

JOINT REGIONAL PLANNING PANEL (Hunter Central Coast Region)

JRPP No	2011HCC014
DA Number	40353/2011
Local Government Area	Gosford
Proposed Development	Commercial Premise - Demolition, Relocation Of Services, Hardware & Building Supplies, Cafe, Self Storage Facility, Vehicle Repair Station and Proposed Subdivision (JRPP) on Lots: 3 & 4 SP: 84324, LOTs: 5, 6 & 8 DP: 270678, no 3/69B & 4/69B Central Coast Highway West Gosford, No 384, 392 & 400 Manns Road, West Gosford
Street Address	No 3/69B & 4/69B Central Coast Highway, West Gosford, No 384, 392 & 400 Manns Road, West Gosford
Applicant/Owner	MANNS HOMEWORLD 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)

SEPP (Major Development) 2005

(i) Regional Development – Part 3 Division 2 Clause 13B:

Value greater than \$10 million

(ii) Regional Development – Part 3 Division 2 Clause 13C (b):

Height greater than 13m

Assessing Officer

J A Bruton

Reviewing By

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

Date Application Received

24/03/2011

Proposal

Commercial Premise - Demolition, Relocation of Services, Hardware & Building Supplies, Cafe, Self Storage Facility, Proposed Subdivision (JRPP)

Zone

3(b) Business Special-GPSO / PART 4(a) Industrial (General)-GPSO

Area

5.642ha

Permissible Development

Development permissible on the land zoned 4(a) Industrial (General)-GPSO

Section 94 Contributions

The land is zoned 4(a) Industrial (General)-GPSO and is subject to SEC 94 CP 164

City Vision 2025

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

Public Submissions

One (1) submission

Pre-DA Meeting

Not Held

Political Donations

None declared

Relevant Statutory Provisions

- 1 Environmental Planning & Assessment Act, 1979 – Section 79C
- 2 Local Government Act 1993 – Section 89 and 68
- 3 GPSO – Clauses 10 and 29B
- 4 SEPP (Infrastructure) 2007
- 5 SEPP Major Projects
- 6 SEPP 14 Coastal Wetlands
- 7 SEPP 55 – Remediation of Land
- 8 SEPP 64
- 9 SEPP 71 – Coastal Protection
- 10 Draft Gosford LEP 2009
- 11 Integrated Development - Water Management Act 2000
- 12 Public Roads Act
- 13 CP 164 - Gosford

- 14 DCP 106 – Controls for Site Waste Management
- 15 DCP111 – Car Parking
- 16 DCP 113 – Industrial Development
- 17 DCP 115 – Building in Flood Liable Areas
- 18 DCP 128 – Public Notification of Development Applications
- 19 DCP 159 – Character
- 20 DCP 165 – Water Cycle Management

Key Issues

- 1 SEPP 71
- 2 Draft Gosford Local environment Plan 2009
- 3 Climate Change and sea Level Rise
- 4 SEPP (Major Developments) 2005
- 5 SEPP (Infrastructure) 2007
- 6 SEPP 14 – Coastal Wetlands
- 7 SEPP 55 – Remediation of Land
- 8 SEPP 71 – Coastal Protection
- 9 Water Management Act 2000
- 10 Engineering Assessment
- 11 NSW Police referral
- 12 Bushfire threat
- 13 Environmental Assessment
- 14 Waste Services comments
- 15 Trade Waste comments
- 16 Building Surveyor comments
- 17 Architectural assessment
- 18 Environmental Health comments
- 19 DCP 113 – Industrial Development
- 20 DCP 111 – Car Parking
- 21 Business Identification Sign
- 22 S94 Contributions
- 23 Public Submission

Recommendation

Approval

REPORT

The Site and Locality

The site has an area of approximately 5.642ha, with a frontage to Manns Road of approximately 230m and a variable depth of between 307.9m and 321.36m.

The site is located near to and west of the intersection of the Central Coast Highway and Manns Road at West Gosford.

Access to the site will be available from Manns Road opposite Grieve Close and via the intersection of Central Coast Highway and Yallambie Road.

The site is essentially rectangular in shape, and has a generally consistent slope. The land falls to the east from RL 7.4mAHD to RL 2.4mAHD.

The western boundary has a frontage with Manns Road. The northern boundary adjoins another industrial site upon which exists an industrial development that manufactures steel fencing products.

The southern boundary abuts a drainage reserve that discharges to Narara Creek. Beyond the drainage reserve are several existing developments including Domayne (home-ware and electrical retail), a restaurant, a motel, service station fast food outlet and a liquor shop currently construction.

The eastern boundary abuts land zoned 7(a) that has frontage to Narara Creek.

The land contains several easements including those for access and services.

The land currently supports several industrial buildings most of which are constructed from steel and including an existing Hudson's Hardware store located on existing Lot 6 DP 270678 at the north western corner of the development site.

The locality contains a mix of industrial and commercial developments including:

- Domayne Electrical (immediately to the south).
- Gibbens Industries (immediately to the north).
- Riverside Park (immediately to the south).

Other development in the locality includes Bunnings Hardware (approximately 125m to the north-west), OfficeWorks and Spotlight (approximately 175m to the south) and West Gosford Shopping Centre (approximately 300m to the south-west).

Background

The site has previously been used as a service station and above-ground fuel depot. The service station and fuel depot were de-commissioned several years ago and the site remediated. See separate commentary under SEPP 55 – Remediation of Land. The site also contains several existing steel industrial buildings used for various industrial and storage uses. The existing industrial buildings are to be demolished for the subject development.

A separate development application (DA 40150/2011) for temporary spoil stockpile at the site was approved on 30 May 2011 with a S96 amendment (to clarify the type of fill material permitted) approved on 9 June 2011.

The Proposal

It is proposed to re-develop the subject site to include the following:

1. The re-subdivision of Lots 5, 6, and 8 DP 270678P and 4 SP 84234 and the creation of 3 lots having areas of 3.879ha (proposed Lot 11 – site of proposed hardware store), 1.009ha (proposed Lot 12 – residual lot) and 7584m² (proposed Lot 13 – proposed right of way).

Proposed Lot 12 includes proposed various rights of access, carriageway and easement for car-parking associated with proposed building 'A' within the adjacent 'Riverside Park' development.

2. Construction of a hardware and building supply outlet having a ground floor area of 12,301m² and mezzanine floor area of 342.5m². The hardware store includes car parking for 356 vehicles.

3. Construction of a storage facility beneath the proposed hardware store. The storage facility includes car parking for 38 vehicles.
4. Demolition of existing structures at the site.

Main access to the site will be via the Manns Road/Grieve Close intersection, with a secondary access via the Central Coast Highway/Yallambie Road intersection.

Proposed hours of operation are as follows:

- Hardware & Building Supplies Outlet:
6:00am to 10:00pm – Monday to Friday
6:00am to 6:00pm – Saturdays, Sundays and Public Holidays.
- Storage Facility
9:00am to 5:00pm Monday – Friday
8:00am to 4:00pm – Saturday
10:00am to 4:00pm – Sunday
Closed – Public Holidays

The proposed building will have a maximum height (parapet) above existing ground of 16.7m. The ridge height of the main roof has a height of approximately 14.2m at the rear and 10.0m at the front of the site facing Manns Road.

The building is proposed to be set back approximately 14m from the southern boundary, approximately 84m from the northern boundary, approximately 47m from the eastern boundary and between 0.5m and 34m from the western (Manns Road boundary). Landscaping will be provided to the south, north and west of the building, including throughout the car-park, along the access road and the frontage of the site. In addition the Central Coast Highway/Brisbane Water Drive/Manns Road intersection upgrade works proposed by the RTA include landscaping between this site and Manns Road.

Assessment

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

Gosford Planning Scheme Ordinance

a Zoning

The site is zoned 4(a) Industrial (General) under the GPSO. Hardware and building supply outlets and subdivision are **permissible with consent** in the zone.

The GPSO defines "hardware and building supply outlet as follows:

***"Hardware and building supply outlet"** means a place or building used for the display, storage, hire or sale of goods, equipment and materials used in the building industry, but does not include a building or place elsewhere defined in this Ordinance.*

b Floor Space Ratio

No floor space ratio applies to development in the 4(a) zone.

c Height

No maximum height limitations apply to the site.

d Objectives of Zone

Clause 10(3) of the Gosford Planning Scheme Ordinance stipulates that consent must not be granted for development of land within the prescribed zone, unless the objectives of the zone have been taken into consideration in conjunction with the objectives of the Local Government Act 1993, pertaining to Ecologically Sustainable Development.

The objectives of Zone No. 4(a) are:

- (a) to enable the development or use of land for industrial or storage purposes (or both) which require, due to the nature of the activity concerned, physical separation from other industrial, commercial, retail and residential uses; and
- (b) to allow other development where it:
 - (i) is of nature which the the community feels is appropriate only in the Industrial (General) areas; and
 - (ii) provides for relatively low intensity uses with extensive floor space requirements which, by nature of the activity concerned, require direct and easy access to motor vehicle parking areas for loading purposes; and
 - (iii) is unlikely to prejudice the viability of established retail and commercial centres when considered both on its own and with other similar land uses which are existing or proposed; and
 - (iv) is primarily intended to provide personal services to persons occupied or employed in carrying out development otherwise permitted in the zone.

In this instance, it is considered that the proposal is **consistent** with the stated objectives of the PART 4(a) Industrial (General)-GPSO Zone as well as being **consistent** with the principles of Ecologically Sustainable Development, as specified within the Local Government Act 1993.

e Character

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

The subject development site is located within the "West Gosford 9: Main Road Employment" precinct as described within DCP 159 – Character. The desired future character attributes for this precinct are as follows:

"These should remain mixed-use ribbons of larger scale and medium-impact employment or service activities plus showrooms that benefit from high-exposure, where the civic quality of prominent backdrops to Gosford City's major arterial thoroughfares are enhanced by "greening" of the road frontages, and where new developments in leafy landscaped settings achieve a co-ordinated standard of presentation.

Enhance the civic presentation of main road backdrops by siting buildings behind leafy front gardens and courtyards for parking or outdoor display of goods. Landscaping of street frontages should be co-ordinated, using hedges and rows of tall trees that are predominantly indigenous with elevated canopies that maintain the visibility of shopfronts, goods and commercial signs.

Facing the major roads, promote improved standards of urban design for all new buildings. Locate offices or showrooms facing the street to provide animated facades that display indoor activity, with delivery entrances confined to side and rear facades. Avoid the appearance of uniform building heights facing any street or driveway frontage by stepping the line of roofs and parapets, or by using taller forms to emphasise prominent building corners and entrances.

Disguise the scale and bulk of new buildings by applying a variety of materials and finishes to all front and side facades, including extensive windows that are shaded by balconies, verandahs or exterior sunshades, plus painted finishes over a mixture of masonry and sheet cladding, rather than expanses of plain masonry or metal sheeting. Roofs should be gently-pitched to minimise the height of ridges, flanked by wide eaves that disguise the scale of exterior walls.

Civic presentation of road frontages should be supported by the co-ordination of building colour schemes and commercial signs. Signs should be limited in both size and number, attached to buildings in consistent locations but limited in height to create continuous horizontal bands along awnings or parapets, rather than covering an entire facade. Pylon signs at the street frontage should complement the design of landscaped areas, and should be limited to one per property."

The proposed development will be partially screened from view from the Central Coast Highway by virtue of the existing development fronting the Highway. Landscaping to the Manns Road frontage will provide an acceptable level of screening from that aspect. Currently only scant landscaping exists along Manns Road. This development together with 'green' areas that will result from the RTA intersection upgrade will enhance this section of Manns Road.

In this instance, the proposal **does not** detract from the character of the immediate locality.

f Setback to Manns Road (Clause 36)

Clause 36 (2) of the GPSO states:

(2) *"Notwithstanding any other provision of this Ordinance a building shall not be erected-*

(b) on any land having a frontage to the arterial road shown as Manns Road on the scheme map,

Unless the building is set back from the road alignment at least 18 metres or, where the allotment of land on which the building is to be erected is of less depth than 45 metres, at least a distance equivalent to 40 per cent of the depth."

The proposed development has a set back to the Manns Road boundary of the site of approximately 42.5m.

Dedication of portion of the site required for future road widening results in the proposed development having a set back to the resulting Manns road boundary of between 0.0m and approximately 34.0m.

The proposed road widening, however, includes provision for an access road to accommodate access to the existing developments to the south of this proposal. This area includes some landscaping between the future traffic lanes of Manns Road.

As a consequence the development will have a set back to the traffic lanes of Manns road of between approximately 25.5 and 42.5m. The proposed development will have a setback that will be generally consistent with other development in Manns Road. The set back of the proposal together with the landscaping both on the site and within the RTA road reserve will not therefore dominate the streetscape in this locality.

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.

Under the Draft Gosford LEP 2009 the subject site is zoned IN1 General Industrial. The land is **not** subject to any minimum lot size, maximum floor space or maximum height limitations.

Zone IN1 General Industrial

1 Objectives of zone

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To promote ecologically, socially and economically sustainable development.
- To ensure retail, commercial or service landuses on industrial zoned sites are of an ancillary nature and Council feels the landuse is appropriate only in the industrial zone or the landuse primarily serves the needs of persons employed in the industrial zone.
- To ensure development is compatible with the desired future character of the areas covered by this zone.

2 Permitted without consent

Recreation areas

3 Permitted with consent

Depots; Freight transport facilities; Heliports; Light industries; Neighbourhood shops; Restaurants; Roads; Warehouse or distribution centres; Any development not specified in Item 2 or 4

4 Prohibited

Air transport facilities; Amusement centres; Boat repair facilities; Boat sheds; Bulky goods premises; Business premises; Caravan parks; Car parks; Cemetery; Charter and tourism boating facilities; Correctional centres; Crematorium; Earthworks; Entertainment facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Funeral chapels; Funeral homes; Health service facilities; Highway service centres; Home-based child care; Home business; Home occupations; Home occupation (sex services); Information and education facilities; Marinas; Mining; Mooring; Mortuaries; Movable dwellings; Nightclubs; Office

premises; Port facilities; Public administration buildings; Recreation facilities (major); Research stations; Residential accommodation; Restricted premises; Retail premises; Sewerage systems; Storage premises; Tourist and visitor accommodation; Waste or resource management facilities; Water recreation structures; Water supply systems.

The Draft Gosford LEP 2009 defines self-storage units and timber and building supplies respectively as follows:

self-storage units means storage premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

timber and building supplies means a building or place used for the display, sale (whether by retail or wholesale) or hire of goods or materials that are used in the construction and maintenance of buildings.

Self-storage units and timber and building supplies do not appear at 3 or 4 above and are therefore **permissible** in the IN1 zone **with consent**.

Climate change and sea level rise

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

Climate change and sea level rise will be felt through:

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

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

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

SEPP (Major Development) 2005

At time of lodgement (24/03/2011) the SEPP identified certain development that was subject to the development assessment and approval process under Part 3A of the Environmental Planning and Assessment Act 1979 as a 'Regional Development'. Part 3A of the Act has since been repealed but remains applicable to this application.

The SEPP provided specifically:

(iii) Regional Development – Part 3 Division 2 Clause 13B:

The consent authority's functions may be exercised by the Joint Regional Planning Panel in relation to any development having a capital value exceeding \$10m.

The proposed development has a capital value of \$15.020m and as a consequence the consent authority's functions are in this instance to be exercised by the Hunter/Central Coast Joint Regional Planning Panel.

(iv) Regional Development – Part 3 Division 2 Clause 13C (b):

The consent authority's functions may, in respect to buildings within the coastal zone exceeding 13m, be exercised by the Joint Regional Planning Panel.

The proposed development has a maximum height above ground level of 16.7m. This also triggers the requirement under SEPP (Major Projects) 2005 the consent authority's functions in relation to this development to be exercised by the Hunter/Central Coast Joint Regional Planning Panel.

It should be noted that pursuant to the Gosford Planning Scheme Ordinance no development standard restricting maximum height applies to this land.

In this instance, therefore, pursuant to the provisions of SEPP (Major Projects) 2005, the Hunter/Central Coast Joint Regional Planning Panel will exercise the consent authority's functions in determining this development application.

SEPP (Infrastructure) 2007

The subject development is subject to the provisions of SEPP (Infrastructure) 2007 as it applies to development with frontage to a classified road. The subject development site has frontage to a classified road being Manns Road West Gosford.

The applicant has provided the following commentary in respect of this aspect of the SEPP.

- (i) Clause 101 (2) requires that a consent authority must not grant consent to development on land that has frontage to a classified road, unless it is satisfied that:
 - (a) *where practical vehicular access to the land is provided by a road other than the classified road*

Response: The principal vehicular access to the proposed development will be provided via a two lane roundabout to be constructed by the RTA at the intersection of Manns Road and Grieve Close, the configuration of which is indicated on the site plans at Figures 7 and 8.

A secondary vehicular access is to be provided via the signalised intersection of Central Coast Highway and Yallambie Avenue.

As indicated in section 5.1.5 of this Statement, the accompanying Traffic and Parking Assessment Report, prepared by Varga Traffic Planning Pty Ltd, concludes that these access arrangements will not have any unacceptable traffic implications in terms of road network capacity.

- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land.*

Response: As indicated in section 5.1.6 of this Statement, the accompanying Traffic and Parking Assessment Report, prepared by Varga Traffic Planning Pty Ltd, concludes that the proposed development will not have any unacceptable traffic implications in terms of road network capacity. The proposed development does not generate any emissions of smoke or dust which would affect the safety, efficiency and ongoing operation of Manns Road or the Central Coast Highway.

- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Response: The proposed development is not sensitive to traffic noise or vehicle emissions from the adjacent classified roads.

- (ii) As the proposal includes 405 car spaces, it is development identified in Schedule 3 of SEPP (Infrastructure) 2007 as traffic generating development to be referred to the RTA.

Clause 104 (3) of the Policy requires that before determining a development application for traffic generating development, the consent authority must:

- (a) give written notice of the application to the RTA within 7 days after the application is made, and
- (b) take into consideration:
 - (i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and
 - (ii) the accessibility of the site concerned, including:
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
 - (iii) any potential traffic safety, road congestion or parking implications of the development.

In relation to items (ii) and (iii) above, the accompanying Traffic and Parking Assessment Report, prepared by Varga Traffic Planning Pty Ltd, concludes that the proposed development will have a high level of accessibility from Manns Road and the Central Coast Highway; that the proposed development will not have any unacceptable impacts in terms of road network capacity or traffic safety; and the 405 car spaces proposed exceed the number required by Gosford Development Control Plan 111 – Car Parking and comply with the Australian Standard in respect of aisle widths, parking bay dimensions and gradients.

Summary Response: The proposed development is consistent with the aims of State Environmental Planning Policy (Infrastructure) 2007 in that the proposed development will

not compromise the safe operation and function of Manns Road or the Central Coast Highway.

Written notice of the application was given to the RTA. By letter dated 14 July 2011 the RTA provided the following advice:

"I refer to Council's letter dated 31 March 2011 regarding the abovementioned development application.

The RTA understands that the current development proposal is for the demolition and Construction of commercial (hardware and storage) premises on the subject allotment.

The property is affected by a road widening proposal shown by pink colour on attached diagram. Any improvements to the property are to exclude the area required for road widening purposes.

The RTA's primary interests are in the road network, traffic and broader transport issues, particularly in relation to the efficiency and safety of the classified road system, the security of property assets and the integration of land use and transport.

In accordance with the Roads Act 1993, the RTA has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. RTA concurrence is required for works, structures, and disturbances to, in, on, under or over classified roads, under section 138 of the Act, with Council consent. Council is the roads authority for all roads in the area. Pursuant to Section 87 of the Roads Act, RTA consent is required for the installation of all traffic control signals.

Additionally, the RTA has powers under Section 104 of the Roads Act 1993 to direct the removal of any works deemed by the RTA to be a traffic hazard.

The RTA raises no objections to the current proposal subject to the following conditions, which should be incorporated within any future development consent issued by Council.

- *On site vehicular turning facilities are to be provided to enable all vehicles to exit the site in a forward direction.*
- *Internal accesses and any parking facilities are to be designed and constructed in accordance with Gosford City Council's DCP No. Ill: Carparking and AS/NZS 2890.1:2004 Part I as amended 2005: "Off-street car parking" AS 2890.2 Part 2: "Off-street commercial vehicle facilities"*
- *Appropriate site works are to be constructed across the Street frontages so as to comply with the minimum sight distance requirements and minimum sight lines for pedestrian safety set out in the RTA publication "Guide to Traffic Generating Developments" (1993) and AS/NZS 2890.1:2004 Part I: "Off-street car parking".*
- *As part of the intersection upgrade works on the Central Coast Highway, Brisbane Water Drive and Manns Road, West Gosford the RTA is proposing to construct a roundabout at the Manns Road, Grieve Close and Riverside Drive intersection. These works will not be completed prior to the opening of the proposed development. Given this the proponent (at no cost to the RTA) is to provide temporary access to the development generally in accordance with Drawing DAI 1 dated 12 July 2011 (attached). Additionally it will be the responsibility of the proponent to continue to maintain this access until such time as the RTA works take*

precedence. The staged access provision must be designed in accordance with RTA design requirements and approved by the RTA.

- Appropriate street lighting at the temporary access location(s) is to be provided as agreed by the RTA*
- As part of the Manns Road roadworks the RTA will need to restrict access to the development to left in/out only. The RTA would work with relevant persons (owner(s) and operator(s) of the development) to minimise any access disruption, but does not warrant that right turn out or into the site can be maintained at any time. During any access restriction the RTA will not accept any liability for any compensation with regard to access restriction nor disruption of trade.*
- At times during the construction works on Manns Road service vehicles may not be able to enter or exit via Manns Road. During this time service vehicles may need to enter off the Central Coast Highway at Riverside Drive/Yallambee Ave intersection.*

As part of the staged access negotiation the developer shall apply for, and obtain a Road Occupancy Licence (ROL) from the RTA Traffic Operations Unit (TOU) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU. The developer shall submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependent upon the RTA receiving an accurate and compliant TMP. Note: An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by the RTA Project Manager."

Amended plans submitted by the applicant were forwarded to the RTA for comment. The following response, dated 12 August 2011, was received in relation to those plans:

"I refer to Council's letter dated 31 March 2011 regarding the abovementioned development application.

The RTA understands that the current development proposal is for the demolition and construction of commercial (hardware and storage) premises on the subject allotment. The RTA has commented on this proposal in its letter dated 14 July 2011.

The RTA understands Council subsequently requested the proponent to amend the site plans to satisfy certain of its requirements. Council has forwarded these amended plans for the proposed development to the RTA for comment.

The RTA has reviewed the amended plans and advises that there is no change to its advice dated 14 July 2011."

The conditions proposed by the RTA are included as proposed conditions of consent.
(Refer Draft Cond. 8.1)

SEPP 14 – Coastal Wetlands

Part of the subject site is identified as being within mapped Coastal Wetland No. 921 (SEPP 14). It is evident, however, from historical aerial photography, that the area of the subject site within the mapped wetland has been disturbed for some years. As a consequence the applicant

sought comment from the NSW Office of Planning and Infrastructure regarding the necessity, in the circumstances, for an Environmental Impact Statement (EIS).

In a letter dated 24 May 2011, The Director General (Office of Planning and Infrastructure) provided the following advice:

"I refer to your request on behalf of Manns World Pty Ltd concerning the need for an Environmental Impact Assessment (EIS) for works in a State Environmental Planning Policy 14 – Coastal Wetland (SEPP14) in West Gosford.

*The Department has investigated the circumstances of the existing fill on the site, which is within the mapped boundary of SEPP14 Wetland No. 921 on Part Lot 4 and Lots 5, 6 and 8 DP 27068 at 384 – 400 Manns Road, West Gosford and I have determined that **an EIS is not required** in this instance.*

Photographic evidence and information from Gosford City Council and the Regional Office of the Department indicates that the filling of the land was substantially carried out in the early 1980s, and the existing development largely occurred prior to the 1985 Gazettal of SEPP 14. Development consent was issued for filling, to the previous owners, in 2007.

Consequently, whilst the mapped SEPP 14 wetland boundary encompasses part of the Manns Road property, all proposed works in the wetland which would, under Clause 7(1) of SEPP 14, make the works 'designated development' have been negated by the filling and clearing carried out under the previous development consents and works which precede the gazettal of SEPP 14.

You have requested that the SEPP 14 wetland boundary be amended in this location. The wetlands in Gosford LGA will be reviewed as part of a current program to improve the accuracy of SEPP 14 mapping in line with the Department's electronic planning (e-Planning) project. Wetland No 921 will be reassessed as part of this exercise.

The Department notes the requirements to rehabilitate the waterfront land on the property by NSW Office of Water in the General Terms of Approval issued on 26 April 2011 under the Water Management Act 2000. As with similar developments in this area the Department commends efforts to restore the ecological function of the riparian wetlands."

SEPP 55 – Remediation of Land

Previous activities at the subject development site (service station and fuel depot) rendered the site contaminated.

Pursuant to the provisions of SEPP 55 – Remediation of Land the consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated.

The applicant has provided the following advice regarding contamination/remediation of the subject site:

"Under the provisions of SEPP 55 the consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated.

A Site Contamination Assessment of the subject land was undertaken in three phases by Urban Environmental Consultants Pty Ltd during 2001;

- “Site Contamination assessment – Remainder of Site 392 – 398 Manns Road, West Gosford (March 2002)”;
- “Groundwater Assessment – Former fuel Facilities 392 – 398 Manns Road, West Gosford (May 2002)”;
- “Post Remediation Groundwater Assessment – Former Fuel Facilities 392 – 398 Manns Road, West Gosford (November 2002)”

From a historical review of land use and aerial photograph searches the assessment indicated:

“....the site was originally undeveloped rural land in the 1950’s. Bowen Holdings Pty Ltd purchased the property and developed the front portion of the site as a service station depot (on Lot 5 DP 270678) in the 1960’s. The bulk of the site was developed in the 1970’s with additional commercial warehousing and the rear of the land was reclaimed from the Narara Creek Floodplain. The above ground fuel depot was developed in the 1980’s and 90’s with the site taking its present form.

On the 18th November 2002 Gosford City Council was advised by Urban Environmental Consultants Pty Ltd that remediation works undertaken on this site have been completed, including:

- Decommissioning and validation of the former service station depot, including underground tank removal;
- Assessment of the remainder of the site;
- Landfarm screening, turning and validation for site re-use; and
- Groundwater monitoring and product removal.

Council was further advised:

“Based on the completion of these works, we conclude that minor residual impacts are restricted to services at the former service station depot. These impacts are expected to decrease further over time. The remainder of the site is clean. Based on the removal of the main contaminant source including tanks, impacted soil and residual product, validation of the landfarm material and monitoring undertaken, the site is considered suitable for redevelopment for ongoing commercial/industrial use or leasing for similar uses. A management plan will be established to notify and manage residual soil and groundwater impacts should further works take place around services in the future.”

By letter dated 9th December 2002 Gosford City Council noted this advice that **Category 2 remediation work under SEPP 55 has been completed** for this site.”

SEPP 71 – Coastal Protection

The applicant has provided the following comments on the matters for consideration under Clause 8 of SEPP 71:

23.1 “(a) The aims of the policy”.

- **“(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales Coast, and”**

Assessment: The proposed development will have no adverse impact upon the natural, cultural, recreational and economic attributes of the New South Wales

Coast as the proposal involves the redevelopment of land historically used for industrial/business purposes.

- ***“(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and”***

Assessment: The proposed development does not impede any existing public access to, or along, the coastal foreshore.

- ***“(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and”***

Assessment: The proposed development has no adverse implications for the identification of new opportunities for public access to coastal foreshores.

- ***“(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and”***

Assessment: The subject land has no significance for Aboriginal cultural heritage.

- ***“(e) to ensure that the visual amenity of the coast is protected, and”***

Assessment: The proposed development does not fundamentally alter the existing industrial character of the area and will not have any adverse impact on the scenic amenity of the coast.

- ***“(f) to protect and preserve beach environments and beach amenity, and”***

Assessment: The proposed development does not have any adverse impact on beach amenity.

- ***“(g) to protect and preserve native coastal vegetation, and”***

Assessment: The subject land contains no native coastal vegetation.

- ***“(h) to protect and preserve the marine environment of New South Wales, and”***

Assessment: The proposed development has no adverse impact on the marine environment of the locality.

- ***“(i) to protect and preserve rock platforms, and”***

Assessment: The proposed development has no impact on rock platforms.

- ***“(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the Protection of the Environment Administration Act 1991), and”***

Assessment: The proposed development has no adverse impact on biodiversity, ecological integrity and does not interfere with, or will be damaged by, coastal processes.

- ***“(k) to ensure that type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and”***

Assessment: The proposed development is compatible with the industrial character of the area demonstrated in the photographs contained in Appendix A of the accompanying Statement of Environmental Effects. The proposed redevelopment of the subject land with contemporary industrial buildings will substantially improve the aesthetic character of the built environment of the locality and the streetscape character of Manns Road.

- ***“(l) to encourage a strategic approach to coastal management.”***

Assessment: The proposed development is consistent with the objectives of the 4(a) Industrial zone and will have no adverse consequences for coastal management.

- 23.2 *“(b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved”.***

Assessment: Not applicable, as the subject land is not adjacent to a coastal foreshore.

- 23.3 *“(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability”.***

Assessment: Not applicable, as the subject land is not adjacent to a coastal foreshore.

- 23.4 *“(d) the suitability of development given its type, location and design and its relationship with the surrounding area”***

Assessment: The accompanying Statement of Environmental Effects demonstrates that the proposed development is suitable and appropriate to the locality and compatible with adjoining land uses.

- 23.5 *“(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore, and any significant loss of views from a public place to the coastal foreshore”***

Assessment: The proposed development does not have an adverse impact upon the visual amenity of the coastal foreshore; does not cause any overshadowing of the coastal foreshore; and will not result any loss of views of the coastal foreshore gained from any public place.

- 23.6 *“(f) any scenic qualities of the New South Wales Coast, and means to protect and improve these qualities”***

Assessment: The subject land is located within a long established industrial area and the proposed development has no adverse impact on the scenic quality of the NSW Coast.

23.7 “(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats”

Assessment: The subject land does not contain habitat for threatened flora or fauna.

23.8 “(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats”

Assessment: The subject land does not contain aquatic/marine habitat.

23.9 “(i) existing wildlife corridors and the impact of development on these corridors”

Assessment: The subject land does not comprise part of a wildlife corridor.

23.10 “(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards”

Assessment: The subject land is not adversely affected any hazardous coastal process and the proposed development will not adversely impact any coastal process

23.11 “(k) measures to reduce the potential for conflict between land-based and water-based coastal activities”

Assessment: The proposed development does not present any potential conflict between land based and water based activities.

23.12 “(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals”

Assessment: The subject land is not of any Aboriginal cultural heritage significance in view of its historic use for agricultural and industrial activities.

23.13 “(m) likely impacts of development on the water quality of coastal waterbodies”

Assessment: The proposed development will not adversely impact the water quality of coastal waterbodies.

23.14 “(n) the conservation and preservation of items of heritage, archaeological or historic significance”

Assessment: The subject land contains no items of heritage, archaeological or historic significance.

23.15 “(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities”

Assessment: Not applicable.

23.16 “(p) only in cases in which a development application in relation to proposed development is determined:

- (i) the cumulative impacts of the proposed development on the environment, and**
- (ii) measures to ensure that water and energy usage by the proposed development is efficient.”**

Assessment: Approval of the proposed development will not generate adverse cumulative impacts on the environment as a consequence of the approval of similar applications, as the proposed development does not result in any fundamental change to the industrial/business character of the locality and the proposed development will adopt suitable measures to ensure that water and energy usage is efficient.

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

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

Water Management Act 2000

The proposed development includes works (temporary sediment collection pond) within 40m of the top of a creek bank (Narara Creek). As a consequence the application has been lodged as an ‘Integrated Development’ pursuant to the Water Management Act 2000. The application was referred accordingly to the NSW Office of Water (NOW). NOW, in correspondence dated 27 April 2011, determined to issue General Terms of Approval (GTAs) for the development under the *Water Management Act 2000 (WMA)*. The GTAs are called up as a proposed condition of consent.

(Refer Draft Condition 4.27)

Engineering Assessment

The following engineering advice has been issued by Council’s Development Assessment Engineer:

“Engineering Summary

This application is supported on engineering grounds, subject to the following comment/recommendations:

Note to Planner: The consent conditions have been separated in accordance with the staging of the development. This will provide clarity for both Council and the Applicant during the course of the works.

Also, it is highly recommended that the car parking layout be amended as detailed in red on the submitted site plans to improve vehicle manoeuvrability through the site.

Planning Certificate

An investigation of all the 149 Planning Certificates for the sites have been made as part of this assessment, with all related engineering matters appropriately considered.

Works in the Public Road / Site Access / Traffic Impacts

The proposal seeks the consent for a commercial development accessed via a new service road fronting Manns Rd. This service road and other associated civil infrastructure will be constructed by the RTA as part of the proposed Central Coast Highway/Manns Rd/Brisbane Water Drive intersection upgrade.

The proposed off-street parking dimensions, vehicle manoeuvrability, circulation/aisle widths and internal driveway grades comply with AS/NZS 2890.1 (2004) - "Off-street car parking", AS 2890.2 (2002) - "Off-street commercial vehicle facilities" and AS/NZS 2890.6 (2009) - "Off-street parking for people with disabilities".

The Applicant has submitted a Traffic and Parking Assessment Report by Varga Traffic Planning Pty. Ltd (refer Report No. 10167, dated 21 March 2011) in support of this proposal. The RTA has also been in consultation with this traffic consultant and is satisfied with the information provided.

In order to minimise vehicle conflict through the site, Articulated Vehicles will be limited to clockwise movements through the site and entry/exit from Manns Rd only. Access for Heavy Rigid Vehicles to the proposed Common Loading Dock and existing Moneywise developments will be limited to entry/exit from The Central Coast Highway.

Manoeuvrability for Heavy Rigid Vehicles servicing the existing 'Moneywise' development will use the proposed Common Loading Dock as a turning area in order to exit the site in a forward direction. This can be achieved in a series of vehicle manoeuvres.

Flooding & Drainage

*Council's records indicate that the site **is** affected by flooding, ponding and/or minimum floor level requirements. Council's Flooding and Drainage Engineer has assessed the application and is satisfied with the proposal. A supplementary Stormwater Easement Hydraulic Analysis by Northrop (refer Report No. NL070156, Document No. E05, Version A, dated 22/8/2011) has also been submitted demonstrating that any secondary flows can be adequately managed through the site.*

As the development will likely increase nutrient and pollutants off the site, suitable on-site treatment and controls will be required prior to discharge to the public drainage system (Narara Creek). On-site detention is not required due to the close proximity of the receiving Narara Creek.

An upgrade of the Council trunk drainage system within the southern drainage easement has been proposed as part of this development. The design of this system has been prepared in conjunction with the RTA, as part of the proposed Central Coast Highway/Manns Rd/Brisbane Water Drive intersection upgrade. Written confirmation from the RTA has been provided concerning the design flows expected through this system (refer IR 9908715). Approval under the Local Government Act will be required for this upgrade, prior to Construction Certificate issue.

Water & Sewer

The proposed development is located within the Zone of Influence (ZOI) of both the sewer and water mains servicing the area. Therefore, the development will need to comply with Council's "Building Over or Near Council Sewer and Water Mains".

The development will require a Section 307 Certificate under the Water Management Act 2000.

Comments from Council's Water & Sewer Department have been considered as part of this assessment.

Subdivision

The proposed development seeks to subdivide Lots 4, 5, 6 & 8 in DP 270678. Appropriate easements, accessways, carriageways, right of ways and covenants shall be created in order to ensure legal rights for sewer, water (including for the sewer pump station), stormwater, electricity (sewer pump station), access for the 'Moneywise' loading dock, access for the hydrant tank, maintenance access for the drainage easement and maintenance access for the sewer pump station are all available.

Roads & Traffic Authority (RTA)

See commentary under SEPP (Infrastructure) 2007

Conclusion

The engineering aspects to the proposal are satisfactory, subject to the placement of engineering conditions of consent found below and in Authority, on any approval issued."

Proposed engineering conditions are included as draft conditions of consent.

(Refer Draft Conditions 2.3–2.9, 3.10-3.12, 4.9-4.15, 5.1-5.7, 6.6-6.13, 7.8-7.10 and 9.4-9.7)

NSW Police referral

The application was referred to the NSW Police (Brisbane Water LAC) for review. The NSW Police advised as follows:

"It is not envisaged there will be any likely crime issues as a result of this development. However, if the builders could consider the principles of Crime Prevention Through Environmental Design and Safer by Design then this would assist to reduce the likelihood of crime."

A condition of consent requires the principles of Crime Prevention Through Environmental Design (CPTED) to be incorporated in the development.

(Refer Draft Condition 4.4)

Bushfire threat

Bushfire mapping for the Gosford Local Government area identifies the subject site as being subject to potential threat from bushfire. The threat is identified in relation to vegetation along the eastern and part of the southern boundaries. Since the latest bushfire hazard maps were produced most of the vegetation along the southern boundary has been removed with the "Riverside Park' development.

Subdivision of the subject land does not require the NSW Rural Fire Service to issue a bush fire safety authority pursuant to S100B of the Rural Fires Act 1997.

The applicant has made the following submission in relation to the bush fire threat identified with this site:

“Section 79BA of the Environmental Planning and Assessment Act provides that development consent cannot be granted for the carrying out of development for any purpose on bushfire prone land unless the consent authority is satisfied the development conforms with the specifications and requirements of Planning for Bushfire Protection”, or has consulted with the Commissioner of the NSW Rural Fire Service concerning measures to be taken to protect persons, property and the environment from danger that may arise from a bushfire.

The Planning for Bushfire Protection” guidelines does not any contain specifications or requirements for commercial/industrial development within an established industrial area. The proposed development is not a special fire protection purpose.

However, for the purposes of Section 79BA of the EPA Act, the guidelines require compliance with the aims and objectives of PBP to be addressed in the Statement of Environmental Effects. The following responses are provided to the specific objectives of PBP:

- *“(i) afford occupants of any building adequate protection from exposure to bushfire”.*

Response: Occupants of the proposed development are provided with adequate protection from exposure to bushfire having regard to the substantial building setback from vegetation adjacent to the eastern property boundary and the removal of any direct bushfire threat from the south eastern corner of the land as a consequence of recent commercial development (“Riverside Park Stage 1”).

- *“(ii) provide for a defensible space to be located around buildings”.*

Response: The proposed development provides adequate defensible space in the form of open car parks and vacant open land, between the proposed development and the direction of bushfire threat,

Comment

Agreed

Environmental assessment

Council's Environmental Assessment Officer has assessed the application and provided the following advice:

“Background

Council's Environmental Assessment Officer has assessed the environmental impact of the above proposal in accordance with section 79C of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Consent is sought for the construction of Commercial Premise - Demolition, Relocation Of Services, Hardware & Building Supplies, Cafe, Self Storage Facility, and Proposed Subdivision (JRPP), located at LOT: 4 SP: 84324, LOT: 3 SP: 84324, LOT: 5 DP: 270678, LOT: 6 DP:

270678, LOT: 8 DP: 270678 No 4/69B Central Coast Highway WEST GOSFORD, 3/69B Central Coast Highway WEST GOSFORD, 400 Manns Road WEST GOSFORD, 384 Manns Road WEST GOSFORD, 392 Manns Road WEST GOSFORD. The subject land is zoned 3(b) Business Special-GPSO / PART 4(a) Industrial (General)-GPSO.

Assessment

SEPP 14 – Coastal Wetlands

The Department of Planning have determined that the proposed development does not require an EIS in relation to mapped SEPP 14 Coastal wetland No. 921. Rehabilitation of riparian wetland vegetation in accordance with the NSW Office of Water General Terms of Approval (dated 26 April 2011) will offset any adverse impacts on this SEPP 14 wetland.

SEPP 55 – Remediation of Land

Remediation and validation of the site was undertaken Category 2 remediation work under State Environmental Planning Policy No 55 and was acknowledged by Council under letter dated 9 December 2002.

Setback to Narara Creek

Setbacks and riparian buffer restoration have been adequately considered and established under the NSW Office of Water General Terms of Approval (dated 26 April 2011). A vegetation Management Plan is to be formulated and implemented as part of this GTA. The GTA should form part of any consent granted and include the recommended condition stated below;

"The Construction Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council".

Section 5A

The proposed development will not lead to a significant impact on threatened species, populations, ecological communities or their habitats due to the pre-existing disturbed nature of the site, riparian rehabilitation and management along with appropriate stormwater management and soil / water management.

ASS

Based on a review of the Geotechnical report (Pells Sullivan Meynink, dated 17 August 2010) potential ASS were recorded in the eastern portion of the site. This report concludes that disturbance of potential ASS is unlikely although if bored piles to bedrock are required for the eastern end of the Oxygen Building management of ASS may be required. A condition of consent is attached to address ASS issues.

Sediment & Erosion Control

A comprehensive Soil and Water Management Plan be prepared and approved in accordance with 'The Blue book' – Managing Urban Stormwater: Soils and Construction. A condition is attached and should form part of any consent granted.

Conclusion

The objectives of the relevant policies, zoning objectives and potential environmental impacts associated with the proposal have been considered. No objection is raised to the proposal subject to the attached conditions being included within any consent granted."
(Refer Draft Conditions. 2.9-2.11 and 4.16-4.20)

Waste Services comments

The application has been assessed by Council's Waste Services (Solid Waste) Section who raise no objection to the proposal subject to conditions of consent relating to the construction strength of the waste vehicle access to the site. Conditions are included accordingly.
(Refer Draft Conditions. 4.26-4.30 and 6.14)

Trade Waste comments

Council's Liquid Trade Waste officer has assessed the application and raised no objection subject to conditions being included in the consent. Conditions are included accordingly.
(Refer Draft Conditions. 3.15 and 4.26)

Building Surveyor's comments

Council's Building Surveyor has assessed the application and raised no objection subject to conditions being included in the consent. Conditions are included accordingly.
(Refer Draft Conditions. 2.12, 3.5-3.9, 3.14, 4.5-4.8 and 6.5)

Architectural Assessment

Council's Architect has assessed the application and provided the following comments:

1. *"The parking area must comply with the landscaping requirements in DCP111. Car Parking. This specifies a minimum of 2.5m² of landscape area per car space within the car park in addition to the requirements for landscaping around the perimeter of the site. This application proposes 394 parking spaces and therefore requires 985m² of landscaping within the carpark but proposes approximately 120m² or only 12% of that required by DCP111.*

Planting areas must be of adequate size and design to support significant trees (min. 10 metre canopy spread) and protect them from damage by vehicles and pedestrians. Strip planters should have a minimum width of 2.5 metres and internal planting beds dimensions of 5x5 metres to protect trees and allow adequate air and water to the root zone to permit them to thrive. These larger areas also reduce the possibility of roots damaging paving.

The landscaping within the parking area should also utilise water sensitive urban design techniques and contribute to nutrient control and retention as set out in DCP 165. Water Cycle Management."

Planner's comment

See comments under DCP 111 – Car-parking. It is considered that sufficient landscaping is provided with this development.

2. *"The development is located on the southern boundary and proposes walls up to 14 metres high on the boundary and relies entirely on planting in the adjoining drainage easement for some screening and softening.*

The retention of trees within the drainage easement cannot be guaranteed by the applicant and significant landscaping must be provided within their own site."

Planner's comment

DCP 113 – Industrial Development requires a minimum side and rear setback of 5 metres for lots greater in area than 4000m. It is also a requirement of the DCP that the setback be increased where the setback is to include driveways, outdoor storage or other functions of the development other than landscaping.

The proposed development has setbacks to the northern and eastern boundaries in excess of 5m within which a suitable level of landscaping is to be provided.

The development has a setback to the southern boundary of approximately 14.5m comprising 7m access road and adjacent easement of approximately 7.5m. The stormwater channel will be an open channel for the first 120m of the length of the building.

It was intended that the easement be re-worked to provide a landscaped stormwater channel. However, for reasons of access and maintenance and in order to maximise the capacity of the channel it has to be constructed as concrete channel sections with an overland flow-path to cater for extreme storm events. As a consequence landscaping to the easement is limited to a grassed overland flow-path with low-level plantings only, trees are not permitted. Any landscaping in the form of trees to the south of the development will be of little visual benefit. Adjacent development to the south generally faces the Central coast Highway and would shield any taller landscaping to this side of the development site from view. Removal of trees currently existing within the drainage easement was approved under DA 32285/2007 in conjunction with General Terms of approval issued by the NSW Office of Water. These trees were required to be mulched and the mulch complete with seed stock used in the rehabilitation of the Narara Creek foreshore.

3. *"The application faces the public reserve on the east with a carpark and a 4 metre high retaining wall. This is unacceptable and must be amended to comply with the aims and objectives of DCP 159."*

Planner's comment

The land to the east of the site between the site and the adjacent Narara Creek is part public reserve and part Crown reserve. DA 32285/2007 included rehabilitation of the foreshore area of both the land to the rear of the 'Riverside Park' development together with the public reserve and Crown reserve to the rear of this site. The rehabilitation works were negotiated with and agreed to with the NSW Office of Water and includes the planting of swamp mahogany trees that are native to the area. It is considered that the rehabilitation works will provide adequate landscaping to the east of the proposed development site. Furthermore the proposed development (car-park) is located in excess of 50m from the eastern boundary.

Environmental Health comments

The application has been considered by Council's Environmental Health officer who has requested a condition be included in the consent regarding noise emissions associated with the proposed development. A condition has been included accordingly.

(Refer Draft Condition 7.2)

DCP 113 – Industrial Development

1.0 INTRODUCTION

The objectives of the Development Control Plan are as follows:

- a to encourage good design solutions for industrial development.
- b To ensure that new industrial development represents a high level of urban design with recognition of the form and character of the existing man-made and natural context.
- c to ensure the efficient use of urban land by maximising development potential of new and existing land and infrastructure.

2.0 SUBDIVISION**2.1 Objectives**

- To ensure that development sites have sufficient area and dimensions to provide adequately for access, landscaping, and building separation.
- To provide sites of sufficient area and appropriately located to be used for large scale industrial developments which export their products from the Region.

Comment

DCP 113 requires a minimum industrial allotment area of 4000m² and a minimum allotment width of 36m, with new lots to be generally rectangular in shape with a depth to frontage of between 2:1 and 3:1.

The land subject to the plan of proposed subdivision comprises:

- Part Lot 4 SP 84324 – 2176m²;
- Lot 5 DP 270678 – 2080m²;
- Lot 6 DP 270678 – 9351m²; and
- Lot 8 DP 270678 – 4.282ha.

It is proposed to re-subdivide the subject land so as to create 3 lots as follows:

Proposed Lot 11 (3.879ha), being the development lot;
Proposed Lot 13 (7594m²) being over the alignment of the proposed internal access road; and
Proposed Lot 12 (1.009ha) as a residue lot for future development.

The proposed lots are subject to various restrictions as indicated on the Plan of Proposed Subdivision, reflecting existing restrictions under the existing DP 270678.

The proposed development lot (Lot 11) and residue future development lot (Lot 12) exceed the minimum area and street frontage guidelines of DCP 113 and satisfy the relevant objectives to ensure sufficient area and dimensions to provide adequately for access, landscaping and building separation; and provide sufficient area for large scale development.

4.0 BUILDING**4.1 Objectives**

- To ensure that no site is developed beyond the level at which it can function efficiently and without adverse effect upon adjoining properties.

- To ensure that sufficient areas are available to permit landscaping, access, carparking and manoeuvring of vehicles.
- To ensure that industrial buildings within the City of Gosford recognise the inherent character of the area and achieve a standard appropriate to that character.

Comment

The building is so located to accommodate adjoining development without adverse effect on those properties.

Street setback is discussed under GPSO. Side setbacks for lots greater than 4000m² are required to be a minimum of 5m. The subject development proposes setbacks to the north, south and east in excess of 5m. The setbacks provide for adequate levels of landscaping, car parking and manoeuvring of vehicles.

4.0 ANCILLARY USES

4.1 Objectives

- To ensure that industrial areas are used and are available for the primary purpose for which the area was designated.
- To provide for the proper relationship between the primary use for industrial purposes and ancillary use to allow efficient and effective operation.

Comment

No ancillary uses are proposed with this application.

5.0 PARKING AND LOADING

5.1 Objectives

- To ensure that sufficient provision is made for parking of employees, visitors and company vehicles on site to prevent congestion in adjoining streets.
- To provide adequate provision for the manoeuvring and access for all vehicles serving and using the site to ensure adequate traffic safety on adjoining streets and an appropriate level of amenity to all developments.

Comment

Car parking is provided in excess of the minimum requirements of DCP 111 – Car Parking. Delivery vehicle access and loading is provided as required. Car parking, vehicular access and manoeuvring is provided generally in accordance with DCP 111 – Car Parking and AS2890.

6.0 ENVIRONMENT

6.1 Objectives

- To recognise that the natural environment in this region is sensitive and fragile, and requires appropriate provision to protect and maintain environmental quality.
- To ensure that industrial development achieves an appropriate level of integration and compatibility with the natural and urban environment.

Comment

Environmental impacts associated with the proposed development have been considered in the assessment of the application.

Landscaping is required to be provided within car parks as per DCP 111 (see comments under DCP 111 – Car Parking), and across the frontage of the site to a minimum depth of 5 metres.

Landscaping is proposed to be provided intermittently (having regard to driveway accesses) across the frontage of the site at depths of between approximately 0.5m and 15m. It is considered that sufficient landscaping is provided to satisfy the intent of DCP 113. Landscaping will be further enhanced with this development with the RTA landscaping within the area of land to be dedicated for road widening and access.

7.0 SITE SERVICES

7.1 Objectives

- To ensure that properties are provided with the necessary works and services to ensure the adequate functioning of the development in relation to its effect on adjoining properties and the environment in general.

Comment

Site services are proposed to be provided at a level capable of ensuring the adequate functioning of the development.

DCP 111 - Car Parking

DCP 111 – Car Parking requires car parking at the following rates:

DCP Standard	Required	Provided	Compliance
Trade Centre	1 space per 45m ² 2031.56m ² /45 = 45.15		
Receiving Area	1 space per 40m ² 777.83/40 = 19.43		
General Hardware Main store Entry area Mezzanine	1 space per 45m ² 8064.10m ² /45 = 179.20 1 space per 45m ² 388.50m ² /45 = 8.63 1 space per 40m ² 342.50m ² /40 = 8.55		
Nursery/ Plants Area	1 space per 45m ² 2205.0m ² /45 = 49.0		
Storage Facility Office Storage areas	1 space per 40m ² 252.97m ² /40 = 6.32 1 space per 300m ² 8706.23m ² = 29.02		
Bicycle Parking	Hardware Store 1 per 750m ² 13808.0m ² /750 = 18.4 Storage facility 1 per 1000m ² 8712.0m ² /1000 = 8.71		
TOTAL	Car spaces	Car spaces	Yes

	Hardware store = 346 Storage facility = 36 Bicycle parking Hardware store = 18.4 Storage facility = 8.712 Total = 28	Hardware store = 356 (+10) Storage facility = 38 (+2) Bicycle parking Total = 16	No Considered adequate for the landuses proposed
Parking for Disabled Persons	Hardware store 1/100 = 4 Storage facility 1/100 = 1	Hardware store = 7 Storage facility = 2	Yes

DCP 111 requires landscaping to car parks to be provided as follows:

4.4 Landscaping

4.4.1 Landscaping is to be provided so that there is sufficient planting to achieve a satisfactory appearance of parking areas, particularly those with large areas of bitumen, and to provide shade.

4.4.2 A minimum area of 2.5m² per car space is required for landscaping within a car park area. This requirement is in addition to the requirement of landscaping around the perimeter of the site. The vegetation is to be selected so that, at maturity, 50% of the area of the parking spaces is under shade at midday in mid-summer.

4.4.3 Arrangement of Planted Area:

- a Planting strips between aisles of parking bays:

Minimum bed width 1000mm. Fingers can be reduced to 600mm width if tree guards are used. Fingers are not required to extend full depth of parking bay planting areas.

- b No planting strip between aisles of parking bays. Minimum bed width 2000mm. Minimum 2 shade trees/bed. Space beds to create a variety of spaces and to group the planting into clumps of trees rather than establishing a grid of trees.

4.4.4 Plants used for landscaping car park areas should, whenever possible, be:

- Native to the region;
- Suitable for the eco-climate produced within the car park;
- able to provide foliage at the appropriate height/spread to avoid creating sight distance in security problems, and be able to provide shade to vehicles and pavement areas; and
- species which will not damage car surfaces by dropping of fruit etc.

Landscaping proposed with this development does not achieve the levels promoted by DCP 111. Trees are, however, proposed to be provided intermittently throughout the car park area together with an avenue of trees along the northern side of the perimeter access road proposed with the development. It is considered that the landscaping proposed with this development is commensurate with the scale of the development and is to be provided at a greater level than that of other similar development in the locality.

Business Identification Sign

A business identification sign is proposed within the site frontage facing Manns Road. The sign is not subject to the provisions of SEPP 64 Advertising and Signage. Business identification signage is excluded by Clause 9(a) and (b) of the Policy.

The proposed sign has an overall height of 11.5m, width (support structure of 4.6m and header width of 6.0m).

The sign is consistent with other signs in the locality. The sign will only be permitted to advertise the name of the business or building, the street number, the nature of the building and a logo or other symbol that identifies the business.

Section 94 Contributions

The land is zoned 4(a) Industrial (General)-GPSO is subject to contribution plan SEC 94 CP 164.

Public Submission

Advertising of amended plans for the proposal resulted in one (1) submission.

The submission relates to access to the adjacent property to the south with frontage to Manns Road.

The submission states:

"We represent Calardu Gosford Pty Limited ("Calardu") and The Owners - Strata Plan 41623. Calardu is the owner of the Domayne bulky goods store located at 79 Central Coast Highway, West Gosford ("Calardu Property").

We refer to the development application lodged with Gosford City Council ("Council") by Manns Homeworld Pty Ltd for: Demolition, relocation of services, hardware and building supplies outlet (café and fitout), self-storage facility and car repair station at 376 Manns Road, West Gosford ("Homeworld") on 24 March 2011 ("DA40353").

Our client's primary objection in relation to DA40353 is that it has been prematurely lodged and is unable to be determined by Council at this time.

As Council will be aware, the RTA has proposed a major realignment of the intersection of the Central Coast Highway, Brisbane Water Drive and Manns Road at West Gosford as identified in the drawing attached to the RTA Community Update dated December 2010 ("RTA Project"). A copy of the drawing is attached to our letter.

The effect of the RTA Project will be to remove direct access to the Calardu Property from Manns Road altogether. The RTA Project currently proposes significant works associated with an alternative access to and over the Calardu Property, including purported access to the Calardu Property from a new Manns Road -Grieve Close roundabout via a new slip road which first traverses Homeworld and then meets the northern boundary of the Calardu Property. While the RTA Project has been approved in principle, the RTA advises that detailed design and contract documents are being developed in preparation for calling tenders for major roadworks in 2012.

Calardu and the RTA are presently still in negotiations about the details of the alternative access route. The final alignment of the slip road over the Calardu

Property is still undetermined and may be altered to amend the final lot boundaries shown in the plans for DA40353.

Accordingly, Calardu submits that as the final detail of the RTA Project has not been finalised, the critical issue of the new access to Homeworld and the Calardu Property remains unresolved.

Accordingly, any determination of DA40353 is premature and should be deferred to allow finalisation of the alignment of the RTA slip road over Homeworld to the Calardu Property. To approve the application at this juncture would constitute failure to have proper regard to an essential feature of DA 40353, that is, the access to the Calardu Property."

The submission was referred to the RTA for comment. The RTA provided the following advice:

"RTA has considered the Calardu submission and would comment as follows: -

- 1) The project as displayed in December 2010 was approved to proceed to construction. A plan of the approved project is included for your information in the attached community update brochure.*
- 2) Since the December 2010 approval the design has been refined but is in accordance with that approval. In regard to ultimate access arrangements for the "Gibbons" and the "Domayne" properties there is little unknown about the road upgrade proposal.*
- 3) RTA is in negotiation with Domayne about their access, although it is the RTA's view that the road upgrade proposal, provides satisfactorily for access to the "Domayne" site.*
- 4) The "slip" road (Service Road) across the "Gibbons" frontage will be wholly contained within the future road reserve, and RTA is negotiating purchase of property that is required to achieve this.*
- 5) RTA has been in discussion with the owners of the "Gibbons" property about needs for temporary access arrangements under the scenarios of before and during construction, and the "Gibbons" development proposal allows for the property required for the service road. RTA's view is that the road upgrade and the "Gibbons" land development can proceed mutually exclusively, on the basis that the property purchase proceeds."*

Conclusion

The proposed hardware store and storage facility are permissible with consent and comply with Council's and State Planning Instruments.

The proposal is also consistent with the Draft Gosford Local Environmental plan 2009.

The application has been assessed by the RTA and found to be satisfactory and the NSW Office of Water has issued General Terms of Approval.

The application has been assessed by relevant Council officers and no objections are raised to the proposal.

A submission received in response to advertising of the proposal has been considered in the assessment of the proposal. The submission was referred to the RTA for comment as it related

to traffic access matters. The RTA has indicated that they consider that the application has been adequately considered.

Having considered all relevant matters, it is recommended that the application forwarded to the Joint Regional Planning Panel for their consideration and determination.

Attachments: 1 – Locality Plan
2 – Zoning Map
3 – Draft Conditions

Tabled Items: Nil

RECOMMENDATION

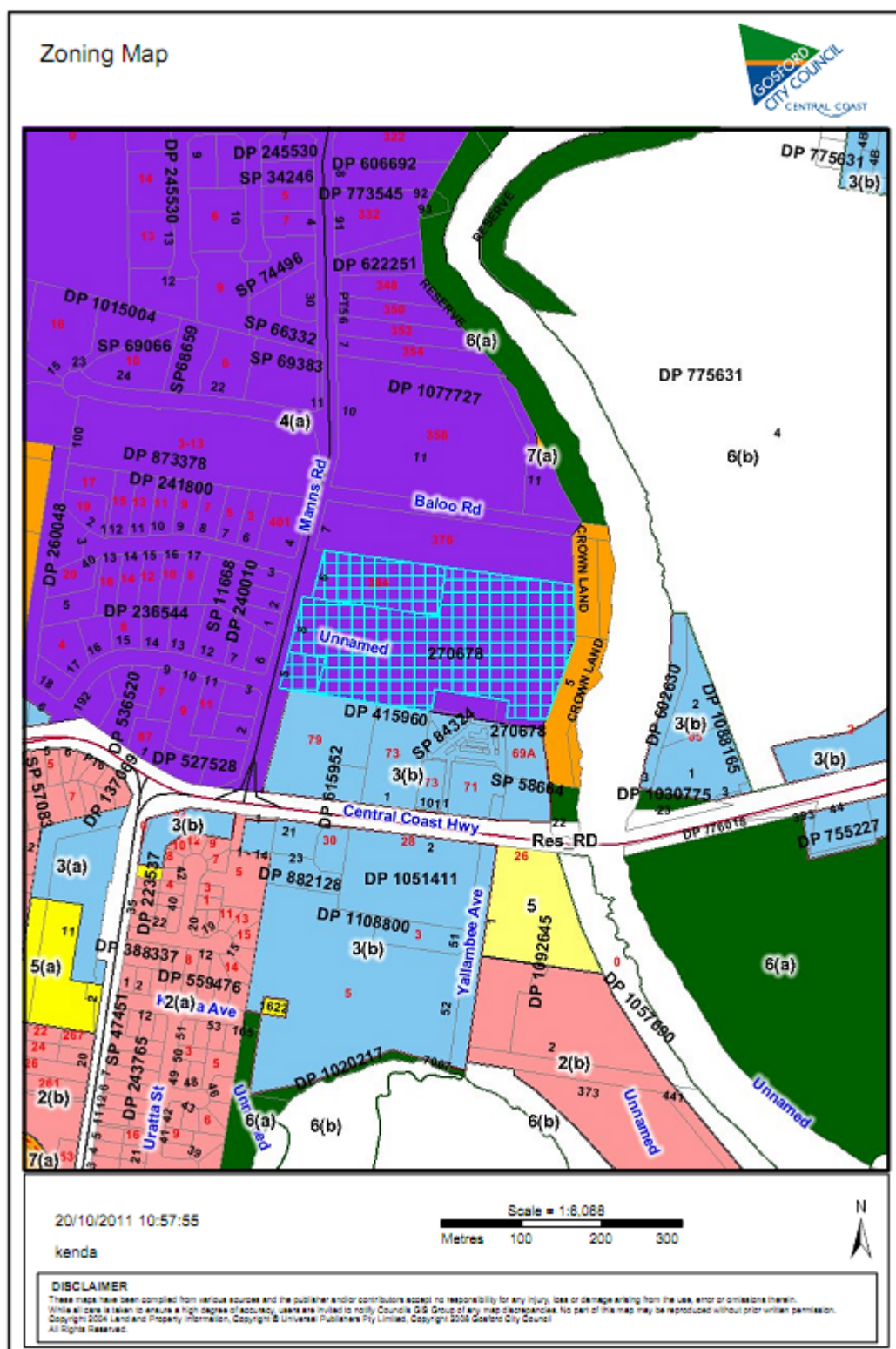
- A The Joint Regional Planning Panel as consent authority approve Development Application No 40353/2011 for the proposed Commercial Premise – Demolition, Relocation of services, Hardware and Building Supplies, Cafe, Self Storage Facility, Vehicle Repair Station and proposed Subdivision on Lots 3 and 4 SP84323, Lots 5, 6 and 8 DP 270678 Nos 3/69B, 4/69B Central Coast Highway West Gosford and No 384, 392 and 400 Manns Road West Gosford, subject to conditions.
- B The applicant is advised of JRPP's decision and of their right to appeal to the Land and Environment Court within 12 months after the date of determination.
- C The objectors are notified of JRPP's decision.
- D The External Authorities be notified of the Joint Regional Planning Panel decision.

LOCALITY MAP



ATTCHMENT 2

ZONING MAP



ATTACHMENT 3**DRAFT CONDITIONS****24. PARAMETERS OF THIS CONSENT****24.1 Approved Plans and Supporting Documents**

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

Architectural Plans by AB3D

Drawing	Description	Sheets	Issue	Date
DA02	Site Plan/Lower Ground/Services	1	D	22/08/2011
DA03	Site Plan/Ground Level	1	C	22/08/2011
DA04	Floor Plan/Revised Lower Ground	1	D	22/08/2011
DA05	Floor Plan/Ground Level	1	C	22/08/2011
DA06	Floor Plan/Mezzanine/Roof Plan	1	C	22/08/2011
DA07	Elevations	1	D	22/08/2011
DA08	Sections	1	C	22/08/2011
DA09	Carpark Plan/Lighting & Signage	1	C	22/08/2011
DA10	Service Vehicle Paths	1	B	22/08/2011
1	Landscape Plan	1	-	05/07/2011

Supporting Documentation

Document	Title	Date
10167	Traffic and Parking assessment Report – Varga Traffic Management	21/03/ 2011
PSM1457.TR1 Rev 1	Riverside Park Geotechnical Investigation – Pells Sullivan Meynink	17/08/2010

24.2 Building Code of Australia

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

25. PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

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

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

25.2 The following contributions are payable under Section 94 of the Environmental Planning and Assessment Act 1979 in accordance with the relevant Council Contribution Plan No

164 – **Gosford Regional Centre** as amended and are subject to quarterly review as detailed in the Contribution Plan.

Recreation Facilities - Embellishment	A	(Key No 851)	\$202,148.00
Roadworks - Capital	A	(Key No 850)	\$284,875.00
Community Facilities - Capital	A	(Key No 852)	\$166,122.00
Environmental Protection	A	(Key No 853)	\$84,062.00
TOTAL AMOUNT			\$737,207.00

The total contribution amount of **\$737,207.00** is to be paid prior to the issue of a Construction Certificate.

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

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

A copy of the Contribution Plan may be inspected at the Customer Service Centre of Gosford City Council, 49 Mann Street, Gosford or on the Council website http://www.gosford.nsw.gov.au/customer/document_gallery/contribution_plans

- 25.3 A dilapidation report must be submitted to Council prior to issue of a Construction Certificate and/or approval of engineering plans under the Roads Act. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development.
- 25.4 A security deposit of \$50,000 must be paid into Council's trust fund prior to the issue of a Construction Certificate. The payment of the security deposit is required to cover the cost of repairing damage to Council's assets that may be caused as a result of the development. The security deposit will be refunded upon the completion of the project if no damage was caused to Council's assets as a result of the development.
- 25.5 All public stormwater/drainage easement work to be carried out must be approved by Council under Section 68 of the Local Government Act.

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

The required works to be designed are as follows:

- a. Connection of piping of all stormwater from impervious areas within the site to Council's drainage system located in the southern Council drainage easement.
- b. New culvert over the existing channel base for the proposed delivery road. Appropriate access/surcharge grates to the culvert shall be provided.
- c. Slight amendment to the level of the existing culverts in order to allow vehicular manoeuvrability.

- d. Upgrade of the pipe drainage system within the subject drainage easement. The nominal pipe diameter and projected flows are again to be verified in writing by the RTA. The latest RTA road design plans shall be submitted to verify the same.
- e. *Until completion* of the proposed RTA Manns Road roadworks adjacent to the site a piped stormwater system and overland flow path is to be provided along Council's drainage easement that conveys a minimum of 5.7m³/s.
- f. *Upon completion* of the proposed RTA Manns Road roadworks adjacent to the site and confirmation of the 1% AEP flow rate discharging to Council's drainage easement, an overland stormwater flow path is to be provided that conveys a minimum of 50% of the 1% AEP flow conveyed by the piped stormwater system.
- g. Maintenance schedule and plan for the new pipe system and culvert within the subject drainage easement. Suitable access to the existing culvert outlet discharging to Narara Creek shall also be provided.
- h. Connection details for the existing interallotment drainage system for 73 Central Coast Hwy (hotel site).

The engineering plans must be approved by Council prior to the issuing of a Construction Certificate required under this consent. The proposal shall be generally in accordance with the submitted concept stormwater drainage plans by Northrop (refer Job No. NL070156, Drawing Nos. C02 DA & C05 DA, Revisions F & D, dated 26/8/2011 & 4/7/2011)

- 25.6 Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000, must be obtained from the Water Authority (Council) prior to the issue of a Construction Certificate. Contributions may be applicable to the Section 307 Certificate.

Also, the Applicant shall comply with the conditions and pay the required water and sewer headworks/augmentation contributions specified by the Water Authority under Section 306 of the Water Management Act 2000, in accordance with Council's policy.

- 25.7 Design of the following engineering works within private property:
- a. Driveways/ramps and car parking areas must be designed according to the requirements of the current Australian Standard AS2890 for the geometric designs, and industry Standards for pavement designs.
 - b. Nutrient/pollution control measures must be designed in accordance with Council's DCP165 - Water Cycle Management, and the submitted concept stormwater management plan by Northrop (refer Reference No. NL070156, Drawing No. C02 DA, Revision F, dated 26/8/11). A nutrient/pollution control report including an operation and maintenance plan shall accompany the design.
 - c. Piping of all stormwater from impervious areas within the site to Council's drainage system located in the adjacent Council drainage easement.
 - d. The minimum floor level of the development must be RL 2.45m AHD.
 - e. All building materials used or located below RL 2.45m AHD must be of a type that is able to withstand the effects of immersion.
 - f. On site vehicular turning facilities are to be provided to enable all vehicles to exit the site in a forward direction.
 - g. Internal accesses and any parking facilities are to be designed and constructed in accordance with Gosford City Council's DCP No. 111: Carparking, AS/NZS 2890.1:2004 Part 1 as amended 2005: "Off-street car parking" and AS 2890.2 Part 2: "Off-street commercial vehicle facilities".

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

- 25.8 Structures constructed adjacent to a Council stormwater system and/or drainage easement and within the zone of influence must have footings designed in accordance with Council's "Guidelines for Building Adjacent to a Drainage Easement". Details prepared by a practising structural engineer shall form part of the Construction Certificate.
- 25.9 An Acid Sulphate Soil Management Plan is to be prepared in accordance with the Acid Sulphate Soil Manual, Acid Sulphate Soil Management Advisory Committee, August 1998 and the finding of the Riverside Park Geotechnical Investigation (Pells Sullivan Meynink, dated 17 August 2010).
- 25.10A comprehensive Soil and Water Management Plan be prepared and approved in accordance with 'The Blue book' – Managing Urban Stormwater: Soils and Construction.
- 25.11The Construction Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council.
- 25.12Access to and within the development is to take into account the current provisions of Part D3 of the Building Code of Australia and AS1428.1-2009.
- 25.13A total of twenty-eight (28) bicycle parking racks are to be provided with this development.
- 25.14The fitout of the food premises is to comply with the Food Act, 2010, Food Regulation 2010, Food Standards Code and the Australian Standard AS4674 for the Design, Construction and Fitout of Food Premises. Details of compliance are to be included in the plans and specifications for the **construction certificate** to the satisfaction of the certifying authority
- 25.15Details of proposed mechanical ventilation systems, detailing compliance with the relevant requirements of Clause F4.12 of the BCA and Australian Standard AS1668 Parts 1 & 2 (including exhaust air quantities and discharge location points) are to be submitted to and approved by the PCA **prior to a construction certificate being issued** for the subject works.

26. PRIOR TO COMMENCEMENT OF ANY WORKS

- 26.1 A construction certificate for the building work is to be issued and the person having the benefit of the development consent must appoint a principal certifying authority prior to the commencement of any building works.
- The principal certifying authority (if not the Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than 2 days before the building work commences.
- 26.2 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- 26.3 Site works are not to commence until the sediment control measures have been installed in accordance with the approved plans.
- 26.4 A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:

- a) The name, address and telephone number of the principal certifying authority for the work; and
- b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
- c) That unauthorised entry to the work site is prohibited.

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

26.5 Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer.

26.6 Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

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

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

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

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

26.9 The Structural Engineer's details are to be certified that they have been prepared in accordance with the details and recommendations of the Geotechnical Report No. PSM1457.TR1Rev1 prepared by Pells Sullivan Meynink and dated 17 August 2010.

26.10 The submission to and approval by Council prior to the commencement of any works, of details for the disposal of any spoil gained from the site and /or details of the source of fill, heavy construction materials and proposed routes to and from the site. Details shall be provided prior to the commencement of works and at latter stages of construction if details change.

26.11 Any development constructed near or over Council's sewer and water mains shall comply with Council's guidelines for "Building Over or Near Council Sewer and Water Mains". Details prepared by a practising structural engineer must be submitted to and approved by Council's Water and Sewerage Program, prior to commencement of work.

26.12 A Plan of Management for Water Supply incorporating water saving initiatives / recycling shall be submitted to and approved by the W&S Asset Management Development Group, prior to the commencement of work. You are advised to contact the W&S Design New Development Officer on Ph.43258821 for further information regarding this condition.

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

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

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

If the contract indicates that bonded asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the complying development certificate must give the principal certifying authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

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

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

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

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

26.14 Appropriate inspection fee for plumbing inspections to be paid prior to commencement of any works.

27. DURING WORKS

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

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

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

a No work is permitted on Sundays and Public Holidays

b No work is permitted on:

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

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

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

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

- 27.3 A report prepared by a registered Surveyor is to be submitted to the Principal Certifying Authority at each floor level of construction of the building (prior to the pouring of concrete) indicating that the finished floor level is in accordance with the approved plans.
- 27.4 To minimize the opportunity for crime, the development must incorporate the following:
- a Adequate lighting to AS1158 is to be provided to common areas.
 - b The ceiling of the car park must be painted white.
 - c Landscaping adjacent to mailboxes and footpaths must not provide for the concealment opportunities for criminal activity.
 - d The development must be designed to avoid foot holes or natural ladders so as to minimize unlawful access to the premises.
 - e Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- 27.5 Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.
- 27.6 If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made is responsible to notify the neighbour and responsible for the protection and preservation of the adjoining allotment of land.
- 27.7 This development is subject to Council's DCP106 – Controls for Site Waste Management. The Waste Management Plan submitted as supporting documentation with this development consent is required to be implemented during all stages of demolition and construction.
- 27.8 Buildings are to be demolished in a safe and systematic manner in accordance with the requirements of Australian Standard AS 2601-2001 - *Demolition of Structures*, and disposed of in an approved manner.
- 27.9 The stormwater/drainage easement works that required approval under the Local Government Act shall be constructed in accordance with Council's 'Civil Construction Specifications', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 27.10 The engineering works within private property that formed part of the construction certificate shall be constructed in accordance with the plans and details approved with the construction certificate.
- 27.11 The locations of all electrical fixtures and/or gas outlets are to be at a minimum height of RL 2.45m AHD.
- 27.12 Filling or debris must not be placed within any watercourse or drain.
- 27.13 Arrangements must be made with Energy Australia, Australian Gas Light Company and Telstra for the supply of services concurrent with the engineering work. Arrangements must include any relocation of existing mains and services and dedication of easements for mains and services.
- 27.14 The Applicant/developer shall ensure 24 hour unrestricted/unobstructed access to the existing sewer pump station and Council water and sewer infrastructure (including power and water supply) adjoining and within the development.

27.15 Pile driving shall not be carried out within ten (10) metres of Council's existing sewer reticulation mains. Conditions associated with driving piles within ten (10) metres of the sewer are outlined in "Council's Building Over or Near Council's Sewer and Water Mains" guidelines.

27.16 The required fill material will only comprise of;

- i Virgin Excavated Natural Material (VENM) as defined under Schedule 1 of the *Protection of the Environment Operations (POEO) Act 1997*.

This definition is as follows:

"virgin excavated natural material" means natural material (such as clay, gravel, sand, soil or rock fines):

(a) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and

(b) that does not contain any sulfidic ores or soils or any other waste,

and/or

- ii Excavated Natural Material (ENM) that has been issued with an exemption under the *Protection of the Environment Operations (Waste) Regulation 2005* in accordance with the Excavated Natural Material exemption 2008.

The placement of any other type of fill material other than that defined under VENM or ENM is classified as prohibited under this consent.

27.17 The applicant shall provide Council with validation documents verifying and certifying that the material complies with the definition of VENM under Schedule 1 of the *POEO Act 1997* or an exemption issued under the Excavated Natural material exemption 2008 if ENM is placed on the land.

27.18 Any exposed soil surface areas shall be grassed / landscaped to minimise soil erosion.

27.19 The approved Soil and Water Management Plan is to be implemented.

27.20 The approved Acid Sulphate Soil Management Plan is to be implemented.

27.21 The internal road strength used by the waste trucks must be sufficiently strong enough to withstand a truck loading of 22.5 tonnes.

27.22 The road surface used by the waste trucks must be constructed of reinforced concrete.

27.23 No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.

27.24 The driveway design and loading area layout is to be designed in accordance with AS2890.2-2002 Parking Facilities – Off street Commercial Vehicle Facilities.

27.25 The waste truck servicing grade is to be 3% or less for the following areas:

- Within the enclosure;

- For bulk bin roll out pads; and
- Within the 13m bulk bin and truck service area.

27.26 All plumbing to be inspected by Council's plumbing inspector. No self-certification is allowed of plumbing within the Gosford City Council Local Government area.

27.27 Strict compliance with the General Terms of Approval issued by the NSW Office of Water dated 27 April 2011.

28. PRIOR TO ISSUE OF THE SUBDIVISION CERTIFICATE

28.1 Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from the Water Authority (Council) prior to the issue of a Subdivision Certificate (for the subdivision). Contributions may be applicable to the Section 307 Certificate.

28.2 A Subdivision Certificate must be issued for the subdivision prior to the registration of the final plan of subdivision and Section 88B Instrument.

28.3 A letter of clearance from Energy Australia, Australian Gas Light Company and Telstra is to accompany the Subdivision Certificate. Note: A letter of clearance will not be required from Energy Australia for two (2) lot Subdivisions.

28.4 Prior to the issue of a Subdivision Certificate the plan of subdivision and section 88B instrument under the Conveyancing Act 1919 must establish the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision

- a. To create a Restriction As To user over all lots containing a nutrient/pollution control facility restricting any alteration to such a facility or the erection of any structure over the facility or the replacement of any obstruction over the facility.
- b. Extend the existing Easement for Drainage 7.62m wide in a westerly direction to Manns Rd.
- c. To create a 'Restriction as to User' over all lots affected by a secondary flow path to ensure;
 - The shape of the flow path is not altered.
 - No structures are erected within the flow path, excluding fences that are flood compatible.
 - The minimum floor level of any dwelling is defined by a reduced level related to AHD being 500mm above the 1% AEP flood level.
- d. To create right of accesses (to the drainage easement/culvert, sewer pump station, hydrant tanks) and easements (for the sewer pump water and electricity supply).

28.5 Prior to issue of a Subdivision Certificate the plan of subdivision and section 88B instrument under the Conveyancing Act 1919 must establish the following positive covenant; with the Council having the benefit of these covenants and having sole authority to release and modify. The covenant must be prepared by Council's Solicitor at the owner's cost prior to the issue of a Subdivision Certificate.

- a. To ensure on any lot containing a nutrient/pollution control facility that:
 - The facility will remain in place and fully operational.
 - The facility is maintained so that it operates in a safe and efficient manner.
 - Council staff are permitted to inspect and repair the facility at the owner's cost.

- Council is indemnified against all claims of compensation caused by the facility.

28.6 Prior to issue of the Subdivision Certificate, the Applicant shall create the following easements and right of carriageway benefitting Council:

- Right of Carriageway and Easement for Services 4.0 metres wide for access to Council's sewer pump station, including an easement for electricity purposes over the electrical supply to the pump station.
- Easement for Sewerage purpose 2 metres wide (or 'Easement to Drain Sewerage over Existing Line of Pipes') over the sewer gravity mains.
- Easement to Drain Sewerage 4.0 metres wide over the sewerage rising mains contained within the site.
- Easement for Water Supply 3 metres wide over Council's existing water main and service contained within the site.

Alternatively, the developer may choose to relocate the water and electrical supply to within a combined Easement for Access and Services 4.0 metres wide.

28.7 Prior to issue of the Subdivision Certificate, a registered surveyor shall provide details to Council that all physical structures are fully contained within the proposed allotments or will be fully covered by the proposed burdens upon registration of the final plan of subdivision.

29. PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

29.1 Application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.

29.2 The premises not being occupied until an occupation certificate has been issued.

29.3 A concrete kerb, or alternative of similar standard, must be provided to the driveways and around areas of landscaping to prevent encroachment of vehicles.

29.4 The driveway, vehicle manoeuvring area and {number} car parking spaces as shown on the approved plan must be properly constructed, graded, drained, sealed and line marked including directional arrows with impervious paving material, in accordance with Australian Standard 2890.1-2004 Off Street Parking.

29.5 Impervious surface areas including pathways and driveways are to be graded and drained to prevent water run-off affecting adjoining properties.

29.6 Any damage not shown in the dilapidation report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Occupation Certificate.

29.7 Stormwater/drainage easement works that required approval under the Local Government Act 1993 are to be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', and documentary evidence for the acceptance of such works obtained from the Council prior to the issue of an Occupation Certificate.

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

- 29.8 Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from the Water Authority (Council) prior to the issue of a Subdivision Certificate (for the subdivision). Contributions may be applicable to the Section 307 Certificate.
- 29.9 Prior to the issue of an Occupation Certificate, the internal engineering works within private property that formed part of the Construction Certificate shall be completed in accordance with the plans and details approved with the Construction Certificate.
- 29.10 Certification from a consulting engineer shall be submitted to Council stating that all slabs and/or footings within the zone of influence associated with the Council stormwater system and/or drainage easement have been constructed in accordance with the Construction Certificate.
- 29.11 A Subdivision Certificate must be issued for the subdivision prior to the registration of the final plan of subdivision and Section 88B Instrument.
- 29.12 A letter of clearance from Energy Australia, Australian Gas Light Company and Telstra is to accompany the Subdivision Certificate. Note: A letter of clearance will not be required from Energy Australia for two (2) lot Subdivisions.
- 29.13 Prior to issue of the Occupation Certificate, the Applicant shall submit for approval to the appointed Principal Certifying Authority, documentary evidence from the Department of Lands demonstrating that the required subdivision for the development has been registered and the new titles exist.
- 29.14 Council will require an indemnity against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service prior to issue of an Occupation Certificate together with the creation of a S88B instrument under the Conveyancing Act to this effect and at the applicant's cost.
- 29.15 A certificate being submitted at the completion of the installation from a practising Mechanical Engineer certifying that the construction, installation and operation of the exhaust hood ventilation system meets the requirements as AS 1668.1 and/or AS 1668.2.
- 29.16 Council is to be notified upon completion of work and following the issue of the occupation certificate, **prior to trading commencing** to enable the premises to be inspected by Council's Environmental Health Officer and for the premises to be registered with the Council as a food premises.

30. ONGOING OPERATION

- 30.1 Nothing associated with the business is to be located on the footpath or adjoining public area, including the parking of vehicles, storage of goods, materials, waste or the like.
- 30.2 The sound level output from the development or business shall not exceed 5dBA above the ambient noise level measured at the boundary of the property.

The implementation and intensity of this development shall not adversely affect the amenity of the neighbourhood by reason of offensive noise as defined by the *Protection of the Environment Operations Act 1997*.

- 30.3 No materials, waste matter or products shall be stored outside the building or the approved waste storage area, at any time.
- 30.4 All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.
- 30.5 The consent of Council must be obtained prior to any change of use of the premises as defined in the planning instrument.
- 30.6 All loading and unloading of goods are to be conducted wholly within the site. Loading facilities, internal docks or goods handling areas are to be maintained free of obstruction for the sole use of delivery vehicles.

Visitor car parking spaces are to be physically identified on site, and maintained free of obstruction. Under no circumstances are these spaces to be used for the storage of goods or waste products.

- 30.7 No advertisement shall be erected on or in conjunction with the proposed development without prior development consent unless the advertisement is exempt development under Council's exempt and complying development schedule.

a The sign and means of fixing and support must be maintained in a presentable and satisfactory state of repair at all times.

- 30.8 Maintenance of the nutrient/pollution control facilities in accordance with the operation & maintenance plan.
- 30.9 In order to minimise vehicle conflict through the site, any Articulated Vehicles shall be limited to clockwise movements through the site and entry/exit from Manns Rd only.
- 30.10 In order to minimise vehicle conflict through the site, any Heavy Rigid Vehicles accessing the proposed Common Loading Dock and existing Moneywise development shall be limited to entry/exit from the Central Coast Highway only.
- 30.11 No trees are to be plants within the drainage channel between the building and the southern boundary of the site.

- 30.12 The refrigerated/cooling/freezing chamber, which is of sufficient size for a person to enter must have-
- (a) a door which is capable of being opened by hand from inside without a key; and
 - (b) internal lighting controlled only by a switch is located adjacent to the entrance doorway inside the chamber; and
 - (c) an indicator lamp positioned outside the chamber which is illuminated when the interior light is switched on; and
 - (d) An alarm that is-
 - (i) located outside but controllable only from within the chamber; and
 - (ii) able to achieve a sound pressure level outside the chamber of 90dB(A) when measured 3m from the sounding device.

The door required by (a) above must have a doorway with a clear width of not less than 600mm and a clear height of not less than 1.5m.

31. OTHER APPROVALS

31.1 RTA requirements:

- On site vehicular turning facilities are to be provided to enable all vehicles to exit the site in a forward direction.
- Internal accesses and any parking facilities are to be designed and constructed in accordance with Gosford City Council's DCP No. III: Carparking and AS/NZS 2890.1:2004 Part I as amended 2005: "Off-street car parking" AS 2890.2 Part 2: "Off-street commercial vehicle facilities"
- Appropriate site works are to be constructed across the Street frontages so as to comply with the minimum sight distance requirements and minimum sight lines for pedestrian safety set out in the RTA publication "Guide to Traffic Generating Developments" (1993) and AS/NZS 2890.1:2004 Part I: "Off-street car parking".
- As part off the intersection upgrade works on the Central Coast Highway, Brisbane Water Drive and Manns Road, West Gosford the RTA is proposing to construct a roundabout at the Manns Road, Grieve Close and Riverside Drive intersection. These works will not be completed prior to the opening of the proposed development. Given this the proponent (at no cost to the RTA) is to provide temporary access to the development generally in accordance with Drawing DAI I dated 12 July 2011 (attached). Additionally it will be the responsibility of the proponent to continue to maintain this access until such time as the RTA works take precedence. The staged access provision must be designed in accordance with RTA design requirements and approved by the RTA.
- Appropriate street lighting at the temporary access location(s) is to be provided as agreed by the RTA
- As part of the Manns Road roadworks the RTA will need to restrict access to the development to left in/out only. The RTA would work with relevant persons (owner(s) and operator(s) of the development) to minimise any access disruption, but does not warrant that right turn out or into the site can be maintained at any time. During any access restriction the RTA will not accept any liability for any compensation with regard to access restriction nor disruption of trade.
- At times during the construction works on Manns Road service vehicles may not be able to enter or exit via Manns Road. During this time service vehicles may need to enter off the Central Coast Highway at Riverside Drive/Yallabee Ave intersection.
- As part of the staged access negotiation the developer shall apply for, and obtain a Road Occupancy Licence (ROL) from the RTA Traffic Operations Unit (TOU) prior to commencing work within the classified road reserve or within IOOm of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU. The developer shall submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependant upon the RTA receiving an accurate and compliant TMP. *Note: An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by the RTA Project Manager.*

32. ADVICE

- 32.1 The public authorities may have separate requirements and should be consulted in the following aspects:
- Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
 - Jemena Asset Management* for any change or alteration to the gas line infrastructure;
 - Energy Australia* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
 - Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.
 - Gosford City Council* in respect to the location of water, sewerage and drainage services.
- 32.2 All work carried out under this Consent should be done in accordance with WorkCover requirements including the Occupational Health and Safety Act 2000 No 40 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- 32.3 Separate application being made for connection to Council's sewerage system.
- 32.4 A fee for the approval of engineering plans under the Local Government Act applies. The amount of this fee can be obtained by contacting Council's Customer Services on (02) 4325 8222.
- 32.5 The inspection fee for works associated with approvals under the Local Government Act is calculated in accordance with Council's current fees and charges policy.
- 32.6 Developers should make early application for a Section 307 Certificate under the Water Management Act 2000 from the Water Authority (Council). For a copy of the application form 'Application for Certificate under Section 305' contact Customer Service on (02) 4325 8200 or visit Council's web site www.gosford.nsw.gov.au to download a form from the Water & Sewerage forms index.
- Also, the Applicant shall comply with the conditions and pay the required water and sewer headworks/augmentation contributions specified by the Water Authority under Section 306 of the Water Management Act, 2000.
- 32.7 Payment of a Subdivision Certificate fee must be made at time of lodgement of the subdivision plan with Council. The fee may be obtained from Council's Customer Service Unit on 4325 8222 or from Council's website <http://www.gosford.nsw.gov.au>.

33. PENALTIES

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

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

- Issue Penalty Infringement Notices (On-the-spot fines);

- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

Warnings as to Potential Maximum Penalties

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

34. RIGHT OF APPEAL

- 34.1 Section 97 of the Act, confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court within 6 (six) months, from the date of determination.
- 34.2 To ascertain the date upon which the determination becomes effective refer to Section 83 of the Act.