently missing from the east elevation) in the present DA is a major concern for the Panel. First, by creating an isolated site any opportunity for future development is severely limited and the amenity of any refurbishment of Scott House is also reduced. The continued presence of Scott House also raises the need for building setbacks in accordance with RFDC which the current proposal fails to comply with. For both of these reasons it is strongly encouraged that the developer and architect seek to incorporate, as they previously did, the Scott House site into a new amalgamated development.

It is acknowledged that this is a difficult, constrained site in terms of vehicular and pedestrian access and landscape potential. It needs an innovative design to overcome these issues. The

current proposal would not be satisfactory in this regard. The comments below outline some design initiatives which could be implemented in any redesign for this site.

Context

- Limited 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 and a contextual massing model 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 more extensive view catchment analysis, both to and from the site, including distance views, is required.
- Although the subject site is earmarked for the type of development proposed, the current proposal would not provide a positive contribution to the context because it would not relate well with the adjoining property to the north or future redevelopment of the property to the south.

Applicant's response:

"The Panel has failed to consider the detailed Site Analysis contained in the Design Verification Statement on pages 12 to 20."

Scale

- The design and planning strategy adopted for the proposal (a single monolithic volume occupying the majority of the site) is not one that is supported by the RFDC. This is because this strategy tends to result in bulky, over-scaled developments. It is noted that in the photo montage (westerly view) the proposed development bears a strong resemblance in building bulk and envelope terms with the existing development on the corner of Henry Parry Drive and Faunce Street. This existing development is not something that should ever be replicated.

Applicant's Response:

"The Panel has confirmed that the proposed development bears a strong resemblance to the existing development on the corner of Henry Parry and Faunce Street. This is exactly the desired result in terms of bulk and scale. We strongly dispute that the design appears monolithic, bulky or over-scaled."

The project complies with the design guidelines and development standards of the DCP in setbacks, floor space ratio and proposed usage.

The Panel fails to accept that the mixed-use zoning permits total occupation of site area, without landscaping or deep-soil content. The type of development being proposed complies with the LEP provisions and is in context with the existing development to the

north in height, bulk and scale by accommodating sufficient area for landscaping and deep-soil."

Built Form

- The volume of the building envelope is excessive partly due to the large internal courtyard/void space (11m x 7m). It is suggested that this void be deleted and the residential levels be reconfigured and reduced in footprint accordingly in any future redesign.
- Building Separation: Despite compliance with the Council's City Centre DCP, the current proposal does not comply with building separation distances as suggested by the RFDC. This results in inadequate side boundary setbacks to the north, west and south, which would prejudice the redevelopment opportunities of adjoining properties and cause amenity and overshadowing impacts. The RFDC clearly outlines the requirements and the objectives behind the requirements which the proposal should comply with.
- The building envelope should be stepped to comply with building separation requirements to the north and south particularly. This would reduce the amenity and overshadowing issues, especially to the neighbouring property to the south when it is redeveloped in the future.
- Car parking levels: It is suggested that at least 2 of the car parking levels should be fully excavated at the low end of the site. This would help to reduce the visual impact of the car parking podium.

Applicant's Response:

"The separation distances are considered to be appropriate for the existing scale of development on adjacent properties. These setbacks comply with Council's Development Control Plan (DCP). The issue of compliance with the Residential Flat Design Code (RFDC) is challenged since the scale of development on adjoining sites is not of the scale being suggested by Council. The Panel has suggested that the built form of the development is not supported by the RFDC. The RFDC outlines a number of elements which contribute to the building envelope. These are listed on Page 23 as:

- *Building height*
- *Building depth*
- *Building separation*
- *Street setbacks*
- *Side and rear setbacks*
- *Floor space*

The RFDC does not describe what is considered to be an appropriate building envelope by defining the building width or depth in isolation. It is a factor of all these elements. If the design complies with the other variables according to the DCP provisions and development standards, it is considered to be appropriate in bulk and scale.

The current design approved by Council is of a similar building depth (35 metres) with a building width (62 metres). The proposed design is now less in width than that approved by Council (42 metres). It is therefore difficult to accept that a smaller building envelope is being regarded as being excessive in bulk and scale than that already approved by Council.

Furthermore, the deletion of the central garden area and void will not decrease the building width or length. The eastern, northern and southern elevations would not benefit from the deletion of this space.

The Panel confirms that the design complies with the building separations and building setbacks recommended by the Council's DCP. The issue with the compliance with the RFDC is incorrect. The RFDC refers to the recommended distances between buildings in relation to their heights. The proposed design is based upon the current developments on adjoining sites being one, two and three-storeys in height. Clearly, the design complies with this scenario.

In terms of the potential future development on adjoining sites, we have prepared two (2) additional drawings (DA-16 and DA-17) to illustrate the potential development on the two (2) adjoining properties to the west (Centrelink Building at 9 – 11 Watt Street) and to the south (138-142 Watt Street). (Refer Attachment - Figure 8)

These drawings illustrate the potential for each site based upon a mixed-use development on a commercial podium with a residential tower. The site planning illustrates that the proposed setbacks provided for in the current design will achieve the prescribed separation distances recommended by the RFDC on Page 28 as follows:

Five to eight storeys and below 25 metres (difference between buildings)

- 18 metres between habitable rooms/balconies
- 13 metres between habitable rooms/balconies and non-habitable rooms
- 9 metres between non-habitable rooms

The setbacks clearly enable the future development of these sites without adverse impact.

We submit that the correct approach is to assess the current developments on adjoining sites since the future character of these projects is unknown and difficult to predict.”

Density

- No comment at this stage.

Resource, Energy and Water Efficiency

Consider inclusion of the following:

- 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
- outdoor drying lines to individual units on verandas or in private gardens.

Applicant's Response:

“The Panel has suggested that the development should integrate PV systems and grey-water treatment. These are not feasible at this stage.

However, the BASIX and ABSA Certificates clearly indicate a significant commitment is being made to:

- *Passive and active solar design;*
- *Efficient energy and water efficiency;*
- *Non-toxic materials and finishes being proposed;*

- *Deep-soil zones for gardens on natural ground level;*
- *Rainwater harvesting and re-direction to irrigation and car wash facilities;*
- *Biologically active forms of storm-water management.”*

Landscape

- It is considered that an innovative landscape design is required for this site to provide a good visual amenity for the pedestrian access. It is acknowledged that the Henry Parry Drive frontage is not suitable for a main pedestrian entry due to the inhospitable nature of the pedestrian environment.

The main pedestrian entry should be from Watt Street via the battleaxe handle. This battleaxe handle needs to sensitively combine the existing vehicular access, extended to the subject property, with a pleasant and inviting pedestrian entrance and walkway clearly legible from Watt Street. This should contain adequate physical and visual separation between the pedestrian walkway (which could be partly or fully covered) and the vehicular carriageway.

- The landscape design should include some treatment or softening of the façade of the building which adjoins the southern side of the access way from Watt Street. This could be achieved by a green wall solution with a structure proud of the existing wall.
- Include street trees along Henry Parry Drive (in consultation with Council). Other large trees should also be incorporated within the site to break up the façade and reduce any visual impact.

Applicant's Response:

“The treatment of the Henry Parry Drive street frontage is very important regardless of whether pedestrian activity is promoted. The area is landscaped to provide a visually appropriate setting to the building with deep-soil areas for tree-planting, as recommended by Council's LEP in Clause 22D.

The option of including street trees is supported, subject to Council's approval.

The approach to the development from Watt Street is very important and will be developed with a pleasant and inviting pedestrian access pathway, partially covered, well illuminated and clearly separated from the vehicular access.”

Amenity

- The standard floor circulation proposal has people passing by the wall of every unit. While the functional spaces adjacent the units are typically kitchens and bathrooms, this is still a potential problem from the point of view of natural cross-ventilation and solar access. As it stands the development does not comply with the RFDC minimum standards for cross-ventilation.
- The strategy of approaching undersized media rooms through kitchens is questionable.

Applicant's Response:

“The design of the residential units has considered the elements of the RFDC and includes:

28 units (36%) cross-ventilated;

49 units (64%) single-aspect units, which perform better in energy efficiency;

BASIX and ABSA Certificates confirm the high achievements; in energy efficiency and amenity levels;

Media rooms may be used as meals areas and extend from the kitchen."

Safety & Security

- There is a potential serious conflict between the garbage truck access path (and other service vehicles) and pedestrian access to the lifts. This is unacceptable.
- There are several concealed spaces within the ground floor foyer arrangement (e.g. lounge) that would provide potential security concerns and entrapment opportunities.

Applicant's Response:

"The current design is an improvement on the approved layout and avoids any conflict between vehicles and pedestrians. The potential conflict between garbage trucks and pedestrians is limited due to time-frames.

The proposed treatment of the ground floor area will provide a high standard of finishes to present a well-finished entrance area to the pedestrians from Watt Street. The ground floor level will have a suspended ceiling above the car parking and driveway areas, well illuminated and with elevated paved areas across driveways.

There are no entrapment areas when the access to the lounge and foyer areas are by security card or monitored by intercom connections. The lounge room area will be exposed to the commercial foyer areas to reduce any potential entrapment or concealment."

Social Dimensions

- A building of this scale would be expected to have a range of common facilities including a meeting room(s), and other common facilities for example: a gymnasium, swimming pool, games room.
- The roof terrace may be an acceptable facility, however the area provided on the current design is excessive and largely undefined. A far more useful design could be created that has a variety of spaces and garden areas for recreational use.

Applicant's Response:

"The developer may consider these additional facilities in due course. At present, the application provides the level of residential amenity considered to be appropriate. The roof terrace will provide a large area of passive and active recreation space.

The preference is to develop a large space with maximum flexibility. Smaller garden areas, outdoor dining and segmented spaces may be considered in greater detail when the final CC Drawings are prepared."

Aesthetics

- The car parking podium has an unacceptable visual impact and needs to be fully integrated within the overall design and have a façade treatment which softens its visual impact, especially when viewed from the public domain.
- External materials: It is important that the external materials and detailing is of the highest standard possible for such a major development. The colour palette should be recessive because the site is exposed to long distance view against the backdrop of Rumbalara Reserve.

- External attachments: Ensure that all external attachments including services are fully integrated with the design of the façades.

Applicant's Response:

"The car parking levels are deliberately designed as a podium level or base of the building, which provides a contrasting element to the residential tower above. The podium is rarely visible from any public domain due to the location below street level or at the rear of the Centrelink building.

The building has very little of the podium exposed and the topography of the site ensures that the majority of the development is below street level. The Schedule of Finishes is regarded as being appropriate for the site and a more recessive palette is not supported."

Submission of Amended Plans

In response to the issues raised by the SEPP 65 Panel the applicant has submitted amended plans on 8.2.2011 which make the following changes:

DA-05 – Level 3 Floor Plan

- The residential foyer has a glass wall between foyers to avoid any issues of entrapment or concealment.

DA-07 – Levels 5 to 11 Floor Plan

- The recycling bin area has no chute and will accommodate shelves for containers to collect recyclable products which will be taken to the collection bins in the waste room on the Ground Floor Level.

DA-09 – Elevation

- The East Elevation has been corrected to illustrate the Scott House property, which separates the project from the northern development at 152 Henry Parry Drive.

DA-14 – Service Management Plan

- The one-way traffic system has been highlighted;
- A width of 5.05 metres is available as a passing bay area when a garbage truck is loading;
- The centre line of Watt Street and kerb is illustrated in the Turning Template detail;

DA-16 – Building Separation Plan

- The potential scale of development on the Centrelink site (9-11 Watt Street) and the southern properties (138-142 Henry Parry Drive) have been designed to illustrate the setbacks achievable and building separations;
- The anticipated scale of development can occur and still maintain the recommended building separations in the RFDC without compromising the potential development of these sites;
- The building separations achieve the 13 and 18 metres separations.

DA-17 – Section A-A Building Separation

- The Sectional Elevation illustrates the differences in levels between the subject site and the southern property with the seven (7) residential floors and building separations created of 13 metres between habitable and non-habitable rooms will comply with the RFDC.

Generally no significant changes have not been made to the overall height of the building, separation distance or building form rather the applicant has submitted architectural assessment comments and information in response to the Minutes of the Meeting with the Central Coast Design Review Panel, dated 20 January 2011, above

A further set of amended plans was submitted on 25 March 2011 in response to Council's requirements.

- *Driveway Access - The splay at the base of the ramped driveway has been relocated out of the adjoining property (Lot 10 in DP 1046189 - Centre Link Site) to avoid any need for concurrence;*
- *Emergency Set Down Areas - The emergency set down area and service bay area on Henry Parry Drive have been deleted to comply with the RTA's objections;*
- *The Ground Floor Plan has been amended to provide for a waste truck with a 12.5 metres turning circle radius;*
- *The design of the courtyard and landscaping treatment will seek to provide a water-based design with stack-stone wall cladding, water fall, pond, feature rock outcrops with special gravel and pebble areas with no planting and a perimeter seating area. This open area is considered to be a potential "Japanese Courtyard" or similar feature to provide a focal point for commercial and residential tenants and visitors.*
- *Amendments to the design to improve the access from Watt Street along the new walkway to the central core and foyer area of the building. The main pedestrian access has been elevated to a plaza entrance with less vehicles crossing the area and will provide a sheltered structure with landscaped areas and safety rails to protect pedestrians from adjacent vehicles. Only trucks servicing the waste collection will continue to cross the plaza area, all other vehicles will leave the parking area via the entry driveway on the western side. This will reduce any potential conflicts between vehicles and pedestrians. Waste collection is normally less frequent and outside normal hours. The access roller shutter has been relocated so that the majority of the car parking area is now secured and not visible by pedestrians.*
- *Outstanding issues related to the location of the sewer vent stack within the core of the building to enable the ventilation to be discharged above the height of the development. The applicant has subsequently submitted additional details (June 2011) which are now acceptable to Council's Water and Sewer Directorate. Final approval for alterations to the sewer and vent stack structure would need to be undertaken under the Water Management Act 2000 through the Water and Sewer Directorate prior to the issue of a construction certificate, as required.*

Architect's Comments

Council's Architect has provided further assessment in response to amended drawing submitted by the applicant as follows:

"The application is subject to SEPP 65 and the Residential Flat Design Code (RFDC). It has also been assessed by the SEPP 65 Design Review Panel and recommended for refusal.

The applicant has made amendments however it is considered that they have not addressed the most significant issues raised by council or the Design Review Panel. It is still considered not to meet the standards set out in the RFDC and requires major redesign to address the following issues.

1. *The application still **does not comply with the separation distances recommended in the RFDC** on the north, south or west boundaries. Habitable rooms including balconies require 6 metres setback up to 12 metres high, 9 metres between 12 and 24 metres high and 12 metres above 24 metres high.*

This non-compliance will create both visual and acoustic privacy conflicts and increased overshadowing and result in poor amenity and reduced development opportunities on adjoining sites. It also adds to the bulky, monolithic appearance.

The drawings including possible buildings on adjoining sites clearly show this application relies on increased setbacks on the adjoining sites to achieve the building separation recommended in the RFDC rather than providing the required setbacks on the subject site.

2. *The **main pedestrian entry remains in the middle of the underground carpark**. The applicant has amended the carpark layout to reduce vehicle movements past the lift lobby however it still necessary for garbage trucks and other heavy vehicles to use this route.*

This design is still considered unacceptable. This is a safety issue, particularly for children and it does not create a desirable residential identity recommended in the RFDC.

3. *There is serious doubt that the **courtyard garden on the commercial level** will survive when relying on the light available at the bottom of a 25 metre deep void.*

Further negotiations took place with the developer and Council planning assessment officer requesting further redesign to include the following changes:

- Excavate and lower basement car park level into the ground by a further 1 metre;
- Delete central void Levels 4 to 11 to increase setback mid section of building and create an indent to the north and south of the building; or
- Delete Level 11 (containing eleven units) to reduce extent of non-compliance with maximum 30m height requirement.

The applicant has provided the following response:

Open Central Core

Suggested redesign of the upper floors and in particular eliminating the central core is not deemed appropriate.

- Current Design provides indentation from the balcony projections establishing an articulated facade that is well designed and modern.
- The balconies are integrated into the overall architectural form and detail of the building as recommended by RFDC.
- Primary balconies are partially cantilevered as part of the design providing amenity and creating articulation of the building facade, generally as recommended by RFDC.
- Juliet / secondary balconies have been integrated into the design providing additional amenity and creating articulation of the building facade, generally as recommended by RFDC.
- Suitable indentation has been provided, creating a modern facade, generally in accordance with the principals of RFDC.

The Open Central Core has been designed with purpose, resulting in a design that achieves recommendations of the RFDC Internal Circulation page 79, (Parts of Objectives and Better Design Practice in *blue italics*).

Objectives

- *To create safe and pleasant spaces for the circulation of people and their personal possessions.* The open central core / corridor space is safe and pleasant as it provides for a clear visual line for persons across corridors and between floors.
- *To encourage interaction and recognition between residents to contribute to a sense of community and improve perceptions of safety.* The open central core / corridor space corridor space will provide an opportunity for residents recognition and interaction creating a sense of community and improve safety as the open core provides for a clear visual line for persons across corridors and between floors.

Better Design Practice

- *Increase amenity and safety in circulation spaces by:*
 - *providing generous corridor widths and ceiling heights, particularly in lobbies, outside lifts and apartment entry doors.* Generous corridor widths and ceiling heights in addition to the open central core provide excellent amenity and safety.
 - *providing appropriate levels of lighting, including the use of natural daylight, where possible.* Open central core will provide natural lighting.
 - *minimising corridor lengths to give short, clear sight lines.* Corridor lengths are minimal and the open central core provides clear sight lines for persons across corridors and between floors.
 - *avoiding tight corners.* Generous corridors are provided in the design, eliminating tight spaces.
 - *providing legible signage noting apartment numbers, common areas and general directional finding.* Suitable signage will be provided at foyer levels and upper levels.
 - *providing adequate ventilation.* The open central core / corridor will provide natural ventilation 24 hours a day, eliminating the need for mechanical ventilation (prone to breakdown and outage) resulting in an environmentally friendly outcome. This will result in a quality naturally ventilated amenity for occupants.

- *Articulate longer corridors. Design solutions may include:*
 - *utilising a series of foyer areas.* Open central Core provides for short lengths of corridors and spreads the foyer area.
 - *providing windows along or at the end of a corridor.* The open central core / corridor will provide natural ventilation 24 hours a day, eliminating the need for mechanical ventilation (prone to breakdown and outage) resulting in an environmentally friendly outcome.
 - *Minimise maintenance and maintain durability by using robust materials in common circulation areas. (See Building Entry, Natural Ventilation).* The open central core / corridor will provide natural ventilation 24 hours a day, eliminating the need for mechanical ventilation (prone to breakdown and outage) resulting in an environmentally friendly outcome. This will result in a quality naturally ventilated amenity for occupants.

Further the open central core has the following benefits.

- Provides an aesthetic view of the proposed fern garden at level 4 from upper levels.
- Provides a relaxing break out area for office users on level 4.
- Provides an aesthetic view for level 4 offices.

Building Height

The building height plane has been demonstrated with the 3D images forwarded to you.

The building height is mostly compliant within 30m and any projections of the height are due to the sloping site which should be given concessions to facilitate an appropriate building form as recommended by RFDC.

Basement

Reducing the basement depth is not deemed appropriate.

- It will impact on the feasibility of the project. The development has been designed to limit excavation of the site and in fact resulted in a reduction of unit density numbers.
- Reducing the basement depth would result in sub terrain accommodation which is not appropriate for office or residential purposes.
- Reduction of the basement by 1m will have little to no impact on the facade view. The facade has been treated with appropriate architectural decorative screening in cases where the basement is above ground.
- Particular consideration is to be given to:
 - Northern Elevation - is mostly below ground with any natural ventilation suitably screened
 - Eastern Elevation (Henry Parry Drive) - is the governing point of the basement depth. At this location the basement is fully below ground level and is not viewable. Reducing the basement depth would result in sub terrain accommodation which is not appropriate for office or residential purposes
 - South Elevation – Parts of the basement are above ground, these parts have been be architecturally addressed with a decorative mesh which will be aesthetically appealing.
 - West Elevation (Watt St) - the basement is below ground level and will not be viewed from Watt St (Screened by a 2 level building on Watt St), demonstrating no benefit in reducing the basement level.

- The basement projection (only in parts of the site) is due to the sloping site which should be given concessions and consideration to facilitate an appropriate building form. The governing point of the site is the north eastern corner which is designed with appropriate finished floor levels.
- Basement Level is designed to facilitate the Entry Main Plaza which is at the appropriate level for access.

Assessment Comment

It is considered that the requested changes to remove the central core, increase boundary setback and lower the basement car park level a further 1 metre into the ground are not unreasonable. The removal of the central core, reconfiguration of the residential levels and reduction in footprint was suggested by Council's architect and the SEPP 65 design review panel to reduce the volume of the building envelope and achieve greater building setback and articulation. Council's architect also raised doubt that the courtyard garden on the commercial level will survive when relying on the light available at the bottom of a 25 metre deep void.

Without further modification to the design the option remains to remove Residential Level 11 to achieve compliance with the maximum 30m height limit.

State Environmental Planning Policy (SEPP) (Infrastructure) 2007

(1) Road Traffic Noise

In accordance with the *State Environmental Planning Policy (SEPP) (Infrastructure) 2007* an acoustic assessment may be required if located in the vicinity of a rail corridor or busy roads. For clauses 87 (rail) and 102 (road):

- a. If the development is for the purpose of a building for residential use, the consent authority must be satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:
 - In any bedroom in the building – 35 dBA at any time 10.00 pm to 7.00 am.
 - Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 dBA at any time.

The application is accompanied by *Road Traffic Noise Assessment* (RSA Acoustics Report Number 5141, 30 November 2010) which recommends that:

"In order to meet the internal noise levels it is recommended that enhanced glazing in all residential habitable rooms facing north, east and south with a minimum Rw of 38 be installed in order to achieve satisfactory noise levels for both living and sleeping areas. The calculations were in accordance with AS 3671 "Road Traffic Noise Intrusion Calculation".

It will be necessary to provide alternative means of ventilation in light of the inability to satisfy internal noise criteria with open windows."

(iii) Traffic Generating Development

The scale and location of the proposal is such that it is defined under Column 3 of Schedule 3 of SEPP (Infrastructure) 2007. Accordingly, the application was referred to the Roads & Traffic Authority for its advice and comments.

(Refer Engineering Assessment below)

Engineering Assessment

"Roadworks, Access and Traffic"

The site has a frontage to two road frontages these being Henry Parry Drive and Watt Street. There is an existing access handle along the southern boundary of the Centrelink site that provides access to the site from Watt Street. This access handle is also a right of access that facilitates access into the basement car park associated with the Centrelink development. It is recommended that the vehicular access crossing be reconstructed (widened) to accommodate the swept turning paths of service vehicles entering and exiting the site.

Roads & Traffic Authority (RTA)

The development falls within the guidelines of SEPP (Infrastructure) 2007 for traffic generating development and was referred to the RTA. The development also fronts a State road (Henry Parry Drive). The RTA have advised that: "the RTA has no proposals that require any part of the property and raises **no objections** to the current proposal subject to conditions". Such conditions may be incorporated within any future development consent issued by Council.

Internal Circulation

The site gains access via an 8.9m wide access handle from Watt Street on the southern side of the subject site. There is a right of way over this access handle that provides access to the Centrelink development site that is located on the northern side of the access handle. The development proposes a total constructed access width of 6.5m in the access handle with a 2m wide footpath area on the southern side of the vehicular access.

The internal circulating areas on the ground floor have been revised to the satisfaction of Council's Waste Services Section in relation to the required swept turning and manoeuvring areas for the waste servicing vehicle.

The internal access arrangements are to comply with AS2890, particularly AS2890.1:2004, AS2890.2:2002, and AS2890.6:2009. The intersection of the circulation driveway with the access ramp to level 1 was originally lodged with a splay on the western side into the adjoining property. This splay has since been removed from the proposal.

Drainage

The site has a general grade from the east to west but stormwater from the site would discharge to the drainage system in Watt Street via the access handle located in the south-western corner of the site. The longitudinal street drainage within Watt Street has been upgraded in conjunction with the Centrelink development to cater for the 1%AEP (1 in 100 year ARI) storm event for predevelopment conditions.

On-site detention will be required for this development to limit post development flows back to predevelopment flows for all storms up to and including the 1%AEP storm event. Pollution / nutrient control measures will also be required. Details of OSD & nutrient / pollution control are to comply with Council's DCP165 - Water Cycle Management. On-site retention will also be required in accordance with DCP165 - Water Cycle Management. A Water Cycle Management Report prepared by ALW Design (Project Ref # SW10326 dated 2/12/2010) was submitted with the application. This report appears to be satisfactory for the purposes of DA assessment.

Water and Sewer

The site is serviced by sewer. The development site at present contains a sewer main (concrete encased), a manhole, and a sewer stack vent. The Council sewer system within the subject site also services the neighbouring property to the north (SP 4827).

The application was referred to Council's Water & Sewer Directorate who required information on how the contractor will maintain access to the Sewer Vent Stack for maintenance and its

location in relation to the proposed building. The applicant had since submitted additional details which were eventually considered acceptable. Final approval for alterations to the sewer and vent stack structure would need to be undertaken under the Water Management Act 2000 through the Water & Sewer Directorate prior to the issue of a construction certificate."

Bushfire Assessment

The subject site is located to the east of Rumbalara reserve containing forest vegetation and is identified as bush fire prone land on Council's Bushfire Prone Land Map. Accordingly, the application has been assessed in accordance with Section 79BA of the *Environmental Planning and Assessment Act 1979* and *Planning for Bush Fire Protection 2006*. The application and accompanying Bushfire Hazard Assessment Report (Craig Burley – Control Line Consulting, Ref No: 10.11.65, 10 December 2011) was referred to the NSW Rural Fire Service who raised no objections to the proposal subject to condition requiring application of the recommendations contained in the Bushfire Assessment Report relating to asset protection zones, vegetation, construction standards, access and services.

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 Draft Plan.

Climate change and sea level rise

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

Climate change and sea level rise will be felt through:

- increases in intensity and frequency of storms, storm surges and coastal flooding;
- increased salinity of rivers, bays and coastal aquifers resulting from saline intrusion;
- increased coastal erosion;
- inundation of low-lying coastal communities and critical infrastructure;
- loss of important mangroves and other wetlands (the exact response will depend on the balance between sedimentation and sea level change); and
- impacts on marine ecosystems.

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

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

Section 94 Contributions

The proposal is subject to the payment of section 94 contributions under Gosford City Council Section 94A Development Contribution Plan - Gosford City Centre. The applicant has submitted *Quantity Surveyors Detailed Cost Report* which estimates total construction costs at \$11,580,534.81. Section 94 contributions are levied by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development including demolition, excavation and site preparation in accordance with Clause 25J Section 94A levy –

determination of proposed cost of development of the *Environmental Planning and Assessment Regulation 2000*. As such s94 contributions have been levied based on the QS estimate for total development costs.

Public Submissions

One (1) public submission was 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. **My company owns the property directly in front of the suggested entry/exit to the proposed development. The proposed entry/exit spills onto Watt Street directly in front of our loading dock and access to our basement car park which houses some 100 odd government vehicles that enter and exit our complex 24/7 - overall we house approx. 400 vehicles daily, all of which enter or exit via Watt Street. We believe the proposed project entry will cause traffic congestion with vehicles trying to join the traffic flow, along with delivery trucks endeavouring to make daily deliveries to our building.**

Comment

Gateway Shopping Centre is located to the west on the opposite side of Watt Street.

The application is accompanied by a Traffic Impact Assessment report, prepared by Thompson Stanbury Associates (Ref 10-117 dated November 2010).

The report has assessed the likely traffic impacts resulting from the proposal and recommends, where appropriate treatments to ameliorate such impacts. In this regard, this report undertakes assessment of the following:

- Existing road network conditions within the vicinity of the site including traffic volumes and general traffic safety;
- Identify traffic likely to be generated by the proposed development;
- Assess the ability of the surrounding road network to accommodate additional traffic movements projected to be generated by the proposed development;
- Accessibility to and from the site under projected conditions and its impacts on the surrounding road network; and
- Suitability and safety of the internal circulation and parking arrangements as relevant to the site and local conditions.

The report advises that the proposed development is projected to generate in the order of 46 peak hour vehicle trips to and from the subject site. The report advises that: *"INTANAL modelling indicates that the surrounding road network is capable of accommodating the additional traffic projected to be generated by the subject development during peak operation"*.

The RTA have reviewed the application and have raised no objections to the proposal subject to conditions which may be incorporated into consent conditions.

2. **The concrete driveway to the proposed development is too narrow for two way traffic. It should be noted that vehicle parking for Centrelink (11-13 Watt Street) also use the driveway in question. Taking into account that over 100 cars, along**

with delivery and garbage collection vehicles, this driveway would be totally inadequate. An alternate entry/exit to Erina Street or Henry Parry Drive would be of assistance to partly overcome this problem. Alternatively the developer should pay to have Watt Street widened to carry four lanes of traffic prior to work commencing on site.

Comment

The site gains access via a 8.9m wide access handle from Watt Street on the southern side of the subject site. There is a right of way over this access handle that provides access to the Centrelink development site that is located on the northern side of the access handle. The development proposes a total constructed access width of 6.5m in the access handle with a 2m wide footpath area on the southern side of the vehicular access.

The traffic report advises the following in relation to the width of the access:

“With respect to passenger vehicle access, the Roads & Traffic Authority recommend that the site be provided with, at minimum, a combined ingress / egress driveway with a width of 6m. The proposed access driveway design therefore accords with the minimum Authority recommendations.

In terms of heavy service vehicle access, reference is made to the Australian Standards for Parking Facilities: Part 2: Off-Street Commercial Vehicle Facilities (AS 2890.2 – 2002). This Standard indicates that the minimum driveway design requirement where MRVs are to be accommodated is a 9m wide combined ingress / egress driveway. The limited width of the Watt Street access handle is such that the AS2890.2-2002 recommendations cannot strictly be complied with.

It is however noted that the proposed driveway is capable of accommodating the turning swept path of vehicles up to the size of 12.5m long Heavy Rigid Trucks (HRVs) based on turning templates provided within the Australian Standards for Off-Street Commercial Vehicle Facilities (AS 2890.2 – 2002) whereby trucks enter and exit via a right turn. This is confirmed by the architectural plans which provide appropriate overlays of the Standard swept turning paths. In consideration of this and the abovementioned discussion, this Practice is satisfied that the proposed access driveway is satisfactory in terms of its design.”

The application is accompanied by a Site Operations Plan of Management which details the operational management measures proposed to be implemented to ensure that interaction between service and passenger vehicles is minimised. Council’s waste officer has reviewed the plan in relation to waste vehicle movements and has raised no further objections to the proposal following amendment to this plan.

The RTA does not support vehicle access to the site, to or from Henry Parry Drive and requires all vehicular access to and from the site is to be via Watt Street.

- 3. In my view the scale of the proposed building is excessive for the site and would not add amenity to the City of Gosford. Consideration should be given to scaling back the size and bulk of the project.**

Comment

The proposed building does not comply with the maximum 30m height limit. Above ground parking levels contribute to the visual bulk and scale of development.

Opportunity exists to scale back the size of the development to increase building separation, reduce overall height and perceived visual bulk south and west elevations. and it is recommended that deferred commencement consent be issued requiring further amendments to the design.

4. **Our building, while only three storeys high in Watt Street, has been designed to take five extra floors, which when this happens, will greatly magnify the traffic problems.**

Comment

The GCC LEP 2007 provides for increased density and height of buildings within the Commercial Core. The ability of the road network to support increased density and other relevant strategic traffic issues have been considered in the formulation of appropriate controls and provisions under the LEP and DCP.

5. **The details provided do not show a provision for water meters, back flow valves, fire sprinklers, hose reels or fire hydrants. Likewise, where is the electrical sub-station shown to cater for this facility? While in the preliminary stages one wonders where fire support equipment would stand should there be a need for such equipment. Would fire tenders also use the narrow entry driveway from Watt Street or would they park and block off Watt Street and/or Henry Parry Drive?**

Comment

The proposed building is required to comply with relevant provisions under the Building Code of Australia. Details confirming compliance (including Fire Safety Schedule) will normally be provided with the construction certificate.

- 6 **How does the applicant propose to cater for construction vehicles, workmens' cars, concrete trucks with associated pumping equipment, cranes, delivery of building materials, etc? Watt Street is not capable of handling such equipment, nor is parking available for equipment to stand. Any truck delivering building materials via Watt Street (if allowed to stand) would totally block off Watt Street.**

Comment

A traffic/site management plan will be required prior to the issue of a Construction Certificate. **(Refer Condition No.2.8)**

- 7 **AF storm water drainage has been shown as discharging into Watt Street. The existing drainage is not capable of handling the extra water and would therefore require major expansion of the pipe work down to Erina Street and beyond.**

Comment

Council's Development Engineer advises that the site has a general grade from the east to west but stormwater from the site would discharge to the drainage system in Watt Street via the access handle located in the south-western corner of the site. The longitudinal street drainage within Watt Street has been upgraded in conjunction with the Centrelink development to cater for the 1%AEP (1 in 100 year ARI) storm event for predevelopment conditions.

On-site detention will be required for this development to limit post development flows back to predevelopment flows for all storms up to and including the 1%AEP storm event.

Pollution / nutrient control measures will also be required. Details of OSD & nutrient / pollution control are to comply with Council's DCP165 - *Water Cycle Management*. On-site retention will also be required in accordance with DCP165 - *Water Cycle Management*. A Water Cycle Management Report prepared by ALW Design (Project Ref # SW10326 dated 2/12/2010) was submitted with the application. Further engineering details in accordance with the Concept plans will be required prior to the issue of a Construction Certificate.

8 How does the applicant propose to ventilate the car park, install kitchen and bath room exhaust fans? The assessment panel may need to ask for details on air conditioning (location of units and sound levels).

Comment

Car park to be partly naturally ventilated and mechanically ventilated with details required to be provided with CC. Acoustic impact assessment report

9 The sewerage appears to discharge via an existing line under the Centrelink building. This line would need to be checked as it may well be under capacity for such a large number of units.

Comment

The site is serviced by sewer. The development site at present contains a sewer main (concrete encased), a manhole, and a sewer stack vent. The Council sewer system within the subject site also services the neighbouring property to the north (SP 4827). Council's Water and Sewer section have raised no further objections to the proposal following the submission of additional information and subject to conditions. Final approval for alterations to the sewer and vent stack structure would need to be undertaken under the Water Management Act 2000 through the Water & Sewer Directorate prior to the issue of a construction certificate.

Conclusion

The application for a proposed mixed use development has been assessed in accordance with the relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, Gosford City Centre LEP and DCP, relevant SEPPs and DCPs. The design of the proposal was considered to be unsatisfactory by Central Coast Design Review (SEPP 65) Panel and Council's Architect. Amended plans and additional information submitted by the applicant have largely failed to address issues raised by the Panel.

The following issues remain unresolved:

- The proposal exceeds the maximum 30m building height control as stipulated under the clause 21 of the GCC LEP 2007.
- Above ground parking levels contribute to the height and visual bulk of the development.
- Building Separation distances are non-compliant with Residential Flat Design Code resulting in inadequate side boundary setbacks to the north, west and south resulting in a visual bulky building and potential amenity /overshadowing impacts for adjoining developments.
- The building envelope does not step down the block to follow the natural fall of the land, nor is the building bulk broken up by varied height or division/separation of the building form at upper levels.
- Isolation of adjoining development site.

Further redesign is required to resolve such issues and may include the following:

- Reduce or remove the central void of the building to increase separation distances. The volume of the building envelope is excessive partly due to the large internal courtyard/void space (11m x 7m). The CCDD Panel suggested that this void be deleted and the residential levels be reconfigured and reduced in footprint accordingly in any future redesign. Building separation distances should be increased in proportion to building height to ensure appropriate urban form, adequate amenity and privacy for building occupants and adjoining developments.
- Excavate basement car parking levels further into ground to reduce height south and west corner of building. Car parking levels could be excavated at the low end of the site by at least 1 metre. This would help to reduce the visual impact of the car parking podium.
- Vary building form upper levels or step building envelope to reduce height and perceived visual bulk. Level 11 should be removed either in part southern end or in full to achieve greater level of compliance with maximum height controls.
- Incorporate adjoining residential flat building site (owned by the developer) to maintain adequate landscaped separation between buildings.

The GCC LEP 2009 is a relatively recent environmental planning instrument. Existing development located within the vicinity of the site and area immediately surrounding Watt Street has been developed under previous planning regimes. Increased height and density controls under the current LEP is designed to encourage and promote the revitalisation of the Gosford City Centre and land surrounding the subject site is likely to be redeveloped in the near future. It is therefore important that new developments generally adhere to the current development standards to achieve relevant planning objectives for the city centre and the cumulative effects of similar approval should be considered.

It is considered that approval of the current proposal has potential to undermine the objectives of the maximum height development standard by creating an undesirable precedent for development of adjoining sites in a similar manner, without further amendments to the design to lower the height of the building and increase building separation distances.

Accordingly, it is recommended that the Joint Regional Planning Panel should defer determination of the application subject to the submission of amended plans failing which the application should be returned to the Panel with a negative recommendation.

Attachments:

Figure 1: Architect's drawing of proposed development

Figure 2: Location Aerial Photograph

Figure 3: Aerial Photograph showing location of subject site

Figure 4: Zoning Map

Figure 5: Building Height Map

Figure 6: Building Height Diagram

Figure 7: Building Depth and Bulk Controls – Commercial Core GCC DCP

Figure 8: Potential Building Separation Plan

Figure 9: Previous Development Consent Plans-DA34204/2007(Elevations)

Figure 10: Architect's Photo Montages

RECOMMENDATION

- A The Joint Regional Planning Panel as consent authority defer Development Application No 39936/2010 for the proposed Mixed Use Development - Offices/Business & Residential Units (77) (JRPP) on LOT: 11 DP: 1046189, 7 Watt Street GOSFORD, subject to the submission of amended plans to Council within three (3) months, which address the following matters:

1. Reduce or remove the central void of the building and residential levels 4 to 11 be reconfigured and reduced in footprint to increase building separation distances;
 2. Excavate basement car parking levels further into ground to reduce height south and west corner of building. Car parking levels should be excavated at the low end of the site by at least 1 metre;
 3. Vary building form upper levels or step building envelope to reduce height and perceived visual bulk. Level 11 should be removed either in part southern end or in full to achieve greater level of compliance with maximum 30m height control.
- B Upon submission of amended plans, the Joint Regional Planning Panel in accordance with Clause 5.16 of the Joint Regional Planning Panel – Operational Procedure give delegation to the General Manager – Gosford City Council delegation to determine the application, subject to the attached conditions.
- C Council assume the concurrence of the Director-General Department of Planning for the use of Clause 24 Exceptions to Development Standards to vary the development standards of Clause 21- Height of Buildings and 22B(6) Design Excellence under the Gosford City Centre Local Environmental Plan to permit the proposed development
- D In accordance with Section 95(1A) of the Environmental Planning & Assessment Act 1979, this consent shall be valid for a period of five (5) years.
- E The objector(s) be notified of Council's decision.
- F The External Referral(s) be notified of Council's decision.

ATTACHMENT

Development Application No. 39936/2010 Proposed: Mixed Use Development - Offices/Business & Residential Units (77) on LOT: 11 DP: 1046189, 7 Watt Street GOSFORD



Figure 1: Applicant's Drawing of Proposed Building



Figure 2: Location Aerial Photograph (Source: GCC DCP)

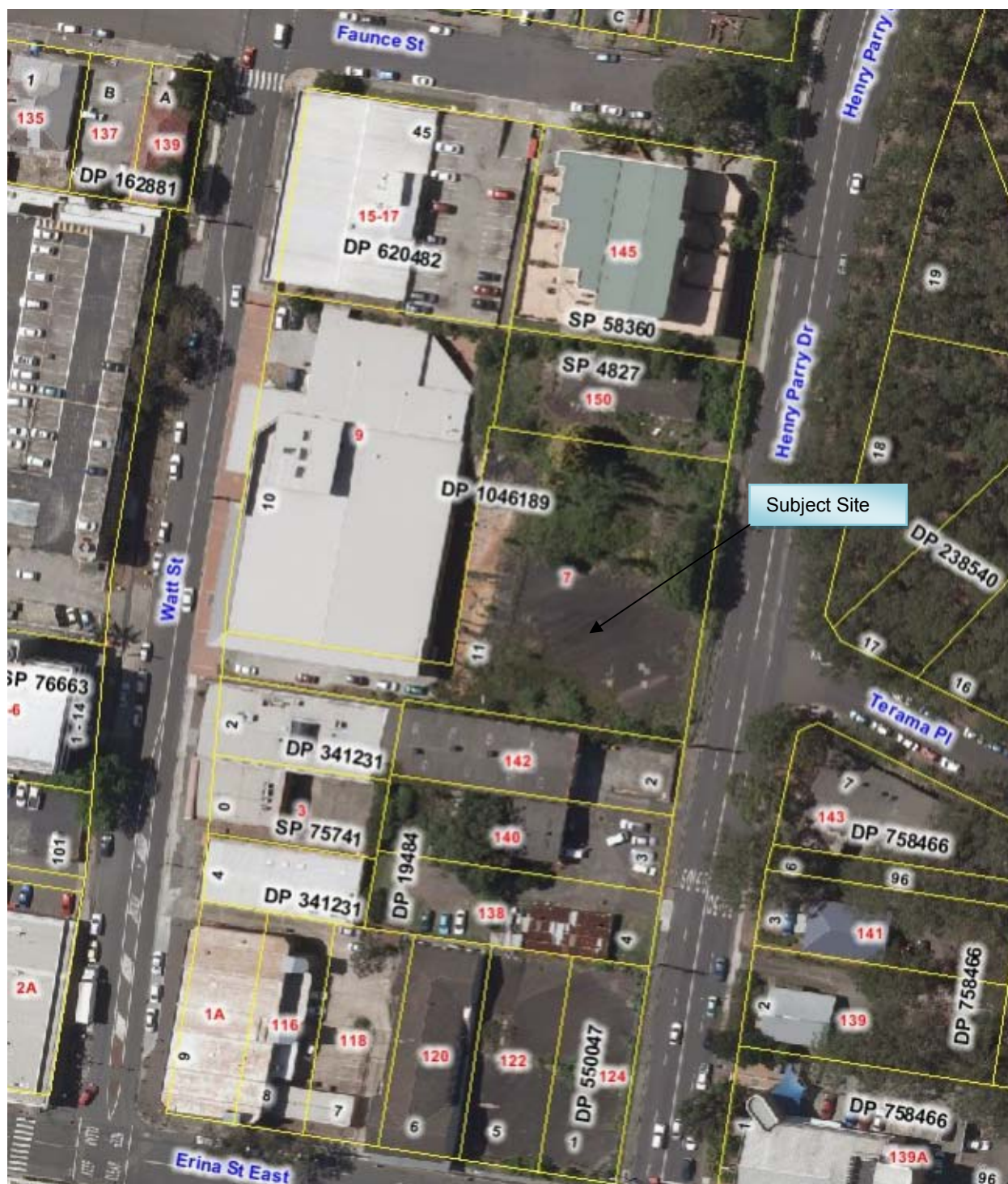


Figure 3: Location Aerial Photograph



Figure 4: Zone Map - B3 Commercial Core

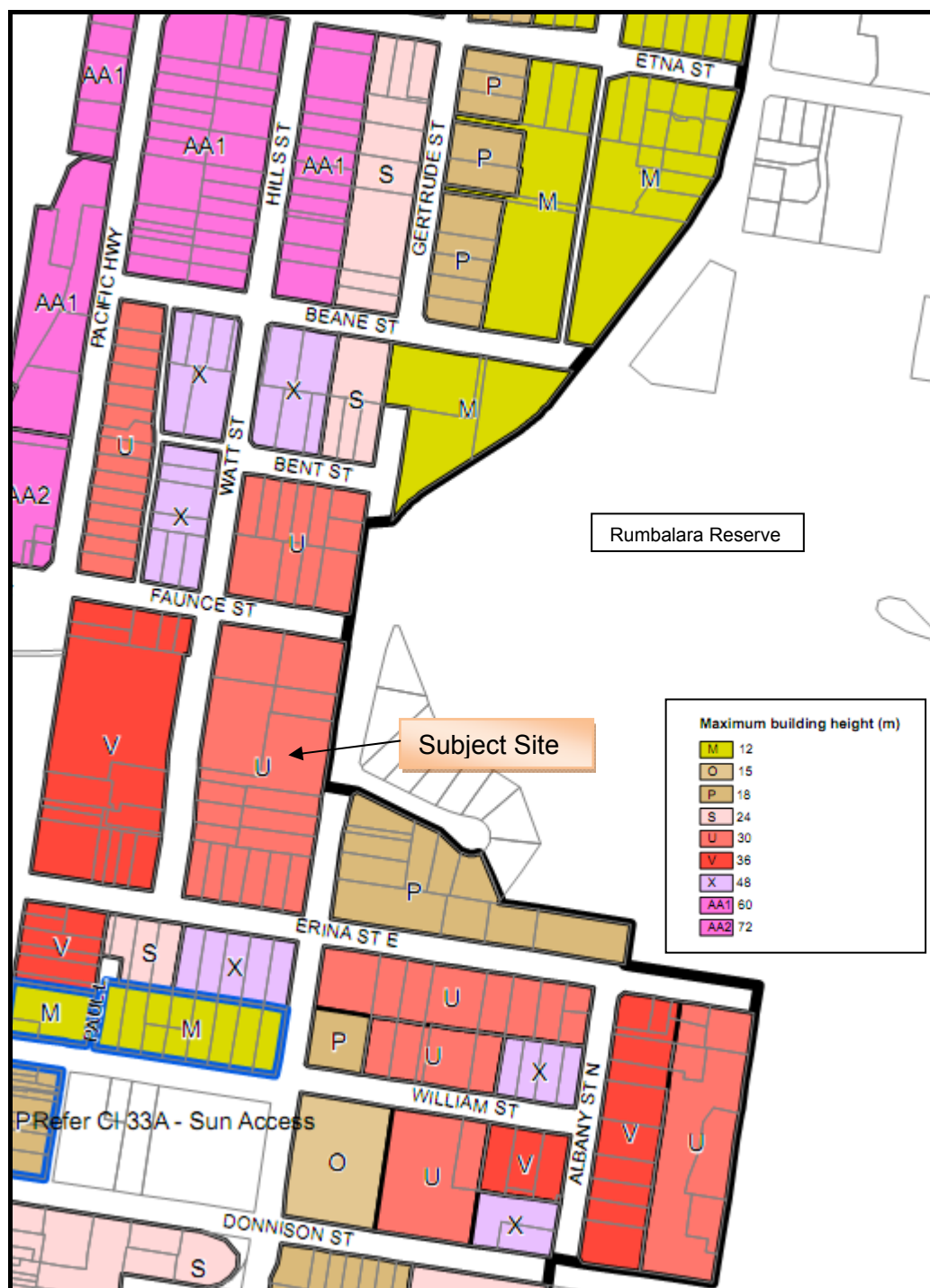


Figure 5: Building height map (Source: GCC DCP)

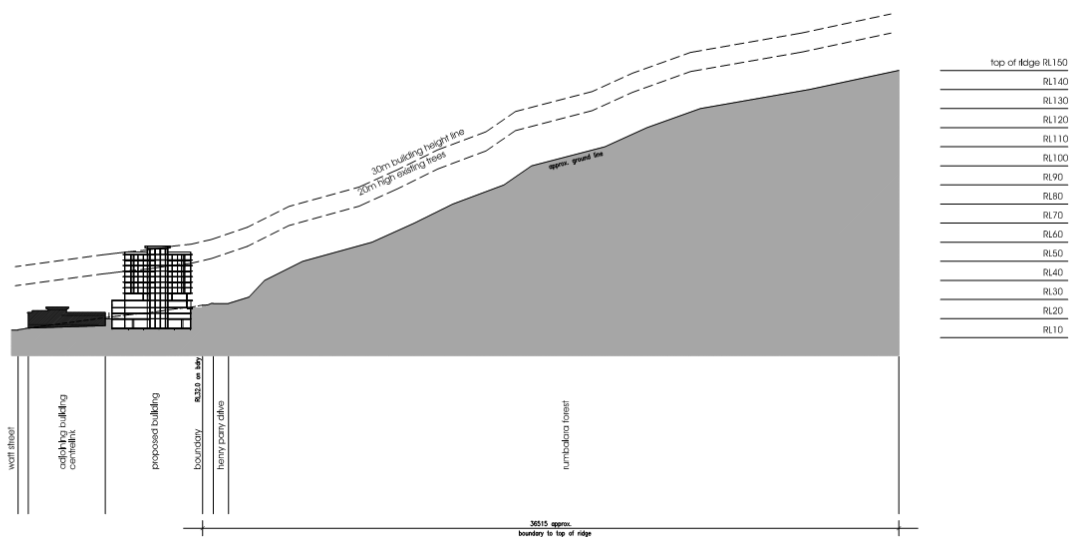


Figure 6: Building Height Diagram (Source: Architex DA12)

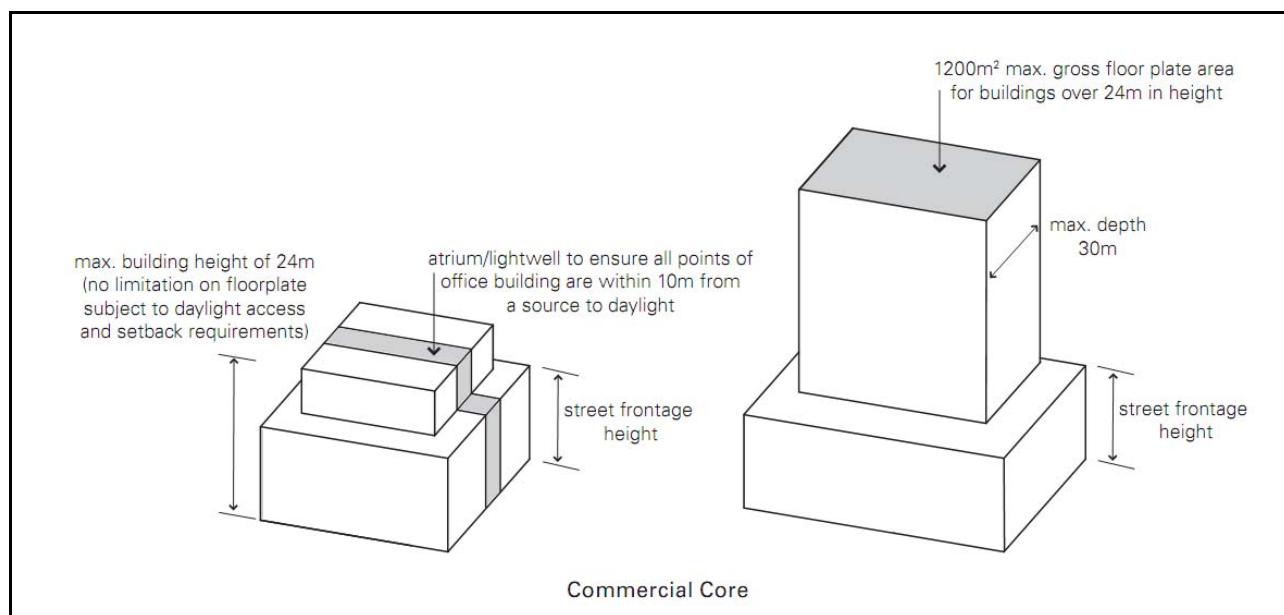


Figure 7: Building Depth and Bulk Controls – Commercial Core GCC DCP

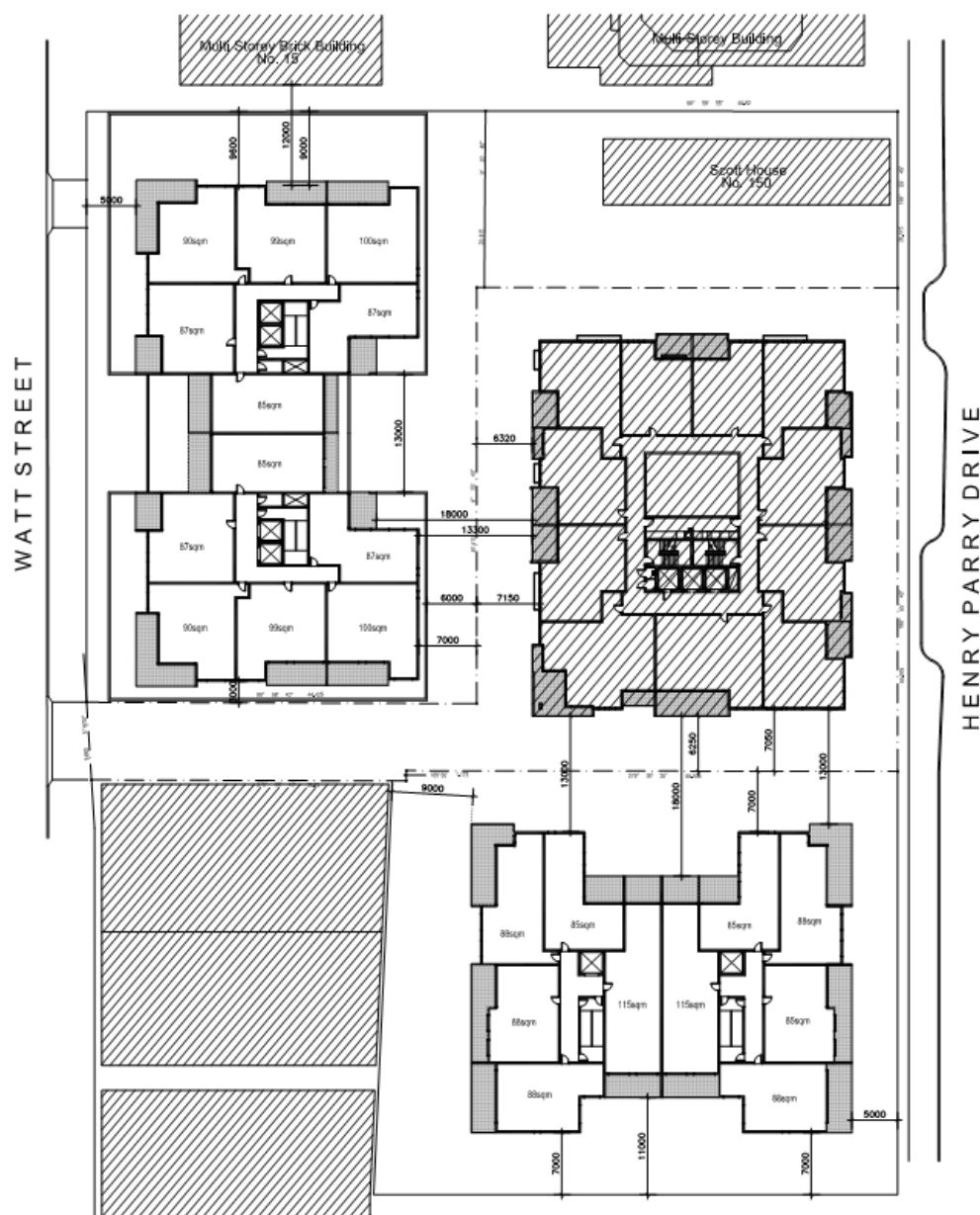


Figure 8: Potential Building Separation Plan (Source: Architex - DA16)

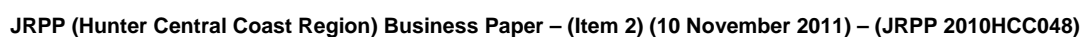


Figure 10 Architect's Photo View Montntages (Source: Architex)

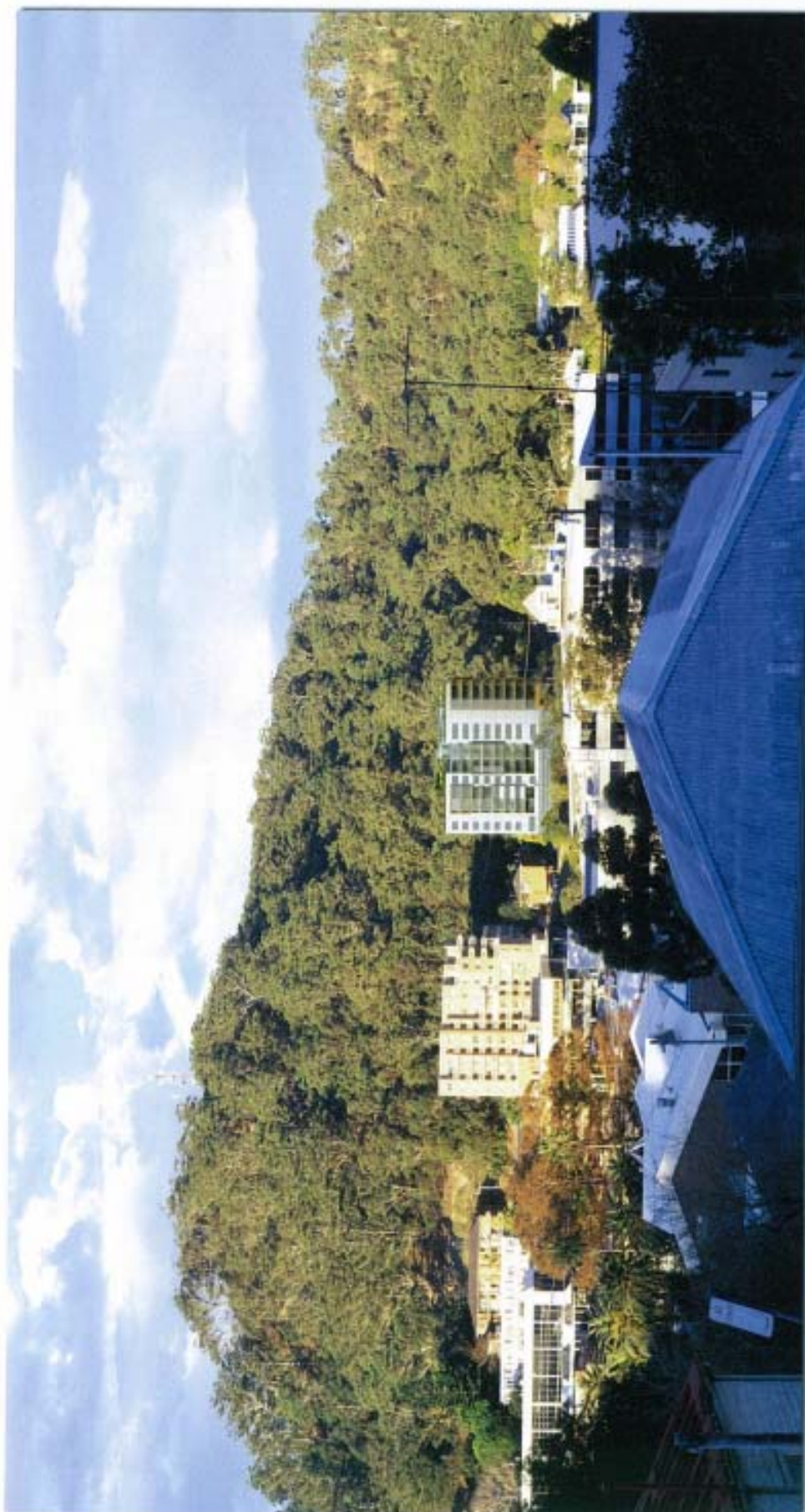


View from Henry Parry Drive

Proposed Mixed Use Development

7 Watt Street Gosford

architex
architects and planners



Westerly View of the Proposed Development

Proposed Mixed Use Development

7 Watt Street Gosford



View from Dane Drive

Proposed Mixed Use Development

7 Watt Street Gosford

architex
architects and planners