

## JOINT REGIONAL PLANNING PANEL (Hunter and Central Coast)

JRPP No	2014HCC021				
DA Number	46209/2014				
Local Government Area	Gosford City Council				
Proposed Development	Mixed Use - Retail, Commercial, Restaurant, Residential Development and Demolition of Existing Structures				
Street Address	27-37 Mann Street GOSFORD				
Applicant Name	Rola Property Group Pty Ltd				
Owner Name	Ancestry Pty Ltd				
No Submissions	119 (Original Notification) + 190 (Notification of Amended Plans)				
Regional Development Criteria (Schedule 4A of the Act)	Value greater than \$20 million (\$49.7 million)				
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"><li>• Environmental Planning &amp; Assessment Act 1979 - Section 79C</li><li>• Local Government Act 1993 - Section 89</li><li>• Gosford Local Environmental Plan 2014</li><li>• Gosford Development Control Plan 2013</li><li>• SEPP 65 Design Quality of Residential Flat Buildings</li><li>• SEPP (Infrastructure) 2007</li><li>• SEPP (BASIX) 2004</li><li>• Section 94A Contribution Plan – Gosford City Centre</li></ul>				
List all documents submitted with this report for the panel's consideration	<b>Architectural Plans by Thrum Architects</b>				
	<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
	DA-000	Cover Sheet	1	Q	26/11/15
	DA-001	Locality Plan & BASIX	1	P	26/11/15
	DA-002	Site Analysis Plan	1	P	26/11/15
	DA-003	Survey Plan	1	P	26/11/15
	DA-004	Site Plan	1	Q	26/11/15
	DA-102	Basement 1 Plan	1	Q	26/11/15
	DA-103	Ground Floor Plan	1	R	26/11/15
	DA-104	Level 1 Plan	1	S	26/11/15
	DA-105	Level 2 Plan	1	S	26/11/15
	DA-105.1	Level 2A Plan	1	R	26/11/15
	DA-106	Level 3	1	S	26/11/15
	DA-107	Level 4	1	Q	26/11/15
	DA-108	Level 5	1	Q	26/11/15
	DA-109	Level 6	1	Q	26/11/15
	DA-110	Level 7	1	Q	26/11/15

DA-111	Level 8	1	Q	26/11/15
DA-112	Level 9	1	Q	26/11/15
DA-113	Level 10	1	Q	26/11/15
DA-114	Level 11	1	Q	26/11/15
DA-115	Level 12	1	Q	26/11/15
DA-116	Level 13	1	Q	26/11/15
DA-117	Level 14	1	Q	26/11/15
DA-118	Level 15	1	Q	26/11/15
DA-119	Level 16	1	R	26/11/15
DA-120	Level 17	1	Q	26/11/15
DA-121	Roof Plan	1	Q	26/11/15
DA-401	Line Elevations Sheet 1	1	Q	26/11/15
DA-402	Line Elevations Sheet 2	1	P	26/11/15
DA-403	Rendered Elevations Sheet 1	1	R	26/11/15
DA-404	Rendered Elevations Sheet 2	1	P	26/11/15
DA-501	Sections Sheet 1	1	P	26/11/15
DA-502	Sections Sheet 2	1	Q	26/11/15
DA-601	Shadow Diagrams Sheet 1	1	P	26/11/15
DA-602	Shadow Diagrams Sheet 2	1	P	26/11/15
DA-701	Rendered Perspectives Sheet 1	1	Q	26/11/15
DA-702	Rendered Perspectives Sheet 2	1	Q	26/11/15
DA-703	Rendered Perspectives Sheet 3	1	P	26/11/15
DA-801	Envelop & Height Plan Analysis	1	P	26/11/15
DA-802	GFA & FSR Calculations	1	R	26/11/15

#### Landscape Plans by Site Image Landscape Architects

Drawing	Description	Sheets	Issue	Date
LA-000	Coversheet Indicative Plant Schedule	1	C	24/09/15
LA-101	Landscape Plan – Ground & Podium	1	C	24/09/15
LA-102	Colour Landscape Plan – Level 1, 4 & 5, Penthouse Level 1 & 2	1	C	24/09/15
LA-501	Landscape Details – & Specification Notes	1	C	24/09/15

#### Civil Engineering Design by Cardno (NSW/ACT) Pty Ltd

Drawing	Description	Sheets	Issue	Date
805 14016- CI-100	Cover & Notes Sheet	1	2	02/10/15
805 14016- CI-105	External Works	1	3	02/10/15
805 14016- CI-106	Bulk Earthworks Plan	1	3	02/10/15
805 14016- CI-111	Basement 1 Plan	1	4	02/10/15
805 14016-	Ground Floor Plan	1	4	02/10/15

	CI-112				
	805 14016- CI-113	Level 1 Plan	1	4	02/10/15
	805 14016- CI-114	Level 2 Plan	1	4	02/10/15
	805 14016- CI-115	Podium Level Plan	1	2	02/10/15
	805 14016- CI-120	Waste Collection Point & Access Route	1	4	02/10/15
	805 14016- CI-130	Indicative Erosion and Sediment Control Plan – Stage 1	1	2	02/10/15
	805 14016- CI-132	Indicative Erosion and Sediment Control Plan – Stage 2	1	2	02/10/15
	805 14016- CI-133	Indicative Erosion and Sediment Control Plan – Stage 3	1	2	02/10/15
<b>Supporting Documentation</b>					
<b>Author</b>		<b>Title</b>		<b>Date</b>	
Doug Sneddon Planning Pty Ltd		Statement of Environmental Effects Vols 1 & 2		06/10/2015	
Cardno		Waste Management Plan		25/11/2015	
Heritage21		Statement of Heritage Impact		02/10/2015	
Cardno		Water Cycle Management Plan		02/10/2015	
Cardno		Traffic Impact Assessment		24/11/2015	
Thrumm Architects		Visual Impact Assessment Report		30/09/2015	
Thrumm Architects		Accessibility Assessment Report		30/09/2015	
Recommendation	Approval				
Report by	S A Earp				

## Assessment Report and Recommendation Cover Sheet

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# REPORT TO HUNTER & CENTRAL COAST JOINT REGIONAL PLANNING PANEL

**TITLE**            **DEVELOPMENT APPLICATION NO. 46209/2014**  
**APPLICANT: ROLA PROPERTY GROUP PTY LTD**  
**PROPOSED: MIXED USE - RETAIL, COMMERCIAL, RESTAURANT,**  
**RESIDENTIAL DEVELOPMENT AND DEMOLITION OF EXISTING**  
**STRUCTURES ON LOT: A & C DP: 355117, LOT: 10 & 11 DP: 591670, LOT:**  
**1, 2, 3 & 4 DP: 382784, 27, 27A, 29, 31, 33, 35 & 37 MANN STREET**  
**GOSFORD, 125 GEORGIANA TERRACE GOSFORD**  
  
Directorate:        Governance and Planning  
Business Unit:     Development and Compliance

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

## EXECUTIVE SUMMARY

### **Reason for Referral to Joint Regional Planning Panel (JRPP)**

Value greater than \$20 million (\$49.7 million)

**Assessing Officer:** S A Earp

**Reviewing By:** Manager Development and Compliance  
Chief Executive Officer

**Application Received:** 22/08/2014    **Date of Amended Plans:** 30/09/2014, 06/10/2015 and 26/11/2015

**Synopsis:** An application has been received for a Mixed Use - Retail, Commercial, Restaurant, Residential Development and Demolition of Existing Structures. The application has been assessed against the matters for consideration detailed in 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979.

The site comprises the Creighton's Funeral Parlour, which is listed as an item of local heritage significance under Gosford LEP 2014. The original proposal involved demolition of the Creighton's Funeral Parlour building and re-construction of the façade of the building. The overwhelming public objection and heritage advice received in regard to that scheme was that the Creighton's Funeral Parlour building should be retained, and the new building should not dominate the heritage item.

The applicant submitted a revised scheme on 6 October 2015 (and further revisions on 26 November 2015) which retains the Creighton's Funeral Parlour building with the exception of the garage sandstone entry, which is to be re-constructed in-situ and form part of the pedestrian entry to the new building. The revised scheme included design adjustments including two (2) additional floors above the original scheme to a total of 17 floors.

The revised scheme does not comply with the maximum building height or floor space ratio development standards under Gosford LEP 2014 as a result of the two (2) additional floors and alterations to the building floor plate. The applicant has lodged a Clause 4.6 variation to the building height and floor space ratio development standards, which is supported.

The building will be unable to avoid visual dominance over Creighton's Funeral Parlour given the extent of the planning controls which apply to the site. Notwithstanding the variations proposed, such an outcome would eventuate from a scheme which complied with all relevant development controls. In this regard, the proposed treatment of the new podium parapet and separation of the new building from the heritage item assists in avoiding an undesirable visual setting for the retained Creighton's Funeral Parlour, particularly when considered from the Mann Street streetscape perspective. Most importantly the proposal not only retains the heritage building but with the new development reinforces the scale of the Mann Street streetscape in that precinct where there a number of other buildings of heritage character.

The proposal will not detract from the character or scenic qualities of the area to an unacceptable extent, or have unreasonable impacts on the environment.

All relevant matters under Section 79C of the Environmental Planning and Assessment Act, section 89 of the Local Government Act, the objectives of the zone and the principles of ecologically sustainable development have been considered and the proposal is recommended for **approval**.

**Zone:** B4 Mixed Use

**Area:** 2948m<sup>2</sup>

**Topography:** Steep Land

**Public Submissions:** 119 Original Plans, 190 Amended Plans

**Employment Generating:** Yes    **Value of Work:** \$49,700,000.00

**Political Donations:** None declared

#### **Relevant Statutory Provisions**

1. Environmental Planning & Assessment Act 1979 - Section 79C
2. Local Government Act 1993 - Section 89
3. Gosford Local Environmental Plan 2014
4. Gosford Development Control Plan 2013
5. State Environmental Planning Policy (Infrastructure) 2007
6. State Environmental Planning Policy (Basix)

#### **Key Issues**

1. Gosford Local Environmental Plan 2014
2. Principal Development Standards
3. Environment and Coastal Considerations
4. Heritage Assessment
5. Section 94A Contributions
6. Internal Referrals
7. Public Submissions

#### **Recommendation**

Approval

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## REPORT

### The Site

The site has a frontage of 60.5m to Mann Street, a frontage of 48.7m to Georgiana Terrace, a frontage of 60.3m to Parlour Lane, and a southern side boundary of 48.7m.

The land is steeply sloping from RL21.49m at Parlour Lane to RL11.2m at Mann Street (approximately 21% slope).

Located on the corner of Mann Street and Georgiana Terrace within the site is the former *Creighton's Funeral Parlour*, a two storey building of Inter-War Art Deco architecture built in 1938. Creighton's Funeral Parlour is an item of environment heritage of local significance under Gosford LEP 2014 (Item No. 37). A number of other shops and offices exist along the Mann Street frontage of the site.



Site Map

### Background

Development Consent 40581/2011 granted consent for internal alterations to the former garage in the Creighton's Funeral Parlour building for use as a 'wine bar'. The wine bar is currently operating.

### Locality

To the west is the former Gosford Public School site which is now vacant, except for a heritage building retained on the south-west corner of Mann Street and Georgiana Terrace, being the *Gosford School of Arts* (Item No. 39).

To the south is the former Gosford South Post Office (listed as a heritage item with local significance (Item No. 35)) and Telstra depot. The site to the south has approval for 140 residential units under DA46272/2014 previously approved by the Joint Regional Planning Panel (JRPP) on 17 September 2015.

The eastern side of Parlour Lane is an eight (8) storey residential flat building known as “The Broadwater” Apartments.

On the north-eastern side of Georgiana Terrace is the former courthouse and police station, now the Conservatorium of Music listed as a heritage item of local significance under Gosford LEP 2014 (Item No. 38).



Locality

## Proposal

The proposed development involves;

- The retention of Creighton’s Funeral Parlour, including the dismantling and reconstruction of the west façade of the sandstone garage and a small portion of its south façade in the west corner;
- Demolition of the remainder of the Creighton’s Funeral Parlour garage, all non-original out-buildings and additions to Creighton’s Funeral Parlour and all other existing buildings and structures on the site;
- The construction of a mixed use building comprising:
  - Basement: Car parking;
  - Ground Floor: retail, restaurant, commercial lift lobby and car parking;
  - First Floor: Commercial and car parking (no modifications or use proposed to first floor of Creighton’s Funeral Parlour);
  - Level 2: Commercial, residential units, car parking, communal facilities and waste store and collection area;
  - Level 2A: Residential units and car parking; and
  - Levels 3-17: Residential units.



- The mixed use building will comprise the following:
  - A gross floor area of 17,242.38m<sup>2</sup>;
  - A total of 134 residential units, comprising the following mix:
    - 1br Units x 29
    - 2br Units x 75
    - 3br Units x 28
    - 4br Units x 2
  - A total of 1,090.54m<sup>2</sup> of commercial floor space;
  - A total of 529.29m<sup>2</sup> of retail floor space;
  - A total of 148.28m<sup>2</sup> of restaurant floor space;
  - A total of 223 car parking spaces, comprising the following mix:
    - Residential Spaces x 164 (including 17 accessible spaces);
    - Visitor Spaces x 27
    - Commercial Spaces x 32 (including 3 accessible spaces).
  - A total of 10 motorcycle spaces and 67 bicycle spaces.

Driveway access to the car parking areas will be from Georgiana Terrace (for Basement Level 1, Ground Floor and Level 1) and from Parlour Lane (for Level 2 and Level 2A).

Waste storage and collection will be from Parlour Lane.



WESTERN ELEVATION @ MANN STREET



NORTHERN ELEVATION @ GEORGIANA TERRACE

## Referrals

### Internal Referrals

- Engineering
- Water and Sewer
- Heritage
- Architect
- Building Services
- Food
- Environmental Health
- Legal & Risk
- Trade Waste
- Trees
- Waste Services



## 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 the information of Council and the JRPP.

### Gosford Local Environmental Plan 2014

The land is zoned B4 Mixed Use under Gosford Local Environmental Plan 2014. The proposal is defined as a *Mixed Use Development* (being a building comprising 2 or more different land uses) and is permissible within the zone. The individual components within the proposed mixed use are also permissible within the B4 zone, including *residential flat building*, *office premises*, *retail premises* and *food and drink premises*.

a) Objectives

The objectives of the zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage a diverse and compatible range of activities, including commercial and retail development, cultural and entertainment facilities, tourism, leisure and recreation facilities, social, education and health services and higher density residential development.*
- *To allow development in Point Frederick to take advantage of and retain view corridors while avoiding a continuous built edge along the waterfront.*
- *To create opportunities to improve the public domain and pedestrian links of Gosford City Centre.*
- *To enliven the Gosford waterfront by allowing a wide range of commercial, retail and residential activities immediately adjacent to it and increase opportunities for more interaction between public and private domains.*
- *To protect and enhance the scenic qualities and character of Gosford City Centre.*

In this instance, it is considered that the proposal is consistent with the stated objectives for the following reasons:

- The proposal will provide a mixture of land uses that are compatible with adjoining and surrounding development within the Gosford City Centre, including retail, commercial and residential development;
- The proposal will provide new residential units, commercial floor space and retail floor space on a site which is located within walking distance to connections with public transport and connections with the local and regional walking and cycling network;
- The proposal comprises a mixture of compatible activities including retail, commercial and high density residential uses such that the site retains the heritage significance of the Creighton's Funeral Parlour, provides an active street frontage to Mann Street and provides for commercial floor space which will provide new opportunities for businesses within the Gosford City Centre;
- The proposed development will retain the Creighton's Funeral Parlour and accommodate design features which will improve the public domain along Mann Street and Georgiana Terrace within the visual corridor of the streetscape. No pedestrian links will be impacted by the proposal.

- The proposal protects the heritage significance of the Creighton's Funeral Parlour through its retention, notwithstanding the dismantling and reconstruction of the garage brick work, which will ultimately protect and enhance the scenic qualities and character of the Gosford City Centre in terms of heritage, particularly having regard to the heritage character created by the three (3) heritage buildings on the corners of Mann Street and Georgiana Terrace.
- The proposed development is generally consistent with relevant development controls in terms of floor plate, building depth and façade treatment however the building is inconsistent with the building height and floor space ratio development standards set out under Gosford LEP 2014. The impacts of the proposal have been assessed against a scheme which would be 100% compliant with these development standards on the basis of streetscape character and cityscape scenic qualities. It is concluded that the extent of the proposed variations to height and floor space ratio development standards do not in themselves give rise to any impacts to both streetscape character and cityscape scenic qualities that would not result from a scheme which is 100% compliant with these standards. Therefore it is considered that the proposal will ultimately protect and enhance the scenic qualities and character of Gosford City Centre having regard to both streetscape character and cityscape scenic qualities.

b) Character

The site is located within the B4 Mixed Use Zone. The emphasis of the B4 Zone is to promote employment generating and economically stimulating development with high density residential accommodation to support the commercial core of Gosford City.

The proposal is consistent with the intended character of the B4 Mixed Use Zone as the retail and commercial components will generate additional employment and economic stimulation, with the addition of residential accommodation above to support and supplement the commercial core.

c) Development Incentives

The site is located within the Development Incentives area of the City. Under Clause 8.9 of the Gosford LEP 2014, a 30% bonus to height and FSR applies to applications lodged on/or before 2 April 2016.

As the application was lodged on 22 August 2014, the 30% bonus applies to this site.

d) Design Excellence

The requirements for design excellence in Clause 8.5 of Gosford LEP 2014 have been considered in the assessment of the application. It is considered that the proposal exhibits design excellence for the following reasons:

- The proposal has been designed to a high standard of architectural design, adopting various architectural techniques and solutions to address design matters such as separation of contemporary and heritage built form, floor space dispersion, building massing and view sharing;
- The proposed building adopts a variety of materials and architectural detailing which is appropriate to the building type (being mixed use) and location (within the Gosford City Centre, immediately adjacent to a number of heritage items), such that the appearance of bulk from the public domain is softened and clear separation is provided between new work and preserved heritage structures;
- The form and external appearance of the proposal will appear equivalent in height to the residential flat building approved at 21-23 Mann Street under DA 46272/2015 when viewed from the surrounding public domain. Having regard to the standard of architectural design, and that the development will not appear inconsistent with surrounding approved development, the proposal will not result in

adverse impacts upon, and will marginally improve, the quality and amenity of the public domain;

- A view loss assessment has been carried out which concludes that the proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments;
- The proposal will not detrimentally overshadow any public open space. However, the development will give rise to minor overshadowing of a small area of the Leagues Club Field and Gosford Memorial Park (in the vicinity of Vaughan Avenue) in the late afternoon from 3pm onwards. This impact is considered minor in isolation, and will be negligible within the context of future permissible built form along Mann Street and Georgiana Terrace;
- An assessment has been carried out against the provisions of Gosford Development Control Plan 2013, which concludes that the development is generally consistent with the DCP and the extent of variations proposed can be supported on merit;
- The proposed mixed use development is considered suitable for the site having regard to the strategic intent of the zoning of the land as B4 Mixed Use, central location within the Gosford City Centre and constraints of the site. Further the proposal will retain the heritage listed building known as Creighton's Funeral Parlour, which is an acceptable outcome having regard to heritage conservation;
- With the exception of the Creighton's Funeral Parlour, the existing uses on the site (including retail and residential) are considered negligible when having regard to the layout and mix of the proposed development, including ground floor retail, first and second floor commercial and high density residential accommodation. The proposed use mix is considered more appropriate for the site than the current uses;
- The proposal must take into consideration the planning difficulties that exist on the site as a result of the conflict of objectives between the retention/protection of the heritage item, and the extent of development controls which apply under Gosford LEP 2014 and Gosford DCP 2013. The assessment in this Report has concluded that there is no achievable outcome which would satisfy to the fullest extent both the heritage consideration objectives and planning control objectives that are applicable to the site. Notwithstanding, the assessment in this Report concludes that the proposal is acceptable on heritage grounds when considered on balance between heritage conservation objectives and planning control objectives;
- The location of the proposed tower is consistent with the intentions of Gosford LEP 2014 to allow a high density mixed use development on the site. This is consistent with the strategic direction of Gosford LEP 2014 having regard to the transformation of the Gosford City Centre;
- The development design incorporates a mix of modulation, articulation and materials to address matters of bulk and massing. These design characteristics result in the proposal not having an unacceptable bulk and massing under the relevant development control objectives;
- The development will provide a three storey podium to Mann Street, atop which the primary tower is located. The podium height is considered acceptable having regard to the future desired character of the Gosford City Centre, in particular for mixed use developments with podium/tower design;
- The proposal will result in acceptable environmental impacts;
- The proposal will achieve the principles of ecologically sustainable development;
- The site is located such that residents and employees within the building have optimal access to surrounding pedestrian, cycle, vehicular and service access and circulation;
- The proposal will retain the majority of the heritage listed building and in doing so avoids unnecessary adverse impacts upon the public domain. When considered from a distance, the new building will be visually equal to the height of surrounding

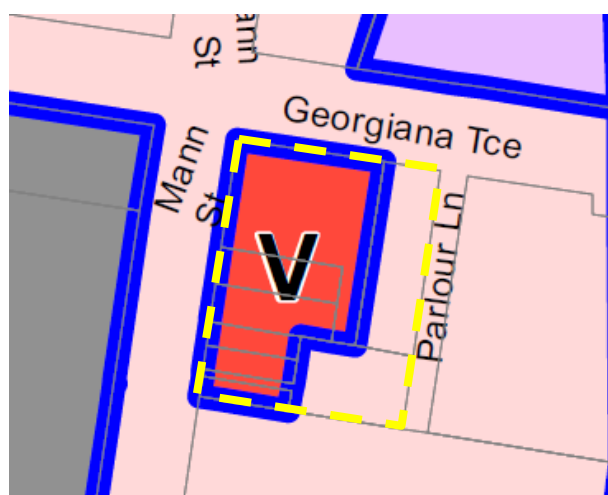
approved development and incorporates a mix of modulation, articulation and material which avoids an unacceptable visual impact when viewed from the public domain.

### Principal Development Standards

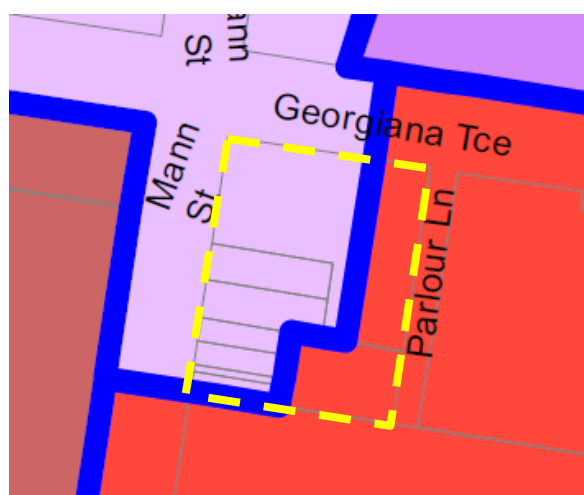
Clause	Item	Standard*	Proposed	Compliance	Variation
Cl. 4.3	Height*	46.8m	55.95m	No	9.15m (19.6%)
		31.2m	55.09m	No	23.89m (76.6%)
Cl. 4.4	FSR*	5.2:1	8.1:1	No	2.9:1 (55.8%)
		3.9:1	1.88:1	Yes	Nil

\* Includes 30% bonus under Clause 8.9.

The proposed development has been designed to have the building sited towards the Mann Street side of the site. This area of the site is subject to a greater building height and floor space ratio control than the Parlour Lane side of the site. The demarcation line between the two development standards follows the western boundary of Lot C DP355117, and steps in to follow the eastern boundary of Lots 1-3 DP382784, as shown in the map extracts below.



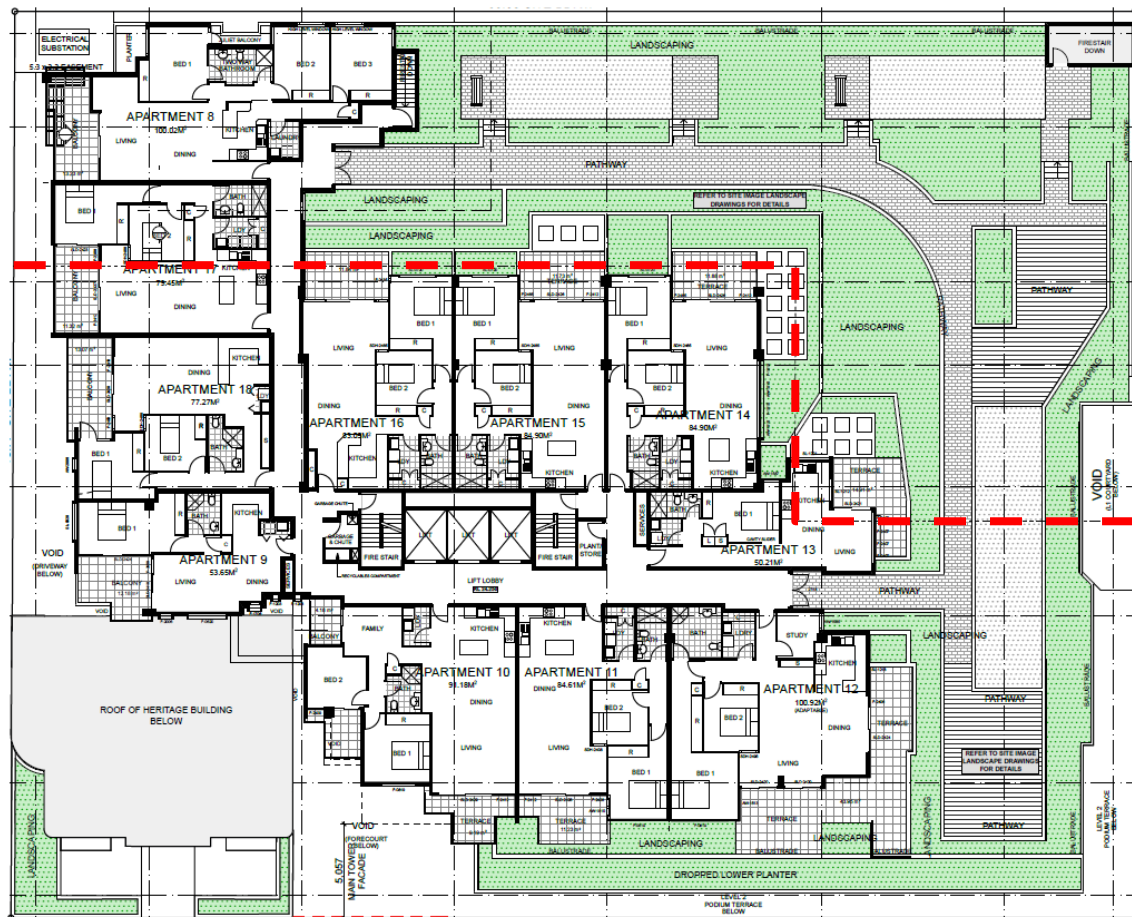
**Building Height** – Pink = 24m, Red = 36m



**FSR** – Red = 3:1, Purple = 4:1

The proposal was modified in October 2015 (and 26 November 2015) to retain the Creighton's Funeral Parlour building and in so doing, re-positioned some of the displaced floor area to new residential units at Level 2A, Level 3 and Level 4, as well as adding two (2) storeys on top of the original proposal, being Levels 16 and 17.

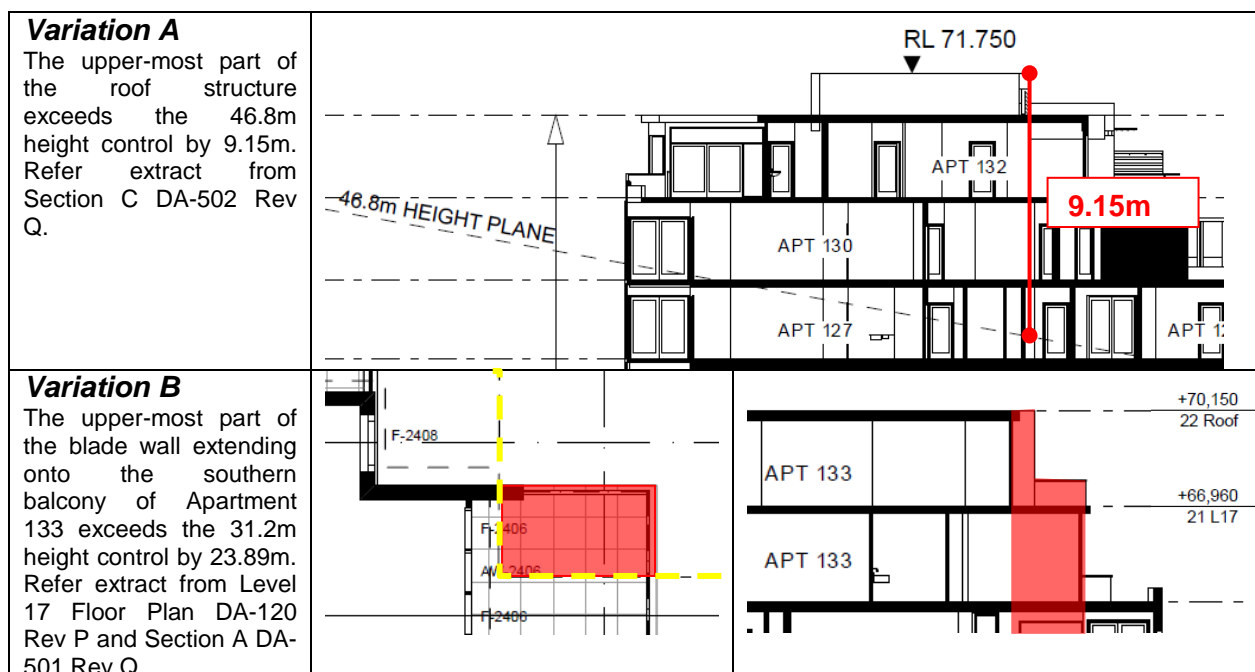
The additional residential units at Level 2A, Level 3 and Level 4 are situated in the north-eastern corner of the site, fronting Georgiana Terrace and Parlour Lane. The additional residential floors at Levels 16 and 17 are situated atop the main residential tower component, which is sited towards Mann Street. The following extract from the Architectural Plans identifies the line which demarcates the building height and FSR development controls in relation to the building platform at Level 3. This figure indicates that the majority of the building floor space is located within the western-most area of the site.



Level 3 Plan Extract

### Building Height – Extent of Variations

The current proposal involves building works which traverse the demarcation line between the two building height controls which apply to the subject site. The proposal will exceed both the maximum building height development standards. The extent of each variation is discussed below in detail with reference made to the following Site Plan extract:



Accordingly a variation to the building height development standard (for both the 46.8m control and 31.2m control) is required pursuant to Clause 4.6 of Gosford LEP 2014.

#### Floor Space Ratio – Extent of Variations

The Architectural Plans include a gross floor area (GFA) and FSR calculations diagram (Refer Plan No. DA-802 Rev Q) which identifies the areas of each floor which are included as GFA. The diagram also identifies the extent of floor space that has been included within each of the areas subject to different FSR development standards. The proposal comprises a total GFA of 17,242.38m<sup>2</sup>.

Within the part of the site subject to a maximum FSR development standard of 5.2:1 (maximum permitted floor area of 9,713.808m<sup>2</sup>), the proposal will result in a FSR of 8.1:1 (i.e. total floor area of 15,131.12m<sup>2</sup> within the front part of the site). This represents a FSR variation of 2.9:1, or 55.8%.

Within the part of the site subject to a maximum FSR development standard of 3.9:1 (maximum permitted floor area of 4,211.84m<sup>2</sup>), the proposal will result in a FSR of 1.88:1 (i.e. total floor area of 2,030.32m<sup>2</sup>). Therefore there is no variation proposed to this FSR standard.

Accordingly, a variation to the floor space ratio development standard of 5.2:1 is required pursuant to Clause 4.6 of Gosford LEP 2014.

It should be noted that while a FSR calculation across the whole site is inconsistent with the development standards under Gosford LEP 2014, such a calculation has been provided for information purposes. A combined FSR control would be 4.55:1, and the proposal would propose a combined FSR of 5.84:1. Therefore the variation in this case would be 1.29:1, or 28.4%. A more detailed assessment of the FSR variation is provided below.

### **Clause 4.6 Variation to Development Standards**

Clause 4.6 of the Gosford LEP 2014 states:

#### *4.6 Exceptions to development standards*

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*



- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

(i) Building Height Variations

The site has a maximum height of 46.8m on the Mann Street side, and 31.2m on the Parlour Lane side. The development proposes the following variations:

- **Variation A:** Building height of 55.95m (under 46.8m control). This is a variation of 9.15m, or 19.6%.
- **Variation B:** Building height of 55.09m (under 31.2m control). This is a variation of 23.89m, or 76.6%.

(ii) Floor Space Ratio Variation

The Mann Street side has a maximum FSR of 5.2:1, and the Parlour Lane side has a maximum FSR of 3.9:1.

The FSR for the Mann Street side is 8.1:1 and 1.88:1 on the Parlour Lane side.

The Mann Street side has a variation of 2.9:1 or 55.8% to the FSR development standard.

(iii) Applicants Clause 4.6 Submission

The applicant has lodged a submission under Clause 4.6 to vary the height and FSR development standards.

**(Refer Attachment 1)**

The Applicants submission concludes;

*"It is considered that any requirement for the proposed development to strictly comply with the applicable 31.2m and 46.8m maximum permissible building height development standards of Clause 4.3 (2) and 8.9 of Gosford LEP 2014 and the maximum 5.2:1 permissible floor space ratio development standard of Clause 4.4 (2) and 8.9 of Gosford LEP 2014, would be unreasonable or unnecessary in the particular circumstances:*

- *the proposed development is in the public interest as it will facilitate the economically viable redevelopment of the subject land in a manner consistent with the strategic planning objectives for the revitalisation of Gosford City Centre and will result in the retention and protection of the primary heritage building on the land, for which it is reasonable for the consent authority to agree to increased building height and floor space ratio in approving DA 46209/2014;*
- *the proposed development is consistent with objectives for development within the B4 Mixed use zone applying to the subject land under Gosford Local Environmental Plan 2014;*
- *the proposed development is consistent with the objectives of the maximum building height development standard as expressed in Clause 4.3 (1) of Gosford Local Environmental Plan 2014 and the objectives of the maximum permissible floor space ratio development standard as expressed in Clause 4.4 (1) of Gosford Local Environmental Plan 2014;*
- *the particular circumstances relating to the subject land and the proposed development are unique to this application and will not lead to similar*

- development applications which would cumulatively undermine the planning objectives for the locality;*
- the proposed exceedence in maximum permissible building height does not significantly increase the bulk and scale of the proposed development; does not cause additional view loss from neighbouring residential properties, or surrounding residential hillsides; and does not have adverse scenic/visual impacts or amenity (privacy/overshadowing) impacts on either the public domain, or neighbouring residential properties;*
- the proposal to configure the proposed development almost entirely within the area to which the maximum permissible 5.2:1 FSR applies, resulting in a FSR of 8.1:1 over that part of the site, does not significantly increase the intensity of land use over the entire site; and*
- there is no public benefit to be derived, or planning purpose to be served, in requiring the proposed development to strictly comply with the applicable maximum permissible building height and floor space ratio development standards of LEP 2014.*

*Gosford City Council is therefore requested to exercise its discretion under Clause 4.6 (2) of Gosford Local Environmental Plan 2014 and approve the exceedence of the applicable maximum building height and floor space ratio development standards for the proposed mixed use development on Lots A & C, DP355117; Lots 10 & 11, DP 591670; and Lots 1 - 4, DP 382784, Nos. 27-37 Mann Street and No. 125 Georgiana Terrace, Gosford, in the manner detailed in section 4 of the accompanying Statement of Environmental Effects.*

*This request demonstrates that there are sufficient environmental planning grounds for the proposed development to exceed the 31.2m and 46.8m maximum permissible building height development standards applying to the subject land under Clauses 4.3 (2) and 8.9 of Gosford Local Environmental Plan 2014 and the 5.2:1 maximum permissible floor space ratio development standard applying to part of the subject land under Clauses 4.4 (2) and 8.9 of Gosford Local Environmental Plan 2014."*

(iv) Council's Assessment – Building Height

The objectives of the Height of Buildings development standard under Clause 4.3 of the LEP are:

**4.3 Height of buildings**

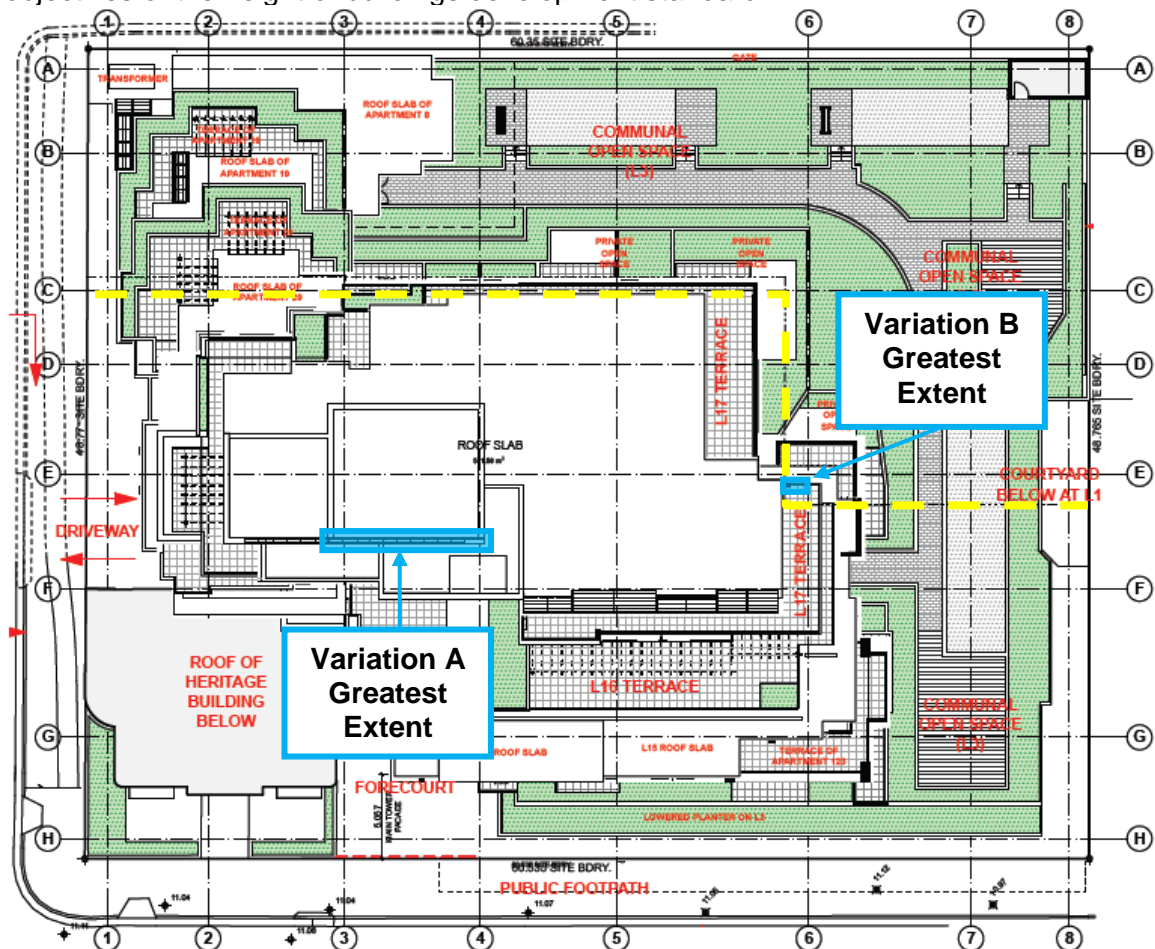
- (1) *The objectives of this clause are as follows:*
  - (a) to establish maximum height limits for buildings,*
  - (b) to permit building heights that encourage high quality urban form,*
  - (c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,*
  - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity,*
  - (e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,*
  - (f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.*

This assessment will first examine the proposed building height variation to the 31.2m maximum building height control (shown in yellow in the below figure). This variation is resultant from a small portion of floor space encroaching into the part of the site which is

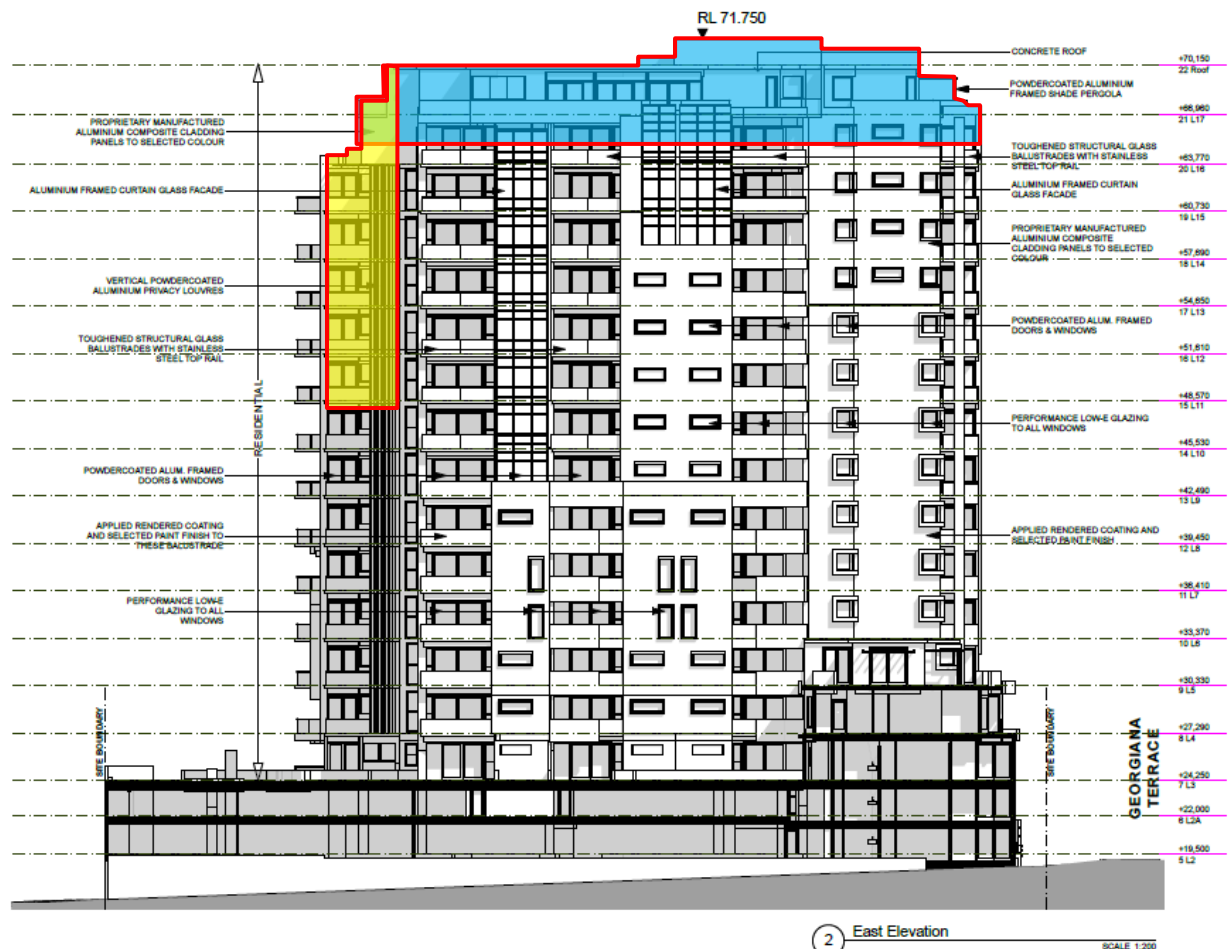
subject to the lower building height control of 31.2m. The portion of the building within this height control is located within a stepping of the building façade at a height which is compliant with the higher building height control as it applies to the adjoining walls of the same apartments. The design is such that if the proposal was amended to remove this variation, it would not change the width, depth or floor plate area of the building and would result in no change to the view loss impacts of adjoining buildings.

This assessment will now examine the proposed building height variation to the 46.8m maximum building height control (shown in blue in the below figure). This variation is resultant from the additional 2-3 storeys atop the building tower. The finished floor level of the highest residential level of The Broadwater Apartments is RL 45.11, and the finished floor level of the highest residential level on the site under a compliant scheme would be RL 58.66. The highest point of the proposed building is RL 71.75 which is generally consistent with the highest point of the recently approved residential flat building under DA 46272/2015, being RL 70.00. The additional floors will not result in additional view loss or overshadowing which would have been attributed to a fully compliant scheme. Further the building will have an overall height which is consistent with the height of surrounding approved high density development.

The variations will not result in the building providing an inappropriate transition in built form between existing/approved development on adjoining land, is not inappropriate in relation to the protection of view corridors and view impacts, is not inconsistent with the natural topography of the area and will not result in excessive overshadowing of open space. Therefore the proposed variations to the height controls are consistent with the objectives of the height of buildings development standard.



Site plan extract showing location of building height variations.



Extract of eastern elevation showing extent of building height variations

(v) Council's Assessment - FSR

The objectives of the Floor Space Ratio development standard of Clauses 4.4 of the LEP are:

4.4 Floor space ratio

(1) The objectives of this clause are as follows:

- to establish standards for the maximum development density and intensity of land use,
- to control building density and bulk in relation to site area in order to achieve the desired future character for different locations,
- to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
- to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,
- to provide an appropriate correlation between the size of a site and the extent of any development on that site,
- to facilitate design excellence by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design,
- to ensure that the floor space ratio of buildings on land in Zone R1 General Residential reflects Council's desired building envelope,
- to encourage lot amalgamation and new development forms in Zone R1 General Residential with car parking below ground level.

The original DA submission involved a FSR variation of 1.8:1 under the 5.2:1 control which was mainly attributed to commercial floor space and one level of residential apartments which coincided with a minor height variation.

In October 2015 the proposal was amended to retain the heritage item and subsequently re-allocated the floor space from the heritage item to other parts of the site, while also include a number of amendments including:

- The removal of the lower basement level and addition of Level 2A;
- The addition of commercial floor space at Level 2;
- The addition of residential units to Levels 2, 2A, 3 and 4 fronting Georgiana Terrace and Parlour Lane; and
- The addition of 2-3 levels to the top of the tower building.

The assessment of excess floor space must consider a range of outcomes which may result from the variation, including:

- The visual impacts of the excess floor space in general;
- The amenity impacts of the excess floor space in general;
- The housing supply impacts of the excess residential floor space;
- The economic impacts of the excess commercial floor space.

The visual impacts of the excess floor space can be isolated to two main areas, being the additional residential apartments to the Georgiana Terrace and Parlour Lane frontages at Levels 2, 2A, 3 and 4, and the 2-3 additional storeys atop the tower. The additional commercial floor space forms part of the podium within the general mass of the building and therefore is not considered to be readily discernible.

In regard to additional residential apartments at Levels 2, 2A, 3 and 4, the apartments provide general activation and visual interest to the northern and eastern frontages of Georgiana Terrace and Parlour Lane respectively and in turn will not give rise to an appearance of excessive bulk, particularly given the location of the tower behind the heritage building. The visual impacts of this floor area are relatively localised to the Mann Street and Georgiana Terrace frontages. Given the perspective of the viewer at these locations, the additional residential apartments (and associated floor space) will not comprise an unacceptable visual impact.

In regard to the 2-3 additional storeys, the likely visual impacts of this floor area will arise when viewing the Gosford cityscape. In this regard, the height of the proposal is generally consistent with that of the adjoining development approval under DA 46272/2015 and therefore will not appear out of context within the skyline of the city, particularly in regard to the ridgeline of Rumbalara Reserve to the east. Given the future visual context of the building when viewed from outside the city, the additional 2-3 storeys (and associated floor space) will not comprise an unacceptable visual impact.

The amenity impacts of the excess floor space relates to the reduction of access to views, solar access and privacy. The assessment carried out in this report has concluded that the proposal (including the variations in isolation) will not give rise to unacceptable amenity impacts such as view loss, reduced solar access and loss of privacy. Therefore the floor space comprising the proposed variation will not comprise unacceptable amenity impacts.

The housing supply impacts of the excess residential floor space must be considered in the local supply context as well as the strategic housing supply context. Within both these

contexts, the additional residential accommodation is unlikely to result in any adverse impacts upon housing supply given that the additional apartments will provide greater variety in Gosford's housing supply within an accessible and central location.

The economic impacts of the excess commercial floor space must be considered within a strategic supply context. Gosford has been identified as a regional city centre within the Central Coast region and is targeted to provide some +45,000 new jobs up to 2031. The supply of commercial floor space within the Gosford city centre is fundamental in centralising the supply of jobs and promoting the sustained growth of the city. Of particular concern is the form of development the commercial floor space is able to accommodate. In this regard, it is noted that the commercial floor space within the proposal is suitable for office related activities and not customer driven commercial operations such as supermarkets or other retail uses. The additional commercial floor space will improve the supply of high quality office floor space and in this regard will not result in adverse economic impacts within Gosford city.

The above assessment has concluded that the proposed FSR variation will not give rise to unacceptable visual, amenity, residential supply or economic impacts. Notwithstanding, it is relevant to also consider the broader context of floor space for a variation such as this, including strategic guidance for floor space transferral and consideration of the split-control as it applies to the site.

It is noted that Gosford Council does not currently have a policy or framework for the assessment of transferral of floor space throughout a site – however it is acknowledged that the Gosford City Centre Statement of Strategic Intent (dated 18 December 2014, prepared by RobertsDay) included consideration of the transfer of development rights throughout the Gosford city centre to improve overall outcomes. These are still high level strategic considerations and therefore cannot be applied to the present assessment.

Therefore the variation of the FSR under the LEP across the whole of the site is considered an appropriate assessment in the absence of a policy or framework on FSR transferral. The site is subject to two separate controls which promote a higher FSR in the front (Mann Street) portion of the site. As noted before, the development has been designed to site the building towards the Mann Street/Georgiana Terrace corner of the site, with podium and tower presenting to the Mann Street frontage of the site. As a result of this design, the proposal has underdeveloped the rear portion of the lot so as to reduce impacts on adjoining development to the east. This has translated into the development foregoing 2.02:1 of FSR in the rear portion of the site.

It is relevant to consider that this amount of floor space could be transferred elsewhere on the site when considered on merit. In the case of the present development, the site is subject to a split zoning/height/FSR control, has three (3) street frontages with a heritage item on the primary corner of the site and a seven (7) storey residential flat building adjoining on higher land to the east. Given these constraints to 'standard development outcomes', it is appropriate to consider that FSR could be transferred so as to meet broader planning objectives such as improved design and reduced amenity impacts. If the extent of 'lost' FSR from the rear portion of the site was transferred to the front, the FSR within the front portion of the site would be 6.08:1. This would represent an ultimate FSR variation of 0.88:1.

The proposed development minimises adverse environmental effects on adjoining properties, maintains an appropriate visual relationship between new development and the existing character (insofar as possible), does not result in an inappropriate correlation between the size of the site and extent of the development proposed, and facilitates design excellence. Therefore the proposed variation to the FSR control is consistent with the objectives of the FSR development standard.



(vi) Clause 4.6 Conclusion

The assessment within this report concludes that the proposal achieves an acceptable design outcome and reasonably reduces amenity impacts where possible. Further the proposed variations to height and FSR do not in themselves contribute to unacceptable design outcomes or amenity impacts.

The Clause 4.6 variation submitted by the applicant is considered well founded. The above assessment concludes that the proposed variations to building height and FSR can be supported when considered on merit.

The proposal is consistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act 1993.

**Gosford DCP 2013**

Control	LEP/DCP Standard	Proposed Development	Compliance (Y/N)	Variation
Street Setback/Building Alignment	Mann St 2-2.5m	0	N	- 2-2.5m
	Georgiana Tce 3-4m	2-3m	N	- 1-2m
Street Frontage Height	10.5-16m	12.7m	N	- 1.2m
Maximum Floor Plate Size	750m <sup>2</sup> > 16m	800.03m <sup>2</sup>	N	+ 50.03m <sup>2</sup>
Maximum Building Dimension	45m	42.6m	Y	
Maximum Building Depth (Excluding Balconies)	24m	28.25m	N	+ 4.25m
Minimum Boundary Setback Commercial Uses < 16m	Front – Street Setback	0m	N	
	Side – 0m	Varies	Y	
	Rear – 6m	N/A	Y	
Minimum Boundary Setback Residential Uses < 12m	Front – Street Setback	5.3m	Y	
	Side – 3m (Non-Habitable Rooms) - 6m (Habitable Rooms)	Non-habitable: N/A Habitable: 2m	Y N	- 4m
	Rear - 6m (Non-Habitable Rooms) - 9m (Habitable Rooms)	Non-habitable: 2m Habitable: 0m (Variable)	N N	- 4m - 9m
Minimum Boundary Setback Residential Uses 12-24m	Front – 6m	5.3m	N	-0.7m
	Side - 4.5m (Non-Habitable Rooms) -9m (Habitable Rooms)	Non-habitable: 5m Habitable: 3m (variable)	Y N	- 6m
	Rear - 9m (Non-Habitable Rooms)	14.3m	Y	

Control	LEP/DCP Standard	Proposed Development	Compliance (Y/N)	Variation
	- 9m (Habitable Rooms)			
Minimum Boundary Setback Residential Uses > 24m	Front – 8m	5.3m	Y	
	North Side – 13m	4.3m	N	- 8.7m
	South Side – 13m	14.5m	Y	
	Rear – 13m	14.3m	Y	
Minimum Floor to Ceiling Heights	Commercial office: 3.3m	Comm: 3.4m	Y	
	Retail/Restaurant: 3.6m	Retail: 3.6m	Y	
	Residential: 2.7m	Residential: 2.7m	Y	
Maximum Site Cover	75%	72.5%	Y	
Deep Soil Zone	Min 15% of total site area	27.5%	Y	
Active Street Frontages and Address	Mann Street – Active Street Frontage	Active street frontage provided to Mann Street.	Y	
	Georgiana Tce – Street Address	Street address provided to Georgiana Tce.	Y	
Awnings	Continuous awning to street frontage to Mann Street	Awning provided	Y	
Car Parking	223 Spaces	223 Spaces	Y	
Motorcycle Parking	10 Spaces	10 Spaces	Y	
Bicycle Parking	67	67 Spaces	Y	
Dwelling Mix	1 Bedroom: 10% - 25%	21%	Y	
	2 Bedroom: Max 75%	56%	Y	

## Discussion

### (i) Chapter 4.1 Gosford City Centre

The land is located in the B4 Mixed Use character area, and the proposal complies with the intended character by providing higher density mixed uses that support the City Centre and employment and residential strategies.

A detailed assessment against relevant DCP provisions has been undertaken. The proposal is considered to be consistent with relevant DCP requirements, apart from variations to building setbacks, street frontage height, building dimensions and maximum floor plate which are addressed below as well as other variations.

### (ii) Building Setbacks

The proposal generally complies with building setbacks required for the commercial and residential levels, with the exception of a variation to the Mann Street frontage setback and setback of residential units at the side and rear below 12m in height.

In regard to the front setback from Mann Street, the proposal will provide a 0m setback from the eastern boundary to Mann Street which is a variation to the 2-2.5m setback required by the DCP. The proposal is considered appropriate having regard to the depth of pedestrian footpath provided between Mann Street and the site, and incorporates active

street frontage which will benefit from the setback arrangement in this location. The podium is similar in height to the heritage building and provides an appropriate pedestrian scale to the street.

In regard to the side and rear setbacks for residential units below 12m in height, the variation is supported given the treatments provided to the Georgiana Terrace and Parlour Lane facades such that the amenity of these units is not compromised due to the location of balconies and windows.

The setback variations are supported.

(iii) Street Frontage Height

The proposal adopts a street frontage height for the building podium of 12.7m, varied from the 10.5-16m height control. The variation is considered acceptable as the podium has been designed so as to be consistent in height to the heritage item, and is designed to highlight the particular rhythmic details of the heritage building façade. The street frontage height of the podium provides an appropriate pedestrian scale to the street which appropriately responds to the heritage building being retained.

The street frontage height variation is supported.

(iv) Building Dimensions

The maximum building depth required by the DCP is 24m, however the proposal will comprise a maximum building depth of 28.25m in some parts of the building. This depth occurs only within the central portion of the building and does not give rise to an unacceptable visual outcome due to the envelope of the tower to the north and south, which comply with the building dimension controls.

The building dimension variation is supported.

(v) Maximum Floor Plate

The maximum floor plate above 16m is 750m<sup>2</sup>. The proposal has a floor plate of 800.03m<sup>2</sup>. This is a variation of 50.03m<sup>2</sup> or 6.7%. A 50.03m<sup>2</sup> reduction in floor plate would not result in a substantially different outcome for the tower dimensions, view loss impacts or impacts upon the heritage building. A reduction in the maximum floor plate would not itself resolve the proposed FSR variation. Further such a modification would not result in any notable changes to the visual contribution of the building to the Gosford cityscape. On this basis, it is not considered necessary to modify the proposal in order to make it comply with the maximum floor plate development control.

The maximum floor plate variation is supported.

## **State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings**

The proposal is subject to the requirements of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development. This is the previous version of SEPP 65 and the Residential Flat Design Code which was in place when the application was lodged.

The application is supported by a SEPP 65 Compliance Statement prepared by the project architects verifying the proposal achieves the SEPP 65 design quality principles, with detail provided on each of the principles. An assessment of the SEPP 65 design quality principles has also been completed by Council's Architect and is provided later in this report.

An assessment against the main requirements of SEPP 65 (the Residential Flat Design Code) has been carried out, and is included at **Attachment 2**. The proposal meets the requirements of

SEPP 65, with variations similar to those addressed in the DCP assessment, and these are recommended for support.

### State Environmental Planning Policy (BASIX) 2004

The application is supported by a BASIX certificate which confirms the proposal will meet the NSW government's requirements for sustainability, if built in accordance with the commitments in the certificate.

### Visual/View Loss Assessment

The 17 storey building on the corner of Mann Street, Georgiana Terrace and Parlour Lane will have a height which is significantly above the surrounding adjoining buildings, but which is consistent with other recently approved high density development on the adjoining "Telstra" site at 21-23 Mann Street, Gosford (refer DA 46272/2015).

A number of submissions were received in regard to view loss, particularly from residents of the residential flat building at 127-129 Georgiana Terrace, Gosford (known as "The Broadwater" Apartments).

In accordance with the principles of view sharing and principles outlined in *Tenacity Consulting P/L v Warringah Council [2004] NSW LEC 140*, the following view loss assessment is made.

#### Assessment of Views to be Affected

Given the proximity of the proposed development to The Broadwater Apartments, this view loss assessment will address the potential view loss from these apartments as the primary consideration. Views from apartments in the residential flat building at 107 Henry Parry Drive (to the east of The Broadwater Apartments) are orientated to the south east away from the subject site, and any views to the west are already filtered by The Broadwater Apartments. Therefore an assessment of view loss from these apartments is considered secondary to that of the primary view loss assessment.

The residential units within The Broadwater Apartments have views to the following natural and built features:

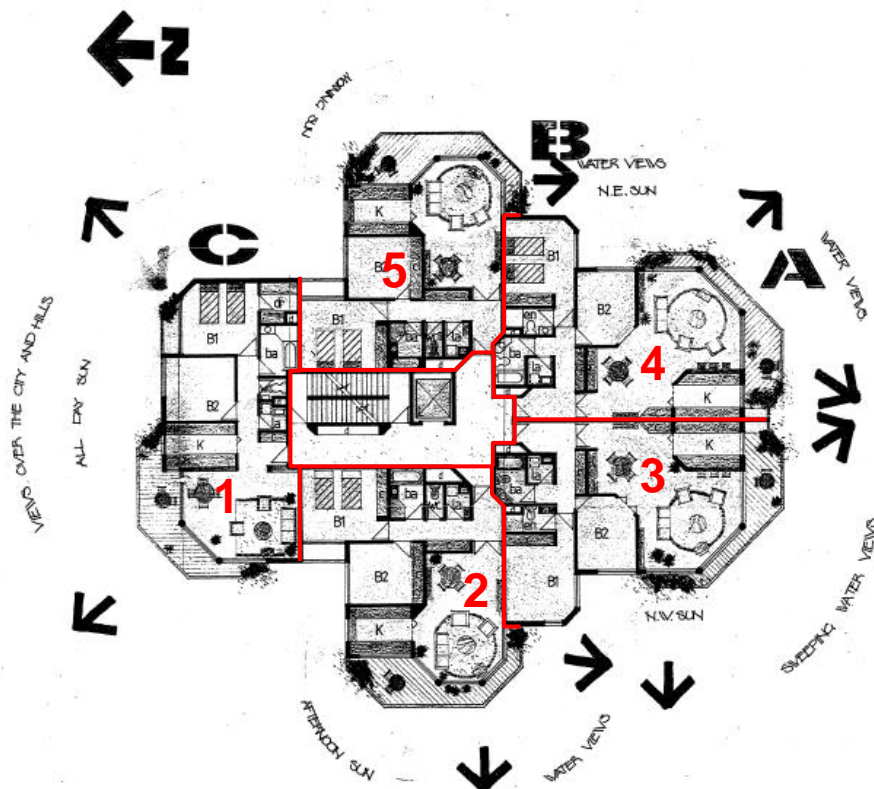
- **North:** Gosford cityscape, foothills of Rumbalara Reserve and the 'natural bowl' created between Rumbalara Reserve and Waterview Park.
- **North west:** Waterview Park above the Gosford cityscape, with the Somersby plateau rising above West Gosford in the distance.
- **West:** Leagues Club Field, Central Coast Stadium, the northern extents of The Broadwater, Brian McGowan Bridge, Fagans Bay beyond and the Somersby plateau rising above West Gosford in the distance.
- **South west:** The Broadwater and Brisbane Water National Park rising above Point Clare.
- **South:** The Broadwater, Brisbane Water National Park rising above Point Clare, and the headlands to Brisbane Water, Broken Bay and Lion Island beyond.
- **South east:** The Broadwater and views of Kincumber Mountain in the distance over Point Fredrick.
- **East:** Rumbalara Reserve with residential flat buildings around the headland.
- **North east:** Rumbalara Reserve rising above the Gosford cityscape.

Roseth SC outlines that water views are valued more highly than land views, with iconic views valued more highly than views without icons. Similarly, whole views are valued more highly than partial views.

Having regard to these principles, the water views to The Broadwater and Fagans Bay are considered more significant than views of the Gosford cityscape or surrounding residential development. There are no views which equate to iconic views. The majority of the water views have a whole view of water and land interface, although this does not include any beach-front land. It is also considered that the views of the surrounding ridge lines (Rumbalara Reserve, Waterview Park, Somersby plateau and Brisbane Water National Park) are significant views.

#### From What Part of the Property Are the Views Obtained

The Broadwater Apartments were designed in 1985 to take advantage of the sweeping views available from the site, thus resulting in a design which orientates living areas and balconies for all units in all directions. An extract of the typical floor plan is provided below.



### **TYPICAL FLOOR PLAN**

*Typical Floor Plan of The Broadwater Apartments Residential Flat Building*

Each above-ground floor of The Broadwater Apartments building comprises five (5) units, two (2) orientated to the east/south east and three (3) orientated to the north/south west. The apartments with the greatest access to views relevant to this view loss assessment are those on the western-orientated side of the building, shown as Apartments 1, 2 and 3 in the figure above.

Access to views from these apartments varies dependent upon which floor of the building the resident is located. It is reasonable to consider that access to the above-mentioned views improves the higher the apartment is located in the building. On this basis the highest valued views of the building would be obtained from the top residential level, being Level 7. As shown in the above typical floor plan, views from each apartment would be taken from the living room, dining room, kitchen and balcony at both the standing up and sitting down positions.

Given the orientation of water views to the west and south west of The Broadwater Apartments, significant views of the water and interface between water and land are obtained from Apartments 1, 2 and 3. However due to the layout of the apartments, Apartment 1 has reduced access to water views from the living areas compared to Apartments 2 and 3.

Of relevance to this assessment are the following notes:

- The finished floor level of Level 7 (the top residential floor) is at RL 45.11; and
- The finished floor level of the ground floor is RL 26.72.

#### The Extent of the Impact

Roseth SC outlines that the assessment of the extent of the impact should be done for the whole of the property, not just for the view that is affected. In the context of The Broadwater Apartments, the views from each of the apartments will be considered, not just the view loss of Apartment 2 on the top residential level.

The applicant has submitted a Visual Impact Assessment Report which provides a visual analysis of the proposed building in context with the views obtained from the balcony of Apartment 2 on Level 4 of The Broadwater Apartments (being the west-facing apartment). The visual analysis uses photo modelling technology to identify accurate placement of a 3D model of the building from various viewpoints around Gosford, including from the balcony of Apartment 2 on Level 4. An extract of this analysis is provided below.



*Extract of View Sharing Visual Analysis from The Broadwater Apartments Prepared by Thrumm Architects*

Considering the orientation of Apartment 1 in relation to the water views, the assessing officer took photos from the balcony of Apartment 1 at Level 7 and has provided a rudimentary visual analysis as follows.





South western and western view loss analysis from Apartment 1 on Level 7 of The Broadwater Apartments

The above visual analysis identifies that the proposal will eliminate views from the most impacted apartments within The Broadwater Apartments building to the following natural and built features:

- **North west:** The majority of Waterview Park above the Gosford cityscape and the Somersby plateau rising above West Gosford in the distance will be eliminated.
- **West:** Views to Leagues Club Field, Central Coast Stadium, the northern extents of The Broadwater, Brian McGowan Bridge, Fagans Bay beyond and the Somersby plateau rising above West Gosford in the distance will be eliminated.
- **South west:** Views to the northern extents of The Broadwater and Brisbane Water National Park rising above Point Clare will be eliminated.

When considering view loss to the western orientated apartments, the impact upon views to the north west, west and south west vary between moderate to devastating, depending upon the vantage point of the views being considered. When considering the impact upon views for Apartments 1, 2 and 3, the view loss will be severe, notwithstanding the views to the north and south not impacted by the proposal.

However the extent of the view loss impact should be assessed on the whole of the site including all apartments with views. A summary of view impacts to each of the five (5) standard apartment types is provided below.

Apartment	Views Impacted	View Loss Assessment
1	<p>Primary views from living areas are to the north and do not include water views or views of the interface between water and land. However views from the balcony do include water and water/land interface views.</p> <p>Significant water views from the balcony will be eliminated entirely, however less significant views of the cityscape, Waterview Park and Rumbalara Reserve from all living areas will not be impacted.</p>	Overall moderate to severe view loss.
2	<p>Views from living areas and balcony are orientated to the north west, west and south west and include water views and water/land interface views. The living area and balcony allow for some views to the south.</p> <p>The proposal will eliminate all views to the west, while some views to the north west and south west will not be impacted. Views would still be achieved to water and water/land interface therefore the loss of these significant views is not</p>	Overall severe to devastating view loss.

	total. Notwithstanding the impact upon views to The Broadwater, Fagans Bay and the Somersby plateau from the living areas of Apartment 2 will be entirely eliminated.	
3	Views from living areas and balcony are orientated directly to the south with some views achieved to the south west. Bedroom 2 within Apartment 3 has a window orientated to the west, however the views of the living areas are considered more significant in the context of this assessment.  The proposal will impact upon some side-views to the west, including views of The Broadwater and Fagans Bay, however it will not impact upon the primary views of water and water/land interface to the south.	Overall minor view loss.
4	Views from living areas and the balcony are orientated to the south and south east. The proposal will not impact upon these views.	No resulting view loss.
5	Views from living areas and the balcony are orientated to the south east, east and north east. The proposal will not impact upon these views.	No resulting view loss.

Therefore when considering the extent of view loss to the whole of the site (including all typical apartments), the overall impact is considered to be moderate. This is determined on the basis that 2 out of 5 typical apartments are impacted to varying degrees, however the proposal will not impact upon views to the north, east or south from any of the 5 apartments. However this does not reduce the level of impact resulting upon Apartments 1, 3 and 3.

#### Reasonableness of the Proposal

The planning principles under the *Tenacity* judgement require assessment of the reasonableness of the proposal that is giving rise to the impact. In particular, more weighting is to be given to view loss arising from a non-compliance with a planning control. Where a complying proposal is assessed, the question should be asked of whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of the neighbour.

The proposal involves a number of non-compliances with planning controls under both GLEP 2014 and GDCP 2013, including:

- Variations to the maximum building height control under GLEP 2014 to the extent of 9.15m (tower is 2-3 storeys above the maximum height control) and 23.89m (a small section of the tower encroaches into the part of the site subject to a 31.2m height control);
- Variation to the maximum floor space ratio control under GLEP 2014 to the extent of 2.9:1 (resulting from additional residential units at the lower levels of the building and 2-3 additional storeys at the top of the tower);
- Variation to the building setback controls under GDCP 2013 to the extent of 2-2.5m at the front (Mann Street) boundary, and 4-9m for side and rear setbacks for habitable rooms to Georgiana Terrace and Parlour Lane;
- Variation to the maximum building depth control under GDCP 2013 to the extent of 4.25m (in the central portion of the tower); and
- Variation to the maximum floor plate development control under GDCP 2013 to the extent of 50.03m<sup>2</sup> (as measured above 16m).

An assessment of the proposed non-compliances (and supporting Clause 4.6 variations) has been completed and it is concluded that the extent of the variations do not necessitate refusal of the application.

The assessment must examine the extent to which the proposed non-compliances result in view loss. Each of the above non-compliances are assessed in this way as follows:

- Building height variation (9.15m): This variation is resultant from the additional 2-3 storeys atop the building tower (refer to Variation A in assessment above). The finished floor level of the highest residential level of The Broadwater Apartments is RL 45.11. The building height development control under GLEP 2014 is 46.8m, and under this control the finished floor level of the highest residential level on the site would be RL 58.66 (as detailed in the original DA submission). It can be concluded that a development which complies with the maximum building height control would result in the same level of view loss (due to building height) as the current proposal would. The additional 2-3 levels do not contribute to any additional view loss that would not result from a compliant proposal.
- Building height variation (23.89m): This variation is resultant from a small portion of floor space encroaching into the part of the site which is subject to a lower building height control, being 31.2m (refer to Variation B in assessment above). The portion of the building within this height control is located within a stepping of the building façade at a height which is compliant with the higher building height control, being 46.8m. The design is such that if the proposal was changed to remove this variation, it would not change the width, depth or floor plate area of the building. The building height variation does not contribute to any view loss that would not result from a compliant proposal.
- FSR variation (2.9:1): This variation is resultant from additional residential units being located in the north and north eastern corner of the site at Level 2, Level 2A, Level 3 and Level 4, and additional residential units within the 2-3 additional levels above the maximum building height control. As discussed above, the additional 2-3 levels of the building do not contribute to any view loss that would not result from a compliant proposal, and this is the same conclusion for this extent of floor space. The additional residential units at Levels 2-4 comprise part of the building podium (below the residential floor level of The Broadwater Apartments) and where the units extend to Levels 3 and 4, their setbacks increase and they are contained within the building mass of the primary tower. Therefore the FSR variation at Levels 2-4 will do not contribute to any view loss that would not result from a compliant proposal.
- Building setback variations (4-9m): Setback controls for residential units generally take into account a site which directly adjoins other development types. The subject site is bound by roads to the west, north and east. In particular the side (Georgiana Terrace) and rear (Parlour Lane) setbacks are typically required to be stepped in to enable sufficient separation between adjoining residential units. Given the topography of the site and separation provided to adjoining development to the side (Georgiana Terrace) and rear (Parlour Lane), the building setback variations are supported. Similar to the assessment against the FSR variation, the podium is generally contained below the residential floor level of The Broadwater Apartments, and Levels 3 and 4 have increased setbacks to provide greater separation from the lower level Broadwater Apartments. As a result of this, the units are contained within building mass of the primary tower. Therefore the building setback variations do not contribute to any view loss that would not result from a compliant proposal.
- Building depth variation (4.25m): This variation occurs only within the central portion of the building and results from the floor plan layout around the central core. A proposal that is fully compliant with the building depth control would still comprise the same building mass to the same height as the current proposal, therefore no change to the present view loss assessment would result. The building depth variation does not contribute to any view loss that would not result from a compliant proposal.

- Building floor plate variation (50.03m<sup>2</sup>): This variation is measured at a height of 16m above ground level in order to depict the main bulk of the tower element. The proposed variation to the building floor plate control represents additional building mass however taking into consideration the depth of the building in the northern and southern ends of the tower (23.7m and 18.2m respectively), this represents a difference in the width of the floor plate of some 2-2.5m. It is considered unlikely that a difference in the width of the floorplate to this extent would produce any significant improvements to the extent of view loss resulting from the proposal, dependent upon the vantage point of those views. It can be concluded that the building floor plate variation may contribute to additional view loss, but the extent of this variation is marginal and would not provide a notable improvement to the ultimate outcome.

It is concluded that with the exception of the building floor plate variation, none of the variations contribute to any view loss that would not result from a fully compliant proposal. The extent of the building floor plate variation is marginal and would not provide a notable improvement to the ultimate outcome. Therefore the proposed non-compliances do not in themselves give rise to an unacceptable view loss outcome.

The assessment must also examine whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. The proposed development accommodates a number of design techniques in order to provide a balance between high density building appearance and separation/protection of Creighton's Funeral Parlour.

In regard to the extent of the variations as assessed above, a more skilful design would not significantly reduce the impact of any non-compliance on the views of neighbours.

In regard to the development as a whole, the floor plate of a residential flat building is a key determining factor in the extent of view loss when considering high-rise development. Design dimensions such as building width and depth are secondary considerations to the floor plate as this will determine to a certain extent the layout of the building on the site (notwithstanding maximum building depth controls). The building floor plate is above the maximum requirement under GDCP 2013 by a variation of 6.7%, or 50.03m<sup>2</sup>.

Taking into consideration the depth of the building (varying between 18.2m to 28.25m at its greatest), the whole building width may be reduced by some 2-2.5m if required to comply. If the building floor plate was to remain the same but the design dimensions be altered so that the building did not exceed the maximum building depth, the building width may be increased, or building mass increase in other areas. Therefore in considering a more skilful design as it relates to the building floor plate, it is not considered any relevant design changes would result in a notable reduction to view loss.

When considering more generally the design of the building as a whole, the tower design has been amended to 'push' the building mass west towards Mann Street and away from Parlour Lane, consistent with the request of Council. This has had the effect of providing greater separation between The Broadwater Apartments and the proposed tower. If a different design approach was taken such that the tower was located with the centre of the site, all setbacks were achieved and the podium height complied, this would in fact worsen the view loss impacts by bringing the tower component of the proposal closer to the adjoining residents, thereby reducing the viewing angles. In this regard, a more skilful design would not reduce the impact on the views of the neighbour, however the application would likely achieve the same development potential amenity.

In conclusion, the proposal has been assessed under the four steps of the view loss planning principles. The extent of natural and built features viewed from The Broadwater Apartments has been found to include significant water and water/land interface views to the north west, west

and south west of the residential flat building. Views are obtained from all units within The Broadwater Apartments however Apartments 1, 2 and 3 within the typical floor plan layout are the most impacted. Access to views from these apartments varies based on the height of the apartment. The extent of the impact was assessed as severe for Apartments 1, 2 and 3, however the extent of the view loss assessed for the whole of the site is considered to be moderate. It is reasonable to conclude that the view loss should be considered moderate to severe given the varying extent of impacts to apartments.

The proposal comprises numerous non-compliances to development controls, however with the exception of the building floor plate variation, none of the variations contribute to any view loss that would not result from a fully compliant proposal. The extent of the building floor plate variation is marginal and would not provide a notable improvement to the ultimate view loss impacts. A more skilful design would not result in a notable reduction to view loss, either to non-compliances, the development as a whole or to the design of the tower.

The view loss assessment concludes that the proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments.

### **Gosford City Centre Masterplan**

The Masterplan was adopted by Council on 9/3/2010 and serves as a document for the community and Council to understand the changes needed to help Gosford grow as the Regional Capital.

The NSW Government Regional Cities Strategy designated Gosford as the Regional Capital for the Central Coast just as Newcastle is the Hunter Regional City and Wollongong is the Illawarra Regional City.

Gosford serves the current regional population of 300,000 which is expected to grow to 400,000 by 2031. Employment in the region is expected to grow from 125,254 jobs to 170,500 jobs in 2031.

The site is located within the Arts and Entertainment Precinct, but is not nominated as serving a specific purpose within that precinct.

The guidelines for 'responsive built form' require consideration of human scale, which the proposed podium achieves in relation to the adjoining heritage item. The guidelines also require consideration of views and connections to/from the natural environment. A view loss assessment has been carried out and concludes that the proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments.

The guidelines for new jobs and enterprises promote active street frontages and allocation of commercial floor space. The site is located within a job growth area of the City which is targeted for +4,770 jobs, therefore the proposed additional commercial floor space is consistent with this guideline.

The proposal is consistent with the Masterplan, where the Masterplan is not in conflict with the controls and objectives of GLEP 2014 and GDCP 2013.

### **Civic Improvement Plan/Streetscape/Landscape**

The CIP (2007) provides a planning context and framework for improvements to the public domain in the Gosford City Centre. One of the aims of the CIP is to integrate the urban form and landscape.

In 2011, Council prepared "Streetscape Design Guidelines" for the Gosford City Centre (Oculus Landscape Architects).

Streetscape/tree planting and footpath improvement works over the Mann Street and Georgiana Terrace frontages of the site should be carried out by the applicant in accordance with these guidelines.

## Environment and Coastal Considerations

### a) Acid Sulfate Soils

This land has been identified as being affected by the Acid Sulfate Soils Map and the matters contained in Clause 7.1 of Gosford Local Environmental Plan 2014 have been considered.

### b) Climate Change and Sea Level Rise

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

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

### c) Coastal Zone

The provisions of Clause 5.5 Gosford Local Environmental Plan 2014 and require Council to consider matters in relation to the Coastal Zone. These matters have been considered in the assessment of this application and are considered consistent with the stated aims and objectives.

## Heritage Assessment

### Council's Heritage Assessment

Council's Heritage Program Coordinator has provided the following comments in regard to the present development proposal:

*"I acknowledge receipt of the amended plans and that there has been much revision to the scheme. Most noticeably is the retention of a majority of the significant heritage building, with the exception of the garages. This is an improvement to the original application."*

*However it is considered that there are four main issues that the development fails to address or that will have unacceptable impacts on the heritage significance of the item. These are:*

1. *Demolition of the garages that are identified as of High significance in the Clive Lucas Stapleton and Partners assessment prepared for Council.*
2. *The development application results in the overdevelopment of the site which adversely impacts on the heritage significance of the building.*
3. *The proposed development would adversely impact on other heritage items in the vicinity of the site and focused on the intersection of Georgiana Terrace and Mann Street.*
4. *The detailing and finishes of the building are inappropriate and detract from the prominence of the Creighton's building on the Georgina Terrace and Mann Street intersection.*

### 1. Demolition of the Garages

*The garages immediately adjacent to the main Creighton's building are an integral part of the overall site and the important activities that occurred there. They were the location for the hearse accommodation as well as central to the funeral parlour function.*



*The Clive Lucas Stapleton and Partners assessment of the site ranked the garages as having "High" significance which is equal to that of the main Creighton's building.*

*The garages are currently the venue for a successful commercial business which uses the heritage interior as part of the attraction to the business.*

*Demolition of the garages, then the reconstruction of only their façade is not appropriate nor supported with regard to the potential impacts on the heritage significance of the property and indicates an overdevelopment of the site. The garages are a vital part of the fabric as well as the social significance of the place and their demolition and partial reconstruction is both unnecessary and unacceptable.*

2. Overdevelopment

*The proposed development is out of scale with the existing building and provides an inappropriate junction between the old and new. The height of the proposed development in the immediate vicinity, or adjacent to, the Creighton's building will adversely impact on the heritage significance of the site and building. Given the height of the proposed building (non complying) there is little that can be done to mitigate these potential impacts, especially when the massing within the site is focussed towards the heritage building.*

*The scale of the building as it affects the heritage item is not compatible and adversely impacts upon the significance and character of the building. The new multiuse building immediately wraps around two sides of the R.H. Creighton building and has new building at Level 1 above the sandstone double garage.*

*It would be acceptable to have some of the new building visible in behind the R.H. Creighton building when viewed from Mann Street and Georgiana Terrace however the development proposes much of the height and bulk of the new apartment building closest to the intersection of these two roads. A more sympathetic response to the heritage items that are located at this intersection would be to have the proposed apartment building stepping in height away from the intersection. Thus having the greatest height and bulk at the south eastern section of the site.*

3. Heritage Context

*There are 6 other buildings in the immediate vicinity of the site that will be potentially affected by the overall scale and architectural form of the building. These include the:*

- *Former Gosford Public School and residence (30)*
- *Gosford South Post Office (35)*
- *Former School of Arts (36)*
- *Conservatorium of Music (former courthouse and police station) (38)*
- *Gosford City Council Administration Building (39)*
- *Former Brisbane Water County Council building (40)*



LEP Heritage Properties in the vicinity of the site (item 37) (Source: Gosford LEP 2014)

The proposed development will visually dominate the historic intersection of Georgiana Terrace and Mann Street and will not be in keeping with the overall character of this part of the streetscape. The impacts on this intersection arise from the greatest height and bulk of the building being focused on the corner and immediately adjacent to the Creighton's building. There is no appropriate consideration as to the physical and visual junction between the proposed building and the Creighton's building and as such the new building will visually dominate the corner site detracting from the heritage significance of not only the Creighton's building but also in particular the Former School of Arts and the former Courthouse.

#### 4. The Proposed New Building

The elevations of the proposed development do not illustrate any significant architectural features that have been incorporated into the design that establish a relationship between it and the heritage listed building. For example modulation of walls and openings in response to the scale of neighbouring buildings, transition between different heights using setbacks, the scale of the building, a hierarchy of materials (for example a solid masonry base and lightweight upper levels), and greater response to the distinctive details of the R.H. Creighton Building but reinterpreted in contemporary materials would be more appropriate.

#### Conclusion

The proposed development for the R.H. Creighton site is not supported on heritage grounds, because:

- It does not meet the objectives of the Gosford LEP 2015 (Clause 5.10(1)(a) and (b) in that it does not conserve the environmental heritage of Gosford or conserve the heritage significance of heritage items, including their associated fabric, settings and views.
- The demolition of a significant heritage item within the Mann Street streetscape is unacceptable (ie the garages).
- The bulk and scale of the proposed apartment building has not been designed to minimise the impacts on the heritage item.
- Design criteria such as character, scale, form, siting, materials and colours and detailing have not been incorporated into the scheme for the new apartment building that appropriately responds to the heritage item.
- The proposed development does not appropriately relate in terms of bulk and scale, and architectural detailing to the setting of the heritage item, and in particular to the other heritage items in the immediate vicinity. In particular these include the School of Arts, and the former Courthouse and Police Station."

### Independent Heritage Advice

Council engaged Clive Lucas Stapleton & Partners as an independent heritage consultant to provide assessment and comments on the proposal. Heritage advice has been provided by the independent consultant throughout the course of the DA assessment process, including:

- 9 February 2015: Statement of Heritage Impact based on original DA submission (Rev A, involving demolition of all heritage buildings);
- 12 February 2015: Letter of advice discussing options to improve the heritage outcomes of the proposal;
- 10 July 2015: Letter of advice regarding revised scheme (Concept plan, involving retention of heritage building but 10 additional storeys);
- 11 November 2015: Assessment of Heritage Impact, prepared as an updated report based on the revised scheme (Rev P, heritage building retained, 2-3 additional storeys).

The assessment of the original DA submission provided by Clive Lucas Stapleton & Partners within the Statement of Heritage Impact set out the following:

#### **“Assessment**

***Proposal for demolition:*** This involves the total demolition of the Creighton's Building and the dismantling of the northern and western elevations; and the subsequent reconstruction of the North and West facades (i.e. the exterior sandstone walls of the garage and sun-room, and the rendered external walls of the main building including exterior windows, doors, balconies, railings and all decorative details). This will use new bricks and render as well as whatever original material is successfully salvaged during demolition.

***Discussion of physical impact:*** The proposal would have a severe and unacceptable heritage impact, as it involves extensive damage and loss of existing fabric. The rendered brick walls with their decorative rendered details make up a large part of the existing building and they would be destroyed.

*The identified historical, aesthetic and social significance of the place depends on the whole building including its intact interiors and layout, not just its facades. The place's cultural significance would not be respected by demolishing the building and rebuilding two sides of its shell using mainly new material.*

*The proposal is contrary to Article 3 of the Burra Charter which calls for a cautious approach 'based on a respect for the existing fabric...'. The proposal does not respect existing fabric.*

*The Burra Charter does not rule out changes to a place, but Article 15.2 states that 'Changes which reduce cultural significance should be reversible, and be reversed when circumstances permit.' The proposal is not reversible.*

*Finally Article 15.3 states 'Demolition of significant fabric of a place is generally not acceptable'. This is reinforced by NSW Heritage Office's publication, Principles of Conservation Work on Heritage Places, which states:*

***'Repair Rather than Replace. Keep as much of the historic fabric as possible. Heritage items are by definition authentic examples of the architecture and lifestyle of previous generations and should be respected as evidence of our past.'***

*Clearly the proposal fails to comply with basic conservation principles. It also fails to comply with the objective of the Gosford Local Environmental Plan 5.10 (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views’.*

**Discussion of Facadism:** *Facadism defined by the Getty Conservation Institute<sup>7</sup> as ‘the practice of retaining the front elevation of a building and constructing a new and usually larger building behind it’ was popular in the 1980s as the rise of the conservation movement increased pressure to preserve the historic streetscape. It is now considered a superficial, two-dimensional and discredited approach to architectural conservation, especially when the façade is unrelated to the interiors behind, as is the case in this proposal.*

**Proposed new building:** *A mixed-use, sixteen-storey building above ground level, with two underground levels for car parking.*

**Discussion of impact:** *The proposed building would be by far the largest one in the immediate area. It is positioned with only a few metres setback from the Mann Street and Georgiana Terrace façades. It would be completely out of keeping with the character of this part of Mann Street and have a major impact on adjacent heritage-listed buildings, notably the former Courthouse and Police Station and the School of Arts by visually dominating the area.*

*The existing residential flats building behind the subject site already has a detrimental effect on the Mann Street listed buildings. The proposal would have an much more severe effect.*

### **Conclusion**

*The proposed demolition of Creighton’s Building and new mixed-use development would have an unacceptable heritage impact on the listed building itself, on the adjacent group of historic buildings and on the streetscape of this part of Mann Street.*

*Consequently, in the view of this firm, the proposal should be refused by the consent authorities.”*

The independent heritage consultant subsequently prepared an Assessment of Heritage Impact based upon the revised scheme submitted by the applicant on 6 October 2015. The discussion of impact set out within the Assessment of Heritage Impact (for the revised scheme) outlines the following:

### **“Discussion of Impact**

#### **Height, Scale and Character**

*The retention of the main part of the Creighton’s Building is a positive change but the tower building proposed to adjoin it on two sides is completely out of scale with the existing building.*

*The abrupt juxtaposition of a 19-storey building next to a two-storey one will dwarf the listed building in the most unsympathetic and visually intrusive way.*

*The proposal would also have a major impact by visually dominating adjacent heritage-listed buildings, notably the former Courthouse and Police Station and the School of Arts. While there are other tall buildings nearby (the Broadwater residential flats building to the north of the site and the council’s own office tower), both these buildings are set well back from Mann Street and both are about half the height of the proposed tower. The proposed building would be by far the largest one in the immediate area. It is positioned with*

*minimal setback from the Mann Street and Georgiana Terrace façades. It would be out of keeping with the character of this part of Mann Street and the group of low-scale, historic buildings at this important crossroad at the heart of Gosford's early commercial and civic centre.*

*It is inappropriate to develop this site to (and above) the maximum limit prescribed by the planning controls for this area, firstly because the key corner site is heritage-listed and contains a prominent inter-war landmark building, secondly because it is in the middle of a group of important locally listed buildings including the early former courthouse and police station directly opposite.*

*Furthermore, the proposal takes no account of the prevailing scale of Mann Street. Such an extreme contrast in scale is incompatible with local heritage values and not in accordance with such recognized and accepted approaches as that advocated in Design in Context published by the NSW Heritage Office and the Royal Australian Institute of Architects.*

### **Treatment of the Existing Building**

*The proposal gives no indication of a creative adaptive reuse for the Creighton's Building apart from the word 'restaurant' on the ground floor plan and the words 'existing building interiors and external walls remain unaltered and protected' on the first floor plan. The existing room functions and configuration are shown unaltered with no new openings or any apparent effort to integrate the building into the larger scheme.*

### **Structural Impact**

*The structural impact of the proposed excavation for a new basement carpark and foundations for a 19-storey building immediately next to the eastern and southern walls of the former Creighton's Building is of serious concern. Vibration and ground movements due to the development would be likely to damage the remaining part of the heritage-listed building with its brittle rendered masonry walls.*

### **Conclusion**

*The proposed high-rise, mixed-use development immediately adjoining the former Creighton's Building would have an unacceptable heritage impact on the significance of the listed building itself, on the adjacent group of historic buildings and on the streetscape of this part of Mann Street. As such it fails to achieve the objective of the Gosford LEP 2014 to 'conserve the environmental heritage of Gosford ... including associated fabric, settings and views'.*

*Consequently, in the view of this firm, the proposal is a gross over-development of the site and should be refused by the consent authorities."*

### **Submissions Received**

The overwhelming majority of public submissions received by Council sought the retention and protection of Creighton's Funeral Parlour. A number of submissions were also specific in identifying the garage as an important component to be retained as well, some relating to the significance of this component as part of the building as a whole, and some relating to the present adaptive re-use of the garage as a wine bar. Very few submissions raised concern regarding the visual relationship between the heritage item and the new building.

As well as submissions from members of the general public, Council received comments from the National Trust and Royal Australian Historical Society. Both these submissions objected to the demolition of the heritage building and any reliance upon the reconstruction of a façade to attempt to represent the same heritage significance the building holds today.

### Planning/Heritage Discussion

Before taking into consideration the proposed development, it is necessary to consider the planning difficulties that exist on the site as a result of the conflict of objectives between the retention/protection of the heritage item and extent of development controls which apply under Gosford LEP 2014 and Gosford DCP 2013.

Having regard to heritage objectives, this Report has been informed by a number of detailed and thorough assessments of heritage impacts from Council's Heritage Program Coordinator, a Council engaged independent heritage consultant (Clive Lucas Stapleton & Partners), heritage consultant acting on behalf of the applicant (Rappoport/Heritage 21), the National Trust, the Royal Australian Historical Society and other groups/foundations which represent heritage interests at the local and State levels. These assessments/submissions have included the following extent of heritage assessment:

- Review of heritage listing under Gosford LEP 2014 Schedule 5;
- Review of State Heritage Inventory (SHI Number 1620223);
- Review of Register of the National Estate;
- Review of the Register of the National Trust of Australia (NSW);
- Assessment of significance against NSW Heritage assessment criteria;
- Assessment against *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013*;
- Assessment against *Principles of Conservation Work on Heritage Places* (NSW Heritage Office, 1999).

Based upon the findings of these assessments and as summarised by Clive Lucas Stapleton & Partners in their reports, the following significance is considered to apply to the various structures considered part of the Creighton's Funeral Parlour:



*Extract of Significance Diagram taken from Statement of Heritage Impact by Clive Lucas Stapleton*

In addition, the following summary statement of cultural significance is provided for the heritage item:

*"Creighton's building is a rare, fine and unusually intact example of the Art Deco style in the Gosford LGA and a prominent inter-war landmark in the main street of Gosford. The place has historical and social significance as the former head office of Creighton Funeral Services, notable local undertakers for over 150 years. The building is an important*

*component of a group of low-scale, historic buildings in the heart of Gosford's early commercial and civic centre."*

The relevant guidelines and publications which set out the framework for undertaking development on land which contains or adjoins a heritage item seek attainment of objectives which promote the significance and prominence of a heritage item within its setting. The design of a new building is required to be sympathetic to the visual setting of the existing heritage item and in most cases, is required to be visually subservient to the heritage item.

Having regard to the objectives of planning controls which apply to the site, over the last 10 years the Gosford City Centre has been the focus of a number of strategic studies and policy amendments which have established objectives for the revitalisation of Gosford. Council subsequently adopted a suite of incentivised planning controls for the Gosford City Centre which seek to stimulate the development market and generate greater activity within the City. A range of measures have been adopted by Council to this end, however of most relevance are the following:

- Clause 8.9 of Gosford LEP 2014 providing development incentives of 30% to development applications submitted within a specific period of time (due to expire in April 2016);
- Reduction in Section 94A levies applicable to development undertaken within a specific period of time (various resolutions made by Council on this incentive).

The provisions of Gosford LEP 2014 permit a mixed use development with height and FSR development controls that enable high density development. The typical built form of the development permitted on the site is equivalent to a podium + tower style building in a high rise format. The extent of development permitted on the site is fundamentally at odds with the relevant guidelines and publications for development on a site with a heritage item.

In summary, the present objectives of the planning controls applicable to the Gosford City Centre promote a development outcome which is in conflict to the heritage conservation objectives of the relevant guidelines and publications applicable to development on sites containing or adjoining a heritage item.

Following review of the various heritage assessments relating to this proposal it can be concluded that there is no achievable outcome which would satisfy to the fullest extent both the heritage conservation objectives and planning control objectives that are applicable to the site. This is confirmed by Clive Lucas Stapleton & Partners in their report:

*"It is inappropriate to develop this site to (and above) the maximum limit prescribed by the planning controls for this area, firstly because the key corner site is heritage-listed and contains a prominent inter-war landmark building, secondly because it is in the middle of a group of important locally listed buildings including the early former courthouse and police station directly opposite."*

Taking into consideration the inherent conflict of objectives which must be addressed, it is necessary to assess the application on its merits in order to establish if it is acceptable that one objective prevails over another.

Now taking into consideration the proposed development, the assessment in this report has concluded that:

- The primary issue raised in the public submissions (i.e. the demolition of the Creighton's Funeral Parlour) has been resolved by the proposal through the retention of the heritage item;



- The garage structure is of high significance, particularly the highly visible stone entry walls to the garages. Though the rear section of the garages will be removed, the stone entry walls will be documented before being dismantled and then reconstructed in their original form to form the main pedestrian entry to the building;
- The bulk and scale of the building, including variations to building height and FSR development controls, are supported on the merits of the application under the provisions of Gosford LEP 2014 and Gosford DCP 2013, however the design does not minimise the impacts on the heritage item, or upon the other heritage items in the immediate vicinity of the site. This outcome is considered acceptable given the fundamental difference between the planning controls and the heritage conservation objectives; and
- The architectural detailing of the façade has been assessed by Council's Architect as being visually complex but is considered acceptable in the circumstances of the proposed mixed use development, however the façade detailing is not considered to appropriately relate to setting of the heritage item. This outcome is acceptable.

The competing objectives of high density built form against the protection and conservation of the heritage item and surrounding items are clear. This Report acknowledges that the assessment carried out by Council's Heritage Program Coordinator concludes that the proposal is not supported on heritage grounds. The grounds for this conclusion are understood and respected, however they also need to be considered on balance with other planning objectives.

Council has adopted planning controls for this site which enable high density mixed use development. The proposal has been designed so as to retain the heritage item, and has incorporated the following measures to respond to Council's concerns about the protection of the heritage item:

1. Although the garage (being of high significance) is being removed, the front sandstone entryway is to be reinstated and form the primary pedestrian entry to the building from Mann Street;
2. The building mass has been set back from the retained heritage building, with glazing from the podium set back 2m on the southern side of the heritage building so as to reduce the appearance of an overbearing building and to continue to promote the heritage building as a separate structure;
3. The north-western corner of the northern ground floor retail tenancy has been reduced to an equivalent splay of 4m so as to provide greater visual connection between pedestrians and motorists on Mann Street and the garage sandstone doors, which serve as the central entry feature from Mann Street.

In accordance with Clause 5.10 of Gosford LEP 2014, Council must give consideration of the effect of a proposed development on the heritage significance of a heritage item, and may require a heritage management document to be prepared to assess the extent to which the proposal would affect the item. This assessment has considered the effect of the proposed development on the significance of the heritage listed Creighton's Funeral Parlour, including multiple heritage assessments.

In conclusion, the proposed development is acceptable on heritage grounds when considered on balance between heritage conservation objectives and planning control objectives.

### **Section 94A Contributions**

The land zoned B4 Mixed Use is subject to contribution plan S94A Contribution Plan-Gosford City Centre.

Under this plan, the contribution is 4% of the value of the development.

However, Council at its meeting on 7/2/2014 resolved:

*“B Council permit a reduction in the Section 94A Development Contributions Plan – Gosford City Centre (CIP) contribution from 4% to 1% for all development applications lodged from the 22 February 2011 and within 24 months of making the local environmental plan in respect of the Gosford City Centre Incentive Provisions. Upon the expiration of the 24 month period from the date of gazettal of the Local Environmental Plan for the Gosford City Centre Incentive Provisions the development contribution is to revert to 4% as contained within the Section 94A Development Contributions Plan – Gosford City Centre.”*

Council also resolved at its meeting on 22/7/2014 that:

*“A Council permit a reduction in the Section 94A Development Contributions Plan – Gosford City Centre (CIP) contribution from 4% to 2% for all development applications lodged from 1 September 2014 until the 1 January 2015. Upon the expiration of this period the contributions are to revert to the 4% as contained within the adopted plan.*

*B Council request the Chief Executive Officer to track the amount of infrastructure contributions forgone in this incentive and incorporate a means in the Long Term Financial strategy to reimburse the contribution plan over the term of the plan to ensure delivery of the plans objectives and report back to Council.”*

The **1% contribution applies** to development applications lodged prior to 31 August 2014 and therefore applies to this application.

The contribution required is \$497,000.00. In accordance with Part B of Council’s Resolution, the reimbursement of the CP required by Council is \$1,491,000.00.

**(Refer Recommendation D & G and Condition 2.14)**

## **Internal Referrals**

### **Building**

Council’s Building Surveyor has assessed the application in a memo dated 3 September 2014 raises no objections to the proposal subject to relevant conditions being included in the conditions of consent.

### **Health & Food**

Council’s Food Surveillance Officer raises no objections to the proposal subject to relevant conditions being included in the conditions of consent.

### **Waste Management Assessment Officer**

Council’s Waste Management Assessment Officer raises no objections to the proposal subject to relevant conditions being included in the conditions of consent, including conditions which address the unsatisfactory Waste Management Plan. The development will be required to provide the following waste requirements:

- 2 x 1.5m<sup>3</sup> / 2 x 1.1m<sup>3</sup> mixed waste bulk bins serviced 3 times weekly
- 2 x 1.5m<sup>3</sup> / 2 x 1.1m<sup>3</sup> Recyclable waste bulk bins serviced 3 times weekly

### **Architect & SEPP 65 Assessment**

Council’s Architect has prepared the following Architectural and SEPP 65 assessment:

#### *“Introduction*

*The application is for a mixed use development including a retail and commercial use, residential units and underground parking.*

*The application has been assessed in response to the ten SEPP 65 Design Quality Principles and the Residential Flat Design Code (RFDC).*

#### Context

*The site is an unusual one within Gosford in that it contains a significant heritage building and has other heritage listed buildings (the School of Arts and the former Courthouse) on opposite corners.*

*The site itself contains an item of environmental heritage listed in Schedule 5 of the Gosford LEP. This is Creighton's Funeral Parlour. This significant because:*

*"A rare example of its style in the area, the Creighton Funeral Parlour has strong aesthetic and historical significance, the firm being in the Brisbane Water district for over 150 years".*

*The application now proposes to retain the funeral parlour building including the interiors. The existing stone entry walls to the garages will be taken down and rebuilt in their existing location to create separate pedestrian entries for residential and commercial sections of the building.*

*The application proposes a 3 storey commercial podium creating a street front height of approximately 9.5 metres. This matches the height of the heritage building, is consistent with the GCCDCP and creates a suitable scale to define the street and reduce possible wind impacts at street level.*

*The ground floor is predominantly occupied by retail uses. These contribute to an active street front and comply with the objectives for mixed use buildings in the GCCDCP.*

*The residential units are located within the tower building. This is set back from the street front and adjoining sites to comply with building separation controls and reduce overshadowing.*

#### Scale

*There is significant non-compliance with height controls. Current controls including the 30% height bonus permit a height of 46.8 metres. The application proposes a height of 6 to 9 metres above this or an additional 12 to 18% above the bonus.*

*The residential tower is significantly larger in scale than the heritage item however a complying building would also be significantly larger and it is considered the height non-compliance will be of limited consequence.*

*While the total building height is far greater than the heritage item, when viewed from the streetfront, the podium is similar in height and scale and is generally sympathetic to the heritage building. The eaves line of the commercial podium aligns with the parapet of the heritage façade and the balustrade of the level 2 balcony aligns with the string course on the heritage building.*

*The podium steps back behind the heritage building to provide a visual break between the two. This separation creates a forecourt to the building entry and emphasises the view of the reconstructed stone walls of the existing garage which now form the entries to the residential and commercial lobbies.*

*The height of the new building on the Georgianna Terrace (north) frontage is also significantly greater than the heritage building however this is considered acceptable because this is a simpler and less important aspect of the heritage building, the new work is set back behind the heritage façade and the height of the building steps down towards the east to match that of the adjoining RFB.*

#### **Built Form**

*The application proposes a 3 storey commercial podium at ground level on the Mann Street (west) elevation adjoining the heritage listed funeral parlour. It is similar in height and provides an appropriate pedestrian scale to the street.*

*The podium is relatively simple in design so as not to visually overpower the heritage building and is divided vertically into smaller scale elements consistent with the scale of the funeral parlour and the other heritage buildings adjacent.*

*The podium also steps back 4 metres behind the front façade of the funeral parlour and meets it with a glass wall to further minimise the visual impact on the heritage building.*

*It is acknowledged that the 16 level residential tower does have a visually complex façade that could be considered inconsistent with the heritage building however in this instance, the complexity is considered acceptable for the following reasons.*

*When viewed from the street the tower is setback 4 metre behind the commercial podium and largely reads as a separate structure. This section of the development is 60 metres tall and designed 90 years after the heritage building. It is therefore inevitable and correct that it should be clearly different and distinct from the heritage building. Because it will be visible from a distance including from the Central Coast Highway and the waterfront and due to its size and prominence it is considered that this part of the development should make a visual statement rather than attempting to be visually subservient to the heritage building.*

*There is concern at the heavy appearance of the facades which is exacerbated by the dark purple/brown colour. It is recommended that colour, material palette and detailing is further refined prior to the issue of the Construction Certificate.*

#### **Density**

*The site has a split zone with different FSR controls for each section. To reduce impacts on the property to the east and improve the streetscape, Council advised the applicant to locate the majority of the development on the Mann Street and Georgianna Terrace however because of the split zone, this increases the extent of non-compliance with FSR controls. It is considered that averaging the FSR across both zones is a preferable method of determining FSR and results in an improved architectural outcome.*

*Averaging the FSR across both zones reduces the extent of non-compliance, however even using this method, there is a 32% non-compliance with the control.*

#### **Resource, Energy and Water Efficiency**

*BASIX certification supplied indicating compliance with energy controls.*

#### **Landscape**

*The application does not comply with the RFDC which recommends 25% of open space area be allocated to deep soil planting. The application proposes only 2% though there is further landscaping located on the structure.*

*The landscaped courtyard on the south while supported in principle is partly located below the carparking slab and it is unlikely that landscaping will survive in this location.*

**Amenity**

*There is concern that second bedrooms in the majority of units do not have windows opening directly to the exterior but use windows opening to the living area to gain light. This complies with the BCA but results in acoustic privacy conflicts or if the internal windows are closed necessitates the use of air conditioning.*

*The application should be amended to address this issue prior to the issue of the Construction Certificate.*

*In other respects amenity is acceptable. All units achieve required separation distances, are well planned with adequate and usable open space adjoining living rooms and the majority of units with cross ventilation.*

**Safety and Security**

*Acceptable. The application has windows and balconies facing all streets to provide surveillance of external and internal public spaces.*

**Social Dimensions**

*Acceptable. The application includes 1, 2 and 3 bedroom units to provide accommodation for a variety of users and includes accessible units for disabled occupants.*

**Aesthetics**

*Refer to recommendations made under Scale, Built Form and Landscaping."*

A detailed assessment against the guidelines of the Residential Flat Design Code is attached to this report.

**(Refer Attachment 2)**

**Development Engineer**

Council's Development Engineer has assessed the application and raises no objections to the proposal subject to relevant conditions being included in the conditions of consent.

**Tree Preservation Officer**

Council's Tree Assessment Officer has assessed the application in a memo dated 1 September 2014 raises no objections to the proposal subject to relevant conditions being including in the consent.

**Trade Waste**

Council's Co-Ordinator of Liquid Trade Waste & Plumbing has reviewed the application and in a note dated 1 September 2014 raises no objections to the proposal, subject to relevant conditions being included in the conditions of consent.

**Water and Sewer**

*"A Section 307 Certificate is required. Section 305 Application to be made after DA consent. Development is located within the Gosford City DSP. Water and sewer contributions will apply. Credits will be applied for existing development, previously estimated at 8ET. Water and sewer is available."*

**Environmental Health**

Council's Environmental Health Surveyor has reviewed the application and in a note dated 19 September 2014 raises no objections to the proposal and identifies no specific conditions.

**Legal**

Council's Legal Advisor has reviewed the application an in a note dated 28 August 2014 raises no objections to the proposal.

## Public Submissions

The Development Application was placed on notification following lodgement and received 119 public submissions. The Development Application was again placed on notification following lodgement of amended plans on 6 October 2015, and received 190 additional public submissions. A total of 309 public submissions were received. The following table is a summary of these public submissions. A more detailed assessment is attached to this report.

**(Refer Attachment 3)**

Issue	Submission	Comment
Heritage	The overwhelming majority of submissions objected to the demolition of the Creighton's Funeral Parlour. The majority of the submissions also objected to the demolition of the garage component of the building.	Heritage building retained. Garage is being removed and the sandstone entry is being reinstated as the primary entry feature to the building.
Height + FSR	A number of submissions objected to the overall height and FSR of the proposal. None were specific in terms of the number of storeys, and most of these submissions related to the protection of the heritage item.	Height and FSR variations supported by Clause 4.6 variations which are considered well founded.
Scenic Views	A number of submissions objected to the impact of the proposal upon scenic views towards Gosford.	Building will not result in unacceptable impacts upon scenic views towards Gosford.
View Loss	A number of submissions objected to the extent of view loss to nearby residential development. Primary concerns related to The Broadwater Apartments building.	View loss assessment concluded the proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments.
Traffic + Parking	A large number of submissions objected to the traffic and parking impacts that would result from the proposal.	Traffic impacts (including waste movements) considered acceptable. Parking supply adequately caters for the demand under LEP and DCP controls.
Solar Access	A small number of submissions objected to the impact the proposal would have on solar access of surrounding properties.	Impacts upon land currently or approved to be used for a residential use is acceptable. Overshadowing of telecommunications facility is not grounds upon which the development can be refused.
Privacy	A small number of submissions objected to the potential reduction in privacy between the new development and the west-facing units within The Broadwater Apartments.	Proposal provides sufficient separation between habitable and non-habitable rooms in accordance with SEPP 65. No further privacy treatments required.
Dilapidation of Land	A small number of submissions objected to the potential dilapidation of land resulting from the excavation and construction works, particularly in regard to the geotechnical stability of the land.	Conditions of consent to be included to ensure dilapidation and geotechnical matters are adequately considered. <b>(Refer Conditions 2.2, 2.4, 5.12)</b>

Issue	Submission	Comment
Inconsistency with Gosford Masterplan	A small number of submissions objected to the proposal on the grounds that it was inconsistent with the Gosford Masterplan.	The extent to which the proposal varies from the strategic intent of the Masterplan is not sufficient grounds on which the proposal can be refused.

## Conclusion

The subject site encompasses planning difficulties resulting from the conflict of objectives between the retention/protection of the heritage item, and extent of development controls which apply under Gosford LEP 2014 and Gosford DCP 2013. The primary issue raised by Council and the public following submission of the original DA has been the demolition of Creighton's Funeral Parlour and reconstruction of the building façade.

The proposal has been revised to retain the funeral parlour, however the garage will be removed and the sandstone entry reinstated to form the primary entry to the building from Mann Street. In conclusion, the proposed development is acceptable on heritage grounds when considered on balance between heritage conservation objectives and planning control objectives.

The proposal does not comply with the building height or FSR development standards under Gosford LEP 2014. The application is accompanied by a Clause 4.6 variation to these development standards. The assessment concludes that the proposal achieves an acceptable design outcome and reasonably reduces amenity impacts where possible.

Further the proposed variations to height and FSR do not in themselves contribute to unacceptable design outcomes or amenity impacts. The Clause 4.6 variation submitted by the applicant is considered well founded. The assessment concludes that the proposed variations to building height and FSR can be supported when considered on merit. The JRPP may assume the concurrence of the Director of Planning for the use of Clause 4.6 to permit the development.

The proposal is generally consistent with the provisions of Gosford DCP 2013. Setback, building depth and building floor plate variations are considered acceptable.

A view loss assessment has been carried out and concludes that the proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments.

The development proposal received 119 submissions to the original DA notification, and 190 submissions to the amended DA notification. The overwhelming majority of the submissions objected to the demolition of the Creighton's Funeral Parlour. The application was amended to retain the building and therefore this issue has been largely resolved. The other objections have been satisfactorily addressed in this assessment.

Development of the site presents a number of complicating factors, such as three (3) road frontages, a steep slope, inclusion of a heritage item, location adjoining other heritage items, consideration of neighbouring views and amenity, and future changes to traffic arrangements subject to the development of neighbouring land. The proposal addresses these factors to the satisfaction of Council and is considered supportable.

All relevant matters under Section 79C of the Environmental Planning and Assessment Act, Section 89 of the Local Government Act, the objectives of the zone and the principles of ecologically sustainable development have been considered and no objection is raised to the proposal subject to compliance with the conditions contained within the recommendation.



**Attachments:**

- 1 Copy of Clause 4.6 Variation Prepared by Doug Sneddon Planning Pty Ltd
- 2 State Environmental Planning Policy (SEPP) No 65 - Design Quality of Residential Flat Development
- 3 Public Submissions
- 4 Architectural Plans

**RECOMMENDATION**

- A The Joint Regional Planning Panel assume the concurrence of the Director - General of the Department of Planning under Clause 4.6 of Gosford Local Environmental Plan 2014 for the variation to the development standards of Clause 4.3, Clause 4.4 and Clause 8.9 to permit the proposed development.
- B The Joint Regional Planning Panel as consent authority grant consent to Development Application No DA46209/2014 for Mixed Use - Retail, Commercial, Restaurant, Residential Development and Demolition of Existing Structures on Lot: A & C DP: 355117, Lot: 10 & 11 DP: 591670, Lot: 1, 2, 3 & 4 DP: 382784, 27, 27A, 29, 31, 33, 35 & 37 Mann Street GOSFORD, 125 Georgiana Terrace GOSFORD, subject to the conditions attached.
- C The applicant be advised of Joint Regional Planning Panel decision and of their right to appeal in the Land and Environmental Court under Section 97 of the Environmental Planning and Assessment Act 1979 six (6) months after the date on which the applicant receives notice in respect to Council's decision..
- D The consent be limited to **two (2) years**.
- E The objectors are notified of Joint Regional Planning Panel's decision.
- F The External Authorities be notified of the Joint Regional Planning Panel decision.
- G Council's Section 94 Officer be advised the reimbursement to CP94A required is \$1,491,000.

**CONDITIONS****1. PARAMETERS OF THIS CONSENT****1.1. Approved Plans and Supporting Documents**

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

**Architectural Plans by Thrum Architects**

Drawing	Description	Sheets	Issue	Date
DA-000	Cover Sheet	1	Q	26/11/2015
DA-001	Locality Plan & BASIX	1	P	26/11/2015
DA-002	Site Analysis Plan	1	P	26/11/2015
DA-003	Survey Plan	1	P	26/11/2015
DA-004	Site Plan	1	Q	26/11/2015

<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
DA-102	Basement 1 Plan	1	Q	26/11/2015
DA-103	Ground Plan	1	R	26/11/2015
DA-104	Level 1 Plan	1	S	26/11/2015
DA-105	Level 2 Plan	1	S	26/11/2015
DA-105.1	Level 2A Plan	1	R	26/11/2015
DA-106	Level 3 Plan	1	S	26/11/2015
DA-107	Level 4 Plan	1	Q	26/11/2015
DA-108	Level 5 Plan	1	Q	26/11/2015
DA-109	Level 6 Plan	1	Q	26/11/2015
DA-110	Level 7 Plan	1	Q	26/11/2015
DA-111	Level 8 Plan	1	Q	26/11/2015
DA-112	Level 9 Plan	1	Q	26/11/2015
DA-113	Level 10 Plan	1	Q	26/11/2015
DA-114	Level 11 Plan	1	Q	26/11/2015
DA-115	Level 12 Plan	1	Q	26/11/2015
DA-116	Level 13 Plan	1	Q	26/11/2015
DA-117	Level 14 Plan	1	Q	26/11/2015
DA-118	Level 15 Plan	1	Q	26/11/2015
DA-119	Level 16 Plan	1	R	26/11/2015
DA-120	Level 17 Plan	1	Q	26/11/2015
DA-121	Roof Plan	1	Q	26/11/2015
DA-401	Line Elevations Sheet 1	1	Q	26/11/2015
DA-402	Line Elevations Sheet 2	1	P	26/11/2015
DA-403	Rendered Elevations Sheet 1	1	R	26/11/2015
DA-404	Rendered Elevations Sheet 2	1	P	26/11/2015
DA-501	Sections Sheet 1	1	P	26/11/2015
DA-502	Sections Sheet 2	1	Q	26/11/2015
DA-601	Shadow Diagrams Sheet 1	1	P	26/11/2015
DA-602	Shadow Diagrams Sheet 2	1	P	26/11/2015
DA-701	Rendered Perspectives Sheet 1	1	Q	26/11/2015
DA-702	Rendered Perspectives Sheet 2	1	Q	26/11/2015
DA-703	Rendered Perspectives Sheet 3	1	P	26/11/2015
DA-801	Envelope and Height Plane Analysis	1	P	26/11/2015
DA-802	GFA and FSR Calculations	1	R	26/11/2015

### Civil Engineering Design by Cardno (NSW/ACT) Pty Ltd

<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
805 14016- CI-100	Cover & Notes Sheet	1	2	02/10/2015
805 14016- CI-105	External Works	1	3	02/10/2015
805 14016- CI-106	Bulk Earthworks Plan	1	3	02/10/2015
805 14016- CI-111	Basement 1 Plan	1	4	02/10/2015
805 14016- CI-112	Ground Floor Plan	1	4	02/10/2015
805 14016- CI-113	Level 1 Plan	1	4	02/10/2015
805 14016- CI-114	Level 2 Plan	1	4	02/10/2015

Drawing	Description	Sheets	Issue	Date
805 14016- CI-115	Podium Level Plan	1	2	02/10/2015
805 14016- CI-120	Waste Collection Point & Access Route	1	4	02/10/2015
805 14016- CI-130	Indicative Erosion and Sediment Control Plan – Stage 1	1	2	02/10/2015
805 14016- CI-132	Indicative Erosion and Sediment Control Plan – Stage 2	1	2	02/10/2015
805 14016- CI-133	Indicative Erosion and Sediment Control Plan – Stage 3	1	2	02/10/2015

### Landscape Plans by Site Image Landscape Architects

Drawing	Description	Sheets	Issue	Date
LA-000	Coversheet Indicative Plant Schedule	1	C	24/09/2015
LA-101	Landscape Plan – Ground & Podium	1	C	24/09/2015
LA-102	Colour Landscape Plan – Level 1, 4 & 5, Penthouse Level 1 & 2	1	C	24/09/2015
LA-501	Landscape Details – & Specification Notes	1	C	24/09/2015

### Supporting Documentation

Document	Title	Date
IR 21590980	Water Cycle Management Plan	02/10/2015
IR 21805087	Waste Management Plan	25/11/2015
IR 21590980	Review of Wind Effects	30/09/2015
IR 21804994	Traffic Impact Assessment	24/11/2015
IR 21590980	Crime Risk Assessment	01/10/2015
IR 21590980	Accessibility Report	30/09/2015
IR 21590980	Statement of Heritage Impact (Amended)	02/10/2015
IR 21548090	Statement of Environmental Effects	06/10/2015
IR 21812355	BASIX Certificate No 564247M_02	11/11/2015

#### 1.2. Building Code of Australia

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

#### 1.3. Submit amendments to the approved plans to the accredited certifier pursuant to Clause 139 of the *Environmental Planning Regulation 2000: Applications for construction certificates* that must detail:

- a. Heavy-duty vehicle crossing (Georgiana Terrace) that has a width of 6m and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom. NB The vehicle crossing shall not encroach north of the kerb and gutter into the road pavement. The grade of the vehicle crossing along its eastern edge shall be +2% from the rear of the gutter crossing to the property boundary. The grade of the vehicle crossing along its western edge shall be +5% from the rear of the gutter crossing to the property boundary.
- b. Split heavy-duty vehicle crossing (Parlour Lane) constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom. The split heavy-duty vehicle crossing shall comply with the requirements of AS 2890.1:2004 Section 3.2, and the entry and exit widths shall cater for the swept path of a B99 vehicle.

The split heavy-duty vehicle crossing shall be located north of The Broadwater Apartments vehicle entry and clear of any obstruction created from a north-facing waste servicing vehicle servicing The Broadwater Apartments.

## 2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1. No activity is to be carried out on site until any Construction Certificate has been issued. Other than:
- a Site investigation for the preparation of the construction, and/or
  - b Implementation of environmental protection measures, such as erosion control etc that are required by this consent.
- 2.2. A dilapidation report is to be prepared by a practising structural engineer at no cost to Council or adjoining property owners, detailing the structural adequacy of adjoining properties, including Council's property, and their ability to withstand the proposed excavation. This report must include any measures required to be incorporated to ensure that no damage will occur during the course of works. The report must be submitted to Council and relevant adjoining property owners prior to the issue of any construction certificate.
- 2.3. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

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

The required works to be designed are as follows:

- a. Upgrade of the roadway and footway across the full frontages of the site in Mann Street and Georgiana Terrace in accordance with the Gosford City Centre "Streetscape Design Guidelines" prepared by Oculus dated September 2011.
- b. Heavy-duty vehicle crossing (Georgiana Terrace) that has a width of 6m and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom. NB The vehicle crossing shall not encroach north of the kerb and gutter into the road pavement. The grade of the vehicle crossing along its eastern edge shall be +2% from the rear of the gutter crossing to the property boundary. The grade of the vehicle crossing along its western edge shall be +5% from the rear of the gutter crossing to the property boundary.
- c. Split heavy-duty vehicle crossing (Parlour Lane) constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom. The split heavy-duty vehicle crossing shall comply with the requirements of AS 2890.1:2004 Section 3.2, and the entry and exit widths shall cater for the swept path of a B99 vehicle.
- d. Vehicle crossing (Parlour Lane) located at the waste collection point, which has a minimum width of 3.5m and constructed with 150mm thick concrete reinforced with 1 layer of SL72 steel fabric. The southern side of the waste enclosure opening shall be located a minimum of 11.5m from the southern boundary.
- e. All redundant dish crossings and/or damaged kerb and gutter are to be removed and replaced with new kerb and gutter.
- f. The piping of stormwater from within the site to Council's drainage system located in Georgiana Terrace.

- g. Extension of the piped stormwater drainage system within Georgiana Terrace to the eastern side of the proposed heavy-duty vehicle crossing.
- h. Construction of a new stormwater pipe and pits across Parlour Lane at the southern end of the property frontage generally in accordance with the plan prepared by Cardno, drawing number 80514016-CI-105.
- i. Removal of the redundant stormwater pipe and pit within Parlour Lane at the southern end of the property frontage, and reinstatement of the roadway, kerb and gutter.

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

- 2.4. Submit a dilapidation report to Council with the Roads Act application and / or Construction Certificate application. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development.
- 2.5. A security deposit of \$100,000 must be paid into Council's trust fund prior to the issue of any Construction Certificate. The payment of the security deposit is required to cover the cost of repairing damage to Council's assets that may be caused as a result of the development. The security deposit will be refunded upon the completion of the project if no damage was caused to Council's assets as a result of the development.
- 2.6. Submit engineering details prepared and certified by a practising structural engineer to the Council (Water Authority) for development constructed near or over the sewer main and / or adjacent to Council's water mains. The engineering details must comply with Council's guidelines for "Building Over or Near Council Sewer and Water Mains" and must be approved by Council. A fee for engineering plan assessment must be paid when submitting the engineering details.

Additional fees for the submission of contractor's documentation and sewer inspection fees apply for the adjustment or encasement of Council's sewer main. Subject to approval of the engineering plans, and payment of the prescribed fees, the developer must contact Council's Water and Sewer Quality Inspector on mobile phone 0419 412 725 a minimum of one week prior to commencement of any work involving building over and / or adjacent to sewer mains.

- 2.7. Submit design details of the following engineering works within private property:
  - a. Driveways / ramps and car parking areas must be designed according to the requirements of AS2890: *Parking Facilities* for the geometric designs, and industry Standards for pavement designs.
  - b. A stormwater detention system must be designed in accordance with the Gosford DCP 2013 Chapter 6.7 - Water Cycle Management and Council's 'GCC Design Specification for Survey, Road and Drainage Works'. The stormwater detention system must limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1% AEP storm event. A runoff routing method must be used. An on-site stormwater detention report including an operation and maintenance plan must accompany the design. On-site stormwater detention is not permitted within private courtyards, drainage easements, and/or secondary flowpaths.
  - c. Nutrient/pollution control measures must be designed in accordance with Gosford DCP 2013 Chapter 6.7 - Water Cycle Management. A nutrient / pollution control report including an operation and maintenance plan must accompany the design.

- d. On-site stormwater retention measures must be designed in accordance with Council's DCP Chapter 6.7 - Water Cycle Management. A report detailing the method of stormwater harvesting, sizing of retention tanks for re-use on the site and an operation and maintenance plan shall accompany the design.
- e. Piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system located in Georgiana Terrace.

These design details and any associated reports must be included in the construction certificate.

- 2.8. Submit engineering details prepared by a practising structural engineer to Council for structures constructed adjacent to a Council stormwater system and/or drainage easement and within the zone of influence. Engineering details must have footings designed in accordance with Council's "Guidelines for Building Adjacent to a Drainage Easement" and be approved and form part of the Construction Certificate.
- 2.9. Submit an application, with the relevant fee, to Council under Section 68 of the *Local Government Act 1993* for an approval to discharge liquid trade waste to Council's sewerage system. The *Application to Discharge Liquid Trade Waste* can be found on Council's website: [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au)
- 2.10. A Tree Protection Plan must be approved by Council before the issue of a Construction Certificate. The Plan must be prepared by a qualified Arborist and provide details of tree protection measures to be taken during demolition and construction to protect the Significant Tree "Livistona Palm" and Brush Box located on the road reserve of Georgiana Terrace.
- 2.11. The fitout of the food premises is to comply with the Food Act, 2003, 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.
- 2.12. Details of any proposed mechanical ventilation systems, detailing compliance with the relevant requirements of Clause F4.12 of the Building Code of Australia (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.

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.

- 2.13. The payment to Council of a contribution of **\$497,000.00** in accordance with the Gosford City Council Section 94A Development Contribution Plan - Gosford City Centre.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Gosford City Council Section 94A Development Contribution Plan – Gosford city Council. The basis of the calculation and the total amount is to be indexed quarterly in accordance with the Consumer Price Index (All Groups index) for Sydney issued by the Australian Statistician as outlined in the contribution plan.

The contribution is to be paid prior to the issue of any Construction Certificate.

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

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

[www.gosford.nsw.gov.au/building-and-development/planning-guidelines-and-forms/contributions-plan](http://www.gosford.nsw.gov.au/building-and-development/planning-guidelines-and-forms/contributions-plan)

- 2.14. The waste truck servicing grade is to be 3% or less for the following areas:
- Within the enclosure
  - For bulk bin roll out pads.
- 2.15. No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.
- 2.16. Submission of a revised Waste Management Plan in accordance with the Gosford City Council Development Application Guide and Chapter 7.2 – Waste Management of Gosford DCP 2013 for all site preparation, demolition, construction, use of premises and on-going management of waste to delete reference to the e-diverter waste chute being used for recyclable waste. All recyclable waste to be stored within the interim recyclables storage room on residential floors and manually transferred to the principal waste storage room.
- 2.17. Construction Certificate plans to indicate commercial waste storage area/s for each commercial tenancy sized consistent with the Better Practice Code for Waste Management in Multi-Dwellings by DECC.
- 2.18. The preparation and approval by the Principal Certifying Authority of a Construction Management Plan. The plan shall provide for delivery and storage of materials, workers parking, hours of construction, noise and dust control. The plan is to include a Construction Traffic Management Plan (CTMP) for the construction phase of the development including a Vehicle Movement Plan and Traffic Control Plan. The CTMP should be prepared with the intention of causing minimal impact to the operation of the road network during construction of the development.
- 2.19. Storage is to be provided for each unit in accordance with the requirements of Gosford DCP 2013, as varied by the SEPP 65 guidelines.

### 3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. Any construction certificate for the building work is to be issued and the person having the benefit of the development consent must appoint a Principal Certifying Authority prior to the commencement of any building works.

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



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

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

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

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

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

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

- 3.8. Prior to commencement of any demolition work, the property's sewer connection must be disconnected at the Inspection Shaft and capped.
- 3.9. The removal of more than 10 square metres of non-friable asbestos or asbestos containing material must be carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist. Friable asbestos (of any quantity) must only be removed by a licensed removalist with a friable (Class A) asbestos removal licence.

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

Any such contract must indicate whether any non-friable 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 non friable asbestos material or friable asbestos material is to be delivered.

If the contract indicates that non friable 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.

The person having the benefit of the consent must provide the principal certifying authority with a clearance certificate to be prepared by a competent person such as a qualified hygienist at completion of asbestos removal/work from the site.

If a residential premise is a workplace, the licensed asbestos removalist must inform the following persons before licensed asbestos removal work is carried out:

- the person who commissioned the work
- a person conducting a business or undertaking at the workplace
- the owner and occupier of the residential premises
- anyone occupying premises in the immediate vicinity of the workplace (as described in section 467 of the NSW Work Health and Safety Regulation 2011).

- 3.10. 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.

In the event that any spoil is to be disposed of from site, the generator of the waste is obliged to classify the soil in accordance with the Waste Classification Guidelines, Part 1: Classifying Waste (Ref 4).

## 4. DURING WORKS

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

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

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

a No work is permitted on Sundays and Public Holidays

b No work is permitted on:

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

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

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

- 4.2. Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Erosion Sedimentation Control Policy D6.46.

- 4.3. Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.
- 4.4. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made is responsible to notify the neighbour and responsible for the protection and preservation of the adjoining allotment of land.
- 4.5. Buildings are to be demolished in a safe and systematic manner in accordance with the requirements of Australian Standard *AS 2601-2001 - Demolition of Structures*, and disposed of in an approved manner.
- 4.6. Should any Aboriginal objects or artefacts be uncovered during works on the site, all works shall cease. The Office of Environment and Heritage shall be contacted immediately and any directions or requirements complied with.
- 4.7. Submit a report prepared by a registered Surveyor 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.
- 4.8. Construct the works within the road reserve that required approval under the Roads Act. The works must be constructed in accordance with Council's "Civil Construction Specification", "GCC Design Specification for Survey, Road and Drainage Works" and Gosford DCP 2013 Chapter 6.3 - *Erosion Sedimentation Control*.
- 4.9. Compliance with all commitments as detailed in the Waste Management Plan prepared by Cardno dated 25 November 2015, as modified by Condition 2.16.
- 4.10. Garbage Chutes to be in accordance with Appendix F: Garbage Chutes, Chapter 7.2 - Waste Management of Gosford DCP 2013.
- 4.11. Incorporate the following Crime Prevention Through Environmental Design (CPTED) principles and strategies to minimize the opportunity for crime:
  - a. Provide adequate lighting to common areas as required under *AS1158: Lighting for roads and public spaces*.
  - b. Paint the ceiling of the car park white.
  - c. Design of landscaping, adjacent to mailboxes and footpaths, must not provide concealment opportunities for criminal activity.
  - d. Design the development to avoid foot holes or natural ladders so as to minimise unlawful access to the premises.
  - e. Provide signage within the development to identify all facilities, entry/exit points and direct movement within the development.
- 4.12. Construction of Garbage Chute, Scissor Lift and other ancillary waste related features to be strictly in accordance with the Better Practice Guide for Waste Management in Multi-Unit Dwellings and the relevant BCA requirements.
- 4.13. Internal waste storage enclosures and garbage rooms to be well ventilated, have impervious floors graded to a sump connection to sewer, be provided with a hot/cold tap protected from impact damage and be constructed in accordance with all relevant BCA requirements.
- 4.14. All plumbing work to be carried out by a licenced plumber who has a current licence registered with NSW Office of Fair Trading. The work must be inspected by Council's

plumbing inspector and the inspection fee to be paid to Council's Customer Service Section before an inspection can be carried out. Also the licence plumber must submit a notice of work for plumbing and drainage application 2 days prior to Council before an inspection can be carried out. This falls under the Plumbing Code of Australia from 1 January 2013.

- 4.15. The floor of the designated vehicle carwashing area is to be graded and drained to a silt arrestor pit. The silt arrestor pit is to be connected to the sewer in accordance with the requirements of Council's Trade Waste Section.

## 5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1. Application for any Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.
- 5.2. The premises not being occupied until any occupation certificate has been issued.
- 5.3. Any 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-
    - a. located outside but controllable only from within the chamber; and
    - b. 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.

- 5.4. 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.
- 5.5. A warning notice is to be erected in a prominent position in the immediate vicinity of the swimming pool. The notice must be erected and contain the necessary information in accordance with Clause 10 of the Swimming Pools Regulation 2008.
- 5.6. The swimming pool is to be fenced in accordance with the *Swimming Pools Act 1992* and prior to the pool being filled with water a satisfactory inspection being carried out by the principal certifying authority.
- 5.7. The backwash from the pool filter and overflow system is to be disposed of to the sewer and where the sewer is not available in such a manner so as not to create a nuisance.
- 5.8. Impervious surface areas including pathways and driveways are to be graded and drained to prevent water run-off affecting adjoining properties.
- 5.9. Provide, to the Principal Certifying Authority, certification by the architect / building designer that the development complies with the access and usability standards outlined

in Schedule 3 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

- 5.10. Consolidate Lots A & C DP 355117, Lots 10 & 11 DP 591670, and Lots 1, 2, 3 & 4 DP 382784 into a single allotment under one Certificate of Title.
- 5.11. Construct, grade, drain, seal and line mark including directional arrows with impervious paving material the driveway, vehicle manoeuvring area and 223 car parking spaces as shown on the approved plan, in accordance with *AS2890.1-2004: Parking facilities - Off-street parking*.
- 5.12. Provide mail receptacles appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.
- 5.13. The street number is to be at least 100mm high and be clearly visible from the street frontage.
- 5.14. All satellite dish and telecommunication antennae, air conditioning units, ventilation stacks and ancillary structures are to be integrated into the roof-scape design and located away from the street frontage. A master antenna is to be provided and sited to minimise its visibility from surrounding public areas
- 5.15. Complete works within the road reserve that required approval under the Roads Act. The works must be completed in accordance with Council's "Civil Construction Specification", "GCC Design Specification for Survey, Road and Drainage Works" and Gosford DCP 2013 Chapter 6.3 - *Erosion Sedimentation Control*, and documentary evidence for the acceptance of such works must be obtained from the Roads Authority.
- 5.16. Rectify any damage not shown in the dilapidation report submitted to Council before site works had commenced. Any damage will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense.
- 5.17. Prior to the issue of any occupation certificate, the internal engineering works within private property that formed part of any construction certificate shall be completed in accordance with the plans and details approved with any construction certificate.
- 5.18. Do not locate fencing, structures, or landscaping with a mature height greater than 300mm within a 4m x 4m splay corner located at the road intersection.
- 5.19. Amend the Deposited Plan (DP) to:
  - Include an Instrument under the *Conveyancing Act 1919* for the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants must be defined by bearings and distances shown on the plan.
    - a. Create a 'Restriction as to User' over all lots containing an on-site stormwater detention system and/or a nutrient/pollution facility restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.

And,

- Include an instrument under the *Conveyancing Act 1919* for the following positive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Contact Council for wording of the covenant(s).

- a. To ensure on any lot containing on-site stormwater detention system and / or a nutrient / pollution facility that:
  - (i) The facility will remain in place and fully operational.
  - (ii) The facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner
  - (iii) Council's officers are permitted to enter the land to inspect and repair the facility at the owners cost.
  - (iv) Council is indemnified against all claims of compensation caused by the facility.

Submit, to the Principal Certifying Authority, copies of registered title documents showing the restrictive and positive covenants.

- 5.20. Amend the deposited plan (DP) to include a Section 88B instrument under the *Conveyancing Act 1919* to indemnify Council against claims for loss or damage to the pavement and against liabilities losses, damages and any other demands arising from any on-site collection service, at the applicant's cost.
- 5.21. Submit certification from a consulting engineer to Council stating that all slabs, footings and / or retaining walls within the zone of influence associated with the Council stormwater system and / or drainage easement have been constructed in accordance with the Construction Certificate.
- 5.22. Council will require an indemnity against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service prior to the issue of any Occupation Certificate together with the creation of a S88B instrument under the *Conveyancing Act* to this effect and at the applicant's cost.
- 5.23. 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.
- 5.24. Compliance with Part 5.4.1 Refuse Collection as detailed in the Traffic Impact Assessment Ref. 80514016, dated 25 November 2015 by Cardno.
- 5.25. Develop and implement a detailed Waste Management Strategy to clearly identify responsibilities, processes and procedures for management of waste generated within the completed development from all proposed uses.

## 6. ONGOING OPERATION

- 6.1. The motor, filter, pump and all sound producing equipment or fitting associated with or forming part of the pool filtering system is to be sound insulated and/or isolated so as not to create an offensive noise to the occupants of the adjoining premises as defined in the *Protection of the Environment Operations Act 1997*.
- 6.2. All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.

- 6.3. All loading and unloading of goods are to be conducted wholly within the site. Loading facilities, internal docks or goods handling areas are to be maintained free of obstruction for the sole use of delivery vehicles.
- 6.4. Maintain the on-site stormwater detention facility in accordance with the operation and maintenance plan.
- 6.5. Maintain the nutrient / pollution control facilities in accordance with the operation and maintenance plan.
- 6.6. Permanent signage to be prominently displayed within the waste room on each residential level to ensure no glass or bagged recycling is disposed of via the recycling chute.
- 6.7. All commitments detailed under Ongoing Management of the approved Waste Management Plan by Cardno dated 25 November 2015 (as modified by Condition 2.16) to be fully implemented.
- 6.8. Do not store materials, waste matter or products outside the building or the approved waste storage area at any time.
- 6.9. Line-mark and maintain the line-marking of all car parking areas and spaces required by this consent. Such spaces must be made available to all users of the site at all times during trading hours.
- 6.10. Waste storage to be as indicated on Dwg DA-103, Revision R, dated 26 November 2015 by thrum Architects, Dwg DA-104, Dwg DA-105, Revision S, dated 26 November 2015 by thrum Architects. Note: Internal access to be provided from the proposed restaurant to the restaurant garbage room.
- 6.11. Commercial waste to be serviced by a Private Commercial waste contractor at times that do not conflict with Residential waste servicing.
- 6.12. The Commercial waste contractor to undertake risk assessment of the required reverse manoeuvre from Parlour Lane into Georgiana Terrace and implement relevant procedure/s to ensure the commercial waste contractor can safely service commercial waste from the commercial waste storage enclosure accessed off Parlour Lane.
- 6.13. Commercial waste to be serviced at a frequency to ensure adequate storage space is available at all times.
- 6.14. Commercial food waste ie restaurant/café to be double bagged and serviced at maximum 3 day intervals to minimise odour/vermin nuisance etc.
- 6.15. Prominent signage to be installed adjacent to the Residential waste chute to each floor to state "Mixed waste only disposed of into garbage chute".
- 6.16. A bin lifter is to be provided within the Residential and Commercial waste storage enclosures.
- 6.17. A mechanical waste bin transfer device is to be available for transfer of bulk waste bins and mobile garbage bins at all times.
- 6.18. The person/s responsible for transfer of waste containers is/are to be suitably trained and skilled in the operation of mechanical bin transfer devices and bin lifters.



## 7. ADVICE

- 7.1. The public authorities may have separate requirements and should be consulted in the following aspects:
- a *Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - b *Jemena Asset Management* for any change or alteration to the gas line infrastructure;
  - c *Ausgrid* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - d *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.
  - e *Gosford City Council* in respect to the location of water, sewerage and drainage services.
- 7.2. All work carried out under this Consent should be done in accordance with WorkCover requirements including the Workplace Health and Safety Act 2011 No 10 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- 7.3. Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

### Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

- 7.4. The inspection fee for works associated with approvals under the Roads Act is calculated in accordance with Council's current fees and charges policy.
- 7.5. Payment of a maintenance bond may be required for civil engineering works associated with this development. This fee is calculated in accordance with Council's fees and charges.

- 7.6. It is the sole responsibility of the owner, builder and developer, to ensure that the proposed building or works complies with the requirements of the *Disability Discrimination Act*.

NOTE: The *Disability Discrimination Act* (DDA) is a Federal anti-discrimination law.

The DDA covers a wide range of areas including employment, education, sport and recreation, the provision of goods, services and facilities, accommodation and access to premises. The DDA seeks to stop discrimination against people with any form of disability including physical, intellectual, sensory, psychiatric, neurological, learning, disfigurement or presence in the body of a disease-causing organism. Whilst this development consent issued by Council is in accordance with the relevant provisions of the current *Building Code of Australia*, it does not indicate nor confirm that the application complies with the requirements of the DDA.

## 8. PENALTIES

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

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

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

### Warnings as to Potential Maximum Penalties

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

## 9. REVIEW OF DETERMINATION

- 9.1. Subject to provisions of Section 82A of the Act the applicant may make an application seeking a review of this determination, providing it is made in time for Council to determine the review within six (6) months of this determination.

## 10. RIGHT OF APPEAL

- 10.1. 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 six (6) months, from the date of determination.

- 10.2. To ascertain the date upon which the determination becomes effective refer to Section 83 of the Act.

<<Insert Attachment Link/s Here >>

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**ATTACHMENT 1**

**Copy of Clause 4.6 Variation Prepared by Doug Sneddon Planning Pty Ltd**  
(Doc. Ref: 21804996)

**ATTACHMENT 2****State Environmental Planning Policy (SEPP) No 65 - Design Quality of Residential Flat Development**

The proposal is subject to the requirements of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development. This is the previous version of SEPP 65 and the Residential Flat Design Code which was in place when the application was lodged.

The following table provides an assessment against the main relevant requirements of SEPP 65 (the Residential Flat Design Code):

Element	Required	Proposed	Compliance
Building Depth	Depth should be between 10m-18m.	Building depth (excluding balconies) extends to 28.25m in the central portion of the tower, however the northern and southern portions of the tower are more compliant with this control. This reflects the layout of the floor plate and size of the site and is considered acceptable as assessed under GDCP 2013.	<b>No. This issue is addressed in the assessment report in relation to building depth and is considered reasonable in the circumstances.</b>
Building Height	Test height controls against FSR controls for a good fit	Proposed height and FSR exceed split development controls for the site but are considered acceptable when examined on merit. The proposed building height and FSR variations do not in themselves result in any unacceptable design outcomes.	<b>No. Variations to building height and FSR development controls assessed in this report and considered supportable.</b>
Building Separation	<u>1 - 4 storeys</u> 12m separation habitable rooms/ balconies 9m separation habitable rooms/ balconies and non hab 6m separation non habitable rooms  <u>5 – 8 storeys</u> 18m separation habitable rooms/ balconies 13m separation habitable rooms/ balconies and non hab 9m separation non habitable rooms  <u>9 storeys +</u> 24m separation habitable rooms/ balconies 18m separation habitable rooms/ balconies and non hab 12m separation non habitable rooms	The proposal will meet the required separation from all adjoining residential buildings.	Yes.
Floor Space Ratio	Test FSR against other elements	Proposed height and FSR exceed split development controls for the site but are considered acceptable when examined on merit. The proposed building height and FSR variations do not in themselves result in any unacceptable design outcomes.	<b>No. Variations to building height and FSR development controls assessed in this report and considered supportable.</b>

Element	Required	Proposed	Compliance
Floor to ceiling height	Min 2.7m	Meets standard.	Yes
Storage	1 bedroom – 6m <sup>2</sup> 2 bedroom - 8m <sup>2</sup> 3 bedroom - 10m <sup>2</sup>	Development will meet, in apartments and basement.	Yes
Open Space	Provide suitable open space, including communal areas where possible	986.69m <sup>2</sup> of communal open space is provided at the top podium area. In addition a heated indoor swimming pool is provided with an area of 107.16m <sup>2</sup> .	Yes
Deep Soil	Provide minimum of 25% of open space as deep soil zone, and where located in built out urban areas and deep soil areas are not possible, integrate stormwater treatment measures.	The site is in a built out urban area, and contains ground floor commercial/ access/ service uses which means deep soil areas are not able to be provided as required. Total soft landscaping area of 810.72m <sup>2</sup> is provided, which achieves acceptable outcome. Stormwater measures are proposed which meet the requirements of Council's DCP.	Yes
Safety	Crime risk assessment required	Safety issues are addressed in the submitted CPTED Assessment Report.	Yes
Apartment Layout	Max 8m depth for single aspect apartments  Minimum apartment sizes	Single aspect units generally comply with max depth.  Complies	Yes
Apartment Mix	Provide diversity of apartment types	Proposal provides a mix of 1, 2, 3 and 4 bedroom units which is considered reasonable given the location of the site.	Yes
Internal Circulation	Max 8 units per floor serviced by a single core	11 units Level 3 (podium) 10 units Level 4 (tower) 9 units Levels 5-15 (tower) Proposal considered acceptable given layout and design of apartments, including level of amenity achieved.	<b>No. Variation to number of units serviced by the core is considered acceptable.</b>
Daylight Access	Living rooms/ POS in 70% of apartments at least 3hrs between 9am-3pm mid winter  Max 10% single aspect south facing units	The proposal achieves desirable daylight access for living rooms and private open space.  The development does not contain single aspect south facing units.	Yes
Natural Ventilation	60% of units naturally cross ventilated, 25% of kitchens naturally ventilated	Complies	Yes

## **ATTACHMENT 3**

### **Public Submissions**

A total of 309 submissions were received in relation to the application. Those issues associated with the key issues have been addressed in the above report. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979.

A summary of the submissions is detailed hereunder.

#### **1. Demolition of the Heritage Listed Building**

The proposal has been amended so as to retain the heritage building. The garage structure will be removed however the stone entry walls will be documented before dismantling and will then be reconstructed in their original form to become the main pedestrian entry to the building.

The proposal has been assessed in regard to potential impacts upon the Creighton's Funeral Parlour and surrounding heritage items. In conclusion, the proposed development is acceptable on heritage grounds when considered on balance between heritage conservation objectives and planning control objectives.

#### **2. Excessive Height and FSR**

The proposed height and FSR variations have been assessed in detail. The application is accompanied by a Clause 4.6 variation. The assessment concludes that the proposal achieves an acceptable design outcome and reasonable reduces amenity impacts where possible. Further the proposed variations to height and FSR do not in themselves contribute to unacceptable design outcomes or amenity impacts. The Clause 4.6 variation submitted by the applicant is considered well founded. The assessment concludes that the proposed variations to building height and FSR can be supported when considered on merit.

#### **3. Impacts upon Scenic Views of Gosford City**

The development has been assessed as having a height equivalent to other development approved in the area, and includes architectural design features which improve the contribution of the building within the Gosford cityscape. The building will not result in an unacceptable impact upon scenic views towards Gosford.

#### **4. View Loss from Adjoining Residential Flat Building**

A view loss assessment has been carried out in accordance with the view loss principles under the Tenacity judgement. The assessment concludes that the proposal will not unreasonably reduce the amenity of residents within the Broadwater Apartments.

#### **5. Impacts upon Traffic and Parking**

The proposal has been reviewed by Council's Engineering Assessment Officer who raises no objections subject to specific conditions being included in the consent.

Council has undertaken an assessment of the use of Parlour Lane and in particular, the movements of waste servicing vehicles. Subject to conditions, this arrangement is considered satisfactory.

The car parking supply within the site sufficiently caters for the demand project to be generated by the proposal in accordance with GLEP 2014 and GDCP 2013.

## **6. Impacts upon Solar Access of Surrounding Properties**

The subject site is located on the northern side of land presently owned and operated by Telstra. The greatest impacts in terms of solar access will apply to this land. The rear (eastern) portion of this site will be developed in future under DA 46272/2015, however there are no current proposals for development of the front (western, fronting Mann Street) of the Telstra site. Therefore the greatest impact is upon a telecommunications facility and is therefore not grounds upon which the development can be refused.

The proposal will impact upon the rear of the Telstra site and upon The Broadwater Apartments, however these shadows are cast in the hours after 12pm/1pm and therefore will not result in the developments having solar access reduced to less than 3 hours during the winter solstice.

## **7. Reduction in Privacy of Adjoining Residential Flat Building**

The western elevation of the proposal as a majority comprises windows and balconies to units, including a mixture of full-height and high-positioned windows. There are two apartments with balconies/patios extending towards the east (towards Parlour Lane) however these units are at the lower levels of the building and will not contribute to over-looking.

In regard to the majority of windows and balconies to the proposal, the objectives for privacy under SEPP 65 require sufficient separation to be provided between habitable and non-habitable rooms. The proposal meets these separation requirements and therefore cannot be considered unsupportable on these grounds.

## **8. Dilapidation of Surrounding Properties**

The application is supported by a preliminary review of geotechnical aspects which provides an initial summary of conditions expected on the site. Notwithstanding the findings of this review, Council has imposed relevant conditions to ensure dilapidation and geotechnical matters are adequately considered at the construction stage of the proposal. **(Refer Conditions 2.2, 2.4, 5.12)**

## **9. Inconsistency with Gosford City Centre Masterplan**

The Gosford Masterplan is a guiding document which is ultimately strategic in view, but only informative in its powers. The visions of the Masterplan were fed into the preparation of the Gosford City Centre LEP which were in turn adopted into the Gosford LEP 2014. Therefore the objectives of the Masterplan are being met where they are consistent with, and are represented by the provisions of Gosford LEP 2014. The extent to which the proposal varies from the strategic intent of the Masterplan is not sufficient grounds on which the proposal can be refused.

<<Insert Attachment Link/s Here >>