

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

SUPPLEMENTARY REPORT

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 Public 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)
Zone	B4 Mixed Use
Recommendation	Approval (subject to conditions)
Report by	S A Earp

Assessment Report and Recommendation Cover Sheet

SUPPLEMENTARY 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

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

EXECUTIVE SUMMARY

1.1. REASON FOR SUPPLEMENTARY REPORT

This supplementary report has been prepared in response to a late design amendment proposed by the applicant which essentially retains the garage structure of the Creighton's Funeral Parlour heritage item. The development application assessed within the principal Planning Report to the Hunter & Central Coast Joint Regional Planning Panel (JRPP) proposed the removal of the rear section of the garages, excavation of the ground below the garage, and dismantling and reconstruction of the stone entry walls to form the main pedestrian entry to the building.

The garage structure has been assessed as having heritage significance equal to that of the funeral parlour proper (i.e. high), therefore the proposed design amendments seek to resolve a heritage issue that is considered second only to the demolition of the entire heritage item as was originally proposed. The development was initially amended in October 2015 so as to retain the funeral parlour proper. The development has now been amended again in December 2015 so as to essentially retain the garage structure as well.

The proposed design amendments incorporate a number of modifications, including:

- Basement 1:
 - Reducing the extent of excavation to exclude earth below the garage structure at ground level;
 - Re-alignment of carpark, parking spaces, services, storage areas and other facilities;
 - Removal of seven (7) motorcycle parking spaces;
 - Removal of six (6) bicycle parking spaces;
- Ground Floor:
 - Retention of the garage structure, including retention in situ of front (western) garage wall, demolition and reconstruction of side (southern) and rear (eastern) garage walls, demolition of the toilets at the rear of the garage;
 - Reconfiguration of foyer, atrium, lobby, commercial lobby and commercial stair access;
 - Minor reduction in retail floor areas.

- Level 1:
 - Reconfiguration of commercial lobby stairs and commercial lift; and
 - Minor reduction in commercial floor area;
- Level 2:
 - Reconfiguration of commercial lobby stairs and commercial lift;
 - Minor reduction in commercial floor area.

There are no changes to:

- the number of units proposed or their configuration
- the building height

It is considered that the changes are minor (although highly beneficial) and respond to matters raised in the notification period. Hence no further notification is considered necessary (as provided by the Gosford DCP).

The extent of the amendments proposed are relatively minor and do not result in any change to building height, FSR, building design, setbacks, façade treatments or other matters which have been assessed under the primary JRPP planning report.

Council's Heritage Program Coordinator has reviewed the amended plans and has provided comments. A range of new conditions are proposed to address the matters raised within this assessment.

Re-notification of the proposal is not required under Section 7.3.13 of Gosford DCP 2013 as, in the opinion of Council, the amendments are minor and will result in no additional impacts.

The proposed amendments are detailed and assessed in the following documents:

- Amended Architectural Floor Plans prepared by Thrum Architects (**Attachment 1**);
- Amended Statement of Heritage Impact prepared by Heritage21 (**Attachment 2**);
- Amended Clause 4.6 Variation prepared by Doug Sneddon Planning (**Attachment 3**).

Given the above, it is necessary that a supplementary report be prepared for consideration by the JRPP.

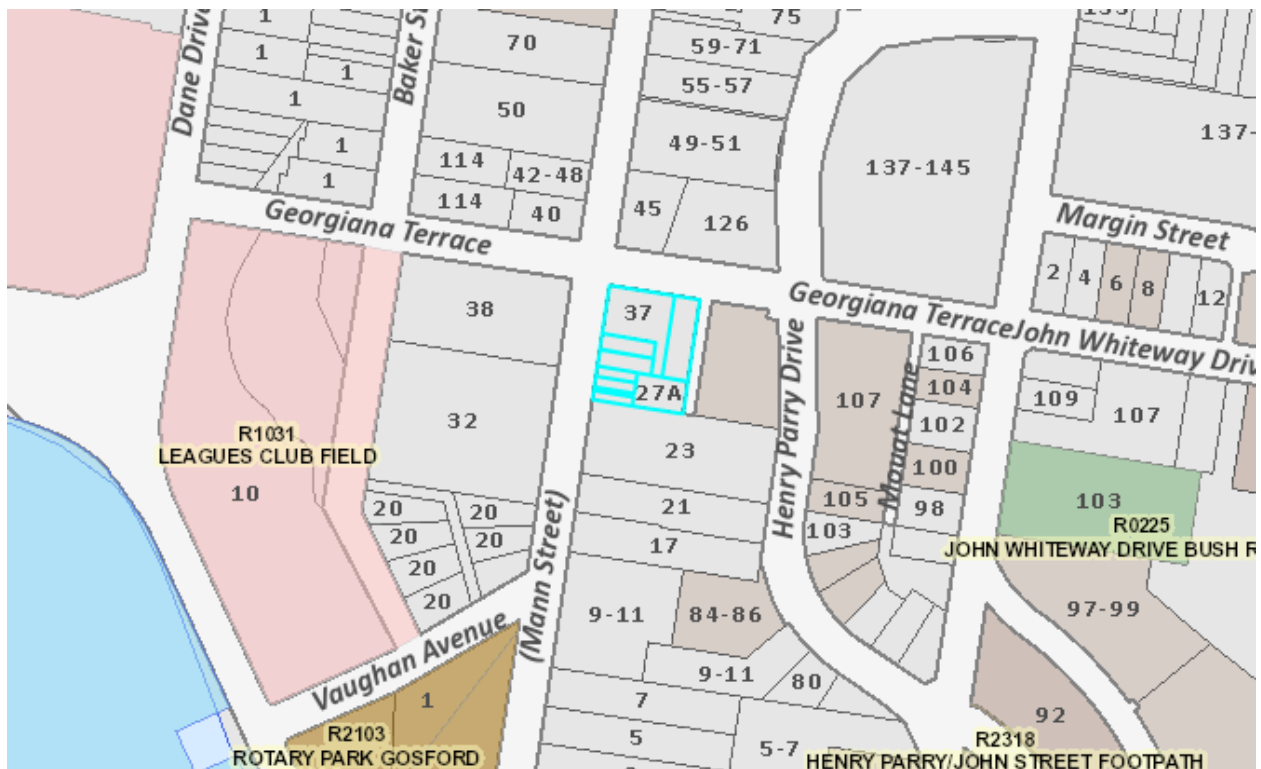
As per the commentary in this report, the proposal as amended in December 2015 is considered to be an infinitely more pleasing outcome on heritage grounds when considered against the site specific planning controls and objectives than either the application as lodged or amended in October 2015.

1.2. 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

1.3. THE PROPOSAL

The amended proposed development involves;

- The retention of Creighton's Funeral Parlour, including the garage structure (with the exception of one wall to be replaced due to structural adequacy) with no basement/excavation proposed below;
- Demolition of 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 17,180.28m²;
 - 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 1059.55m² of commercial floor space;
 - A total of 502.61m² of retail floor space;
 - A total of 209.71m² of restaurant floor space;
 - A total of 224 car parking spaces, comprising the following mix:
 - Residential Spaces x 164 (including 17 accessible spaces);
 - Visitor Spaces x 28

- Commercial Spaces x 32 (including 3 accessible spaces).
- A total of 3 motorcycle spaces and 61 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.

1.4. Comparison of Original DA and Amended DA

The following is a summary comparison of the assessment of the original DA (as amended in October 2015) against the amended DA (as amended in December 2015).

Component	Original DA (October 2015)	Amended DA (December 2015)	Comment
Development Statistics			
Height	17 storeys	17 storeys	No change
No. of Residential Units	134	134	No change
Gross floor area	17,242.38m ²	17,180.28m ²	-62.10m ²
Commercial Floor Space	1,090.54m ²	1,059.55m ²	-30.99m ²
Retail Floor Space	529.29m ²	502.61m ²	-26.68m ²
Restaurant Floor Space	148.28m ²	209.71m ²	+61.43m ²
Car Parking Spaces	223	224	+1
Motorcycle Spaces	10	3	-7
Bicycle Spaces	67	61	-6
Planning Matters			
Zoning	B4 Mixed Use	B4 Mixed Use	No change
Zone Objectives	Consistent with objectives	Consistent with objectives	No change
Design Excellence	Exhibits design excellence	Exhibits design excellence	No change
LEP Cl.4.3 Building Height	55.95m (under 46.8m control) and 55.09m (under 31.2m control).	55.95m (under 46.8m control) and 55.09m (under 31.2m control).	No change
LEP Cl. 4.4 FSR	8.1:1 (under 5.2:1 control) and 1.88:1 (under 3.9:1 control).	8.1:1 (under 5.2:1 control) and 1.88:1 (under 3.9:1 control).	No change
LEP Cl. 4.6 Variations	9.15m (to 46.8m height control), 23.89m (to 31.2m (height control) and 2.9:1 (to 5.2:1 FSR control). Variations supported.	9.15m (to 46.8m height control), 23.89m (to 31.2m (height control) and 2.9:1 (to 5.2:1 FSR control). Variations supported.	No change
DCP Variations	Building setbacks Street frontage height Building dimensions Maximum floor plate Variations supported.	Building setbacks Street frontage height Building dimensions Maximum floor plate Motorbike parking Variations supported.	Motorbike parking variation - Refer discussion below
SEPP 65	Complies with design principles and generally complies with Apartment Design Guide	Complies with design principles and generally complies with Apartment Design Guide.	No change
View Loss	<i>Tenacity</i> assessment concluded proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments.	No change to height, floor plate or building setbacks. Therefore no change to <i>Tenacity</i> assessment.	No change
Gosford City Masterplan	DA assessed and found to be consistent with the Masterplan, where the Masterplan is not in conflict with the controls and objectives of GLEP 2014 and GDCP 2013.	No change to the development scheme which would change the assessment against the Masterplan. Therefore no change to the assessment outcome.	No change
Heritage Assessment	Demolition of garage not supported. Bulk and scale of building not supported. Relationship of new building to old not appropriate.	Council's Heritage Program Coordinator has provided comments on the amended DA which are discussed below.	Refer discussion below

Component	Original DA (October 2015)	Amended DA (December 2015)	Comment
Section 94A Contributions	1% contribution rate applies. Contribution required is \$497,000. Reimbursement required by Council is \$1,491,000.	No change to cost of works and no change to lodgement date of original DA. Therefore no change to contribution.	<i>No change</i>
Internal Referrals			
Building	No objections, conditions recommended.	No change to building class resulting from amended scheme. Development will still be required to meet relevant provisions of the BCA and will be assessed on the basis of being a single building. Therefore no change to building conditions required.	<i>No change</i>
Health & Food	No objections, conditions recommended.	Current conditions relate to the adequate fitout of food premises. No change is proposed to the restaurant use, however the bar will now be included within the building. The bar will be subject to the same conditions as intended for the restaurant, therefore no change to health and food conditions required.	<i>No change</i>
Waste Management	No objections, conditions recommended.	No change to waste access, waste storage or waste management proposed, with the exception of the removal of a glass recycle bin on Basement Level 01. This will be addressed in a new condition. The Waste Management Plan referenced as a supporting document in the recommended conditions still applies. Therefore no change to waste conditions required.	Glass recycle bin removed - Refer discussion below
Architect	Assessment concluded, no objectives, no conditions.	Council's Architect has provided comments on the amended DA which are discussed below.	Refer discussion below
Development Engineer	No objections, conditions recommended.	No change proposed to pathways, driveways, stormwater management or other engineering matters. Therefore no change to development engineering conditions required.	<i>No change</i>
Tree Preservation Officer	No objections, conditions recommended.	No change proposed to extent of tree removal. Therefore no change to tree conditions required.	<i>No change</i>
Trade Waste	No objections, conditions recommended.	No change to the trade waste arrangements for the development proposed. Therefore no change to tree conditions required.	<i>No change</i>
Water and Sewer	No objections, conditions recommended.	No change to the water and sewer connections proposed. Therefore no change to the water and sewer conditions required.	<i>No change</i>
Environmental Health	No objections or conditions.	No change to environmental health matters. Therefore no change to recommended conditions.	<i>No change</i>
Legal	No objections or conditions.	No change to legal considerations, or new legal matters which require consideration.	<i>No change</i>

1.5. Parking

The proposed amendments result in modifications to the retail, restaurant/bar and commercial floor areas, as well as the car parking layout.

In regard to car parking, the proposed development does not result in any change in the car parking requirement under Gosford LEP 2014 or Gosford DCP 2013 as follows:

LEP/DCP Control	Original DA		Amended DA	
	Quantity	Required	Quantity	Required
Commercial Activities 1 space/75m ² Comm. GFA	1,090.54m ²	14.5	1,059.55m ²	14.1
Retail Premises 1 space/40m ² Retail GFA	529.29m ²	13.2	502.61m ²	12.6
Restaurant Premises 1 space/40m ² Retail GFA	148.28m ²	3.7	209.71m ²	5.2
1br Dwelling – 1 space	29	29	29	29
2br Dwelling – 1.2 spaces	75	90	75	90
3br+ Dwelling – 1.5 spaces	30	45	30	45
Visitor – 0.2 spaces/dwelling	134	26.8	134	26.8
Total Car Parking	-	223 (223.2)	-	223 (222.7)
<i>Accessible Parking</i> <i>10% of All Resident Spaces</i>	-	19	-	19
Motorcycle Parking 1 space/15 dwellings + 1 space/25 retail/comm. car spaces.	134 dwellings, 31.4 retail/comm. spaces	10 (8.9 + 1.3)	134 dwellings, 31.9 retail/comm. Spaces	10 (8.9 + 1.3)
Bicycle Parking 1 space/3 dwellings + 1 visitor space/12 dwellings + 1 space/200m ² Comm. GFA + 1 visitor space/750m ² Comm. GFA	134 dwellings, 1,768.11m ² Comm. GFA	67 (44.6 + 11.2 + 8.8 + 2.4)	134 dwellings, 1,771.87m ² Comm. GFA	67 (44.6 + 11.2 + 8.9 + 2.4)

Car Parking: The proposed amendments have resulted in the provision of one (1) additional visitor parking space on the ground floor level of the development. Thus the development will provide a total of 224 car parking spaces, or a surplus of one (1) space.

Motorcycle Parking: The proposed amendments to Basement Level 01 for a reduced basement area (due to the retention of the garage) have removed seven (7) motorcycle parking spaces. The development therefore provides three (3) spaces, or a shortfall of seven (7) motorcycle parking spaces.

This variation is considered acceptable on the following grounds:

- An equivalent DA submitted after 17 July 2015 would be subject to Amendment 3 of SEPP 65, under which the Apartment Design Guide requires consideration of the parking requirements of the RMS publication Guide to Traffic Generating Development. Under these provisions (being grounds upon which Council could not refuse the DA), the development would have a reduced car parking requirement of 70.3 spaces. Therefore the proposal is providing adequate parking in accordance with Gosford DCP 2013, and in excess of the equivalent parking that Council would require for a development submitted late 2015.
- Motorcycle parking is more flexible than for a car, and any resident or visitor travelling on a motorbike is entitled to park in a standard car parking space. Therefore as the development provides sufficient car parking under Gosford DCP 2013, the reduction of motorcycle parking is not likely to result in an undersupply of motorcycle or car parking within the development.

Bicycle Parking: The proposed amendments also reduced the bicycle parking arrangements by six (6) spaces. It is possible for these missing spaces to be provided elsewhere in the development. However this is not considered necessary given the retention of the 61 other bicycle parking spaces and adequate provision of residential storage areas.

The parking variations proposed within the amended plans are supported.

1.6. Heritage Assessment

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

"I acknowledge receipt of amended plans including revision to the extent of demolition to the significant garage section of the property.

My previous comments considered that there were four main issues that the development failed to address or that would have unacceptable impacts on the heritage significance of the item. These were:

- 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.*

The amended plans provide the scope for retention of a majority of the garage structure and this is generally supported on heritage grounds. The comments in the previous advice (IR 21876287) relating to points 2-4 above are still relevant.

1. Amended Plans

The amended plans include the retention of a majority of the main section of the Creightons Building and some of the adjacent garages. The building and the garages are given the same "High" level of significance in the Clive Lucas Stapleton impact assessment prepared for Council as part of the application assessment. As such the garages are not a secondary attachment to the building but are an integral part of the heritage item.

The amended Statement of Heritage Impact prepared by Heritage 21 states at (Section 5.3.1) that a majority of the sandstone garage would be retained including:

- The existing sandstone corner façade including the totality of the front (western) wall and a 2 meter section (approximately) of the southern wall*
- The north wall of the garages, but introducing two new doorways to provide connection to the ground floor of the main building.*
- The existing main bar room as far as the wall behind the existing serving bar, that is to say including the nibs and spandrels of the original real wall of the garage*
- The existing slab and flooring of the main garage space*
- The roof structure of the room which will be an in situ suspended ceiling located below the new concrete slab of the storey over.*

The retention of the bulk of the garage features is supported. However, the plans for this part of the development are not fully resolved and the following comments are relevant:

- a. The amended plans show that the façade of the garage will still be demolished and then reconstructed (Drawing DA-103 rev S). No reason is supplied for the need for reconstruction and retention in situ is recommended.*
- b. The two openings between the garage structure and the main Creightons building is generally supported however this would need to be examined in greater detail with regard to their placement and their architectural detailing.*
- c. A majority of the southern wall of the garage is proposed to be removed. This is a substantial part of the original fabric of the building and greatly contributes to the significance and character of both the interior and exterior. The retention of this wall would also add to the character of the new foyer area. Retention of this wall is recommended.*
- d. Removal of the residential lobby area from within the garage to a separate entrance adjacent to the southern wall of the garage is supported and provides more visual separation between the heritage item and the main retail section of the development.*
- e. It is noted that this visual and physical separation is eroded from Level 3 upwards with 1 bedroom of the apartments located on the north western section of the building (closest to Mann Street) hanging over the void created between the Creightons Building and the new commercial spaces. This is further eroded by a feature of the apartment building that appears over the roof of the Creightons building at its south eastern most corner starting at Level 3.*
- f. The adaptive reuse of the buildings as restaurant/bar and residential above is supported. The interior of the Creightons building will require careful consideration with regard to interior spaces and facilities and an experienced heritage architect will be required to provide sympathetic plans.*
- g. The Statement of Heritage Impact refers to the construction of two new reinforced concrete columns with associated footings to be constructed within the garage. No detail is provided about their location or how these would relate to the heritage fabric either during construction or at completion of the development. Depending on their size, materials, appearance, placement, and the potential impact of the footings on the flooring, these could have significant impact on the heritage integrity of the building.*

2. Conditions of Consent

Section 7.2 of the amended State of Heritage Impact prepared by Heritage 21 contains recommendations to accompany the development application. These are supported and should be included in the conditions of consent, including:

- Photographic Archival Record
- Preparation of a Temporary Protection Plan
- Engagement of a suitably qualified heritage architect
- Preparation of a Schedule of Conservation Works
- Preparation of Interpretation Strategy

In addition to the recommendations in the Heritage 21 report, the following aspects need to be refined or engaged;

- Qualified heritage architect is required for preparation of more detailed plans and construction works for the adaptive reuse of the Creightons building and the garages, and not just for the demolition and reconstruction of the garage façade (an aspect of the development application which is not supported on heritage grounds anyway).
- More information on the two structural pillars within the garages needs to be provided including description of the potential impacts from their construction to existing fabric.

Conclusion

The proposed development for the R.H. Creighton site is not supported on heritage grounds, despite the improvements made to the application with regard to retention of more of the significant garage structure. This is due to:

- *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 application still proposes demolition of sections of the façade of the garages and then its reconstruction.*
- *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."*

The amended plans have not been submitted to Clive Lucas Stapleton & Partners for comment due to the timing constraints of this supplementary report.

Planning/Heritage Discussion

The assessment provided by Council's Heritage Program Coordinator is generally supportive of the proposed amendments, with the following concerns raised:

1. The plans are not fully resolved in their description of the extent of the garage to be demolished;
2. A majority of the southern wall is proposed to be removed and retention of this wall is recommended;
3. The recommendations in the Heritage 21 Report should be included in the conditions of consent; and
4. The proposal is still not supported on heritage grounds despite these improvements, as summarised in the conclusion.

Each matter is discussed further below in turn:

1. A condition of consent has been included as part of this supplementary report which requires the correction of the notation and arrow which provides the following description:

"Sandstone wall reconstructed using original fabric of heritage item. Refer to Retail Heritage Report."

This notation indicates that front (western) portion of the wall is to be reconstructed, however this is the component that is to remain in situ as discussed in the supporting Heritage Report. Therefore the condition will require this notation to be corrected to relate only to the southern wall indicated as a 'new wall'.
(Refer New Condition 1.3(d))

2. The applicant has advised that the structural adequacy of this wall is not supportable and therefore is the primary reason the wall must be removed. Council has not had the benefit of a submitted report to confirm this. Notwithstanding, providing the 'new wall' to

the southern side of the garage is constructed of the same or similar materials to that being demolished, the structure would still add to the character of the foyer.

A condition has been included which requires the 'new wall' on the southern side of the garage to be constructed of the same, or similar materials to the existing sandstone wall.
(Refer New Condition 2.20)

3. New conditions of consent have been included on the basis of the recommendations provided in the Heritage 21 Report.
(Refer New Conditions 3.11, 3.12, 3.13, 4.16, 5.26)
4. The planning and heritage discussion within the primary JRPP Assessment Report is upheld. The proposal is acceptable on heritage grounds when considered on balance between heritage conservation objectives and planning control objectives.

1.7. Waste Management

The proposed amendments to the Basement Level B1 plan remove the allocation of a glass recycle bin as required by Council.

A condition of consent has been included which requires the plans to be amended to provide a glass recycle bin within Basement Level B1.
(Refer New Condition 1.3(c))

1.8. Architects Assessment

Council's Architect has provided the following comments in regard to the amended development proposal:

"Introduction

This is an amended assessment in response to amended drawings subbmeiited by the applicant.

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 retains the funeral parlour building including the interiors and now proposes to fully retain the existing garage including the stone entry walls. The funeral parlour building and garage will be connected to form a separate street level tenancy for restaurant or retail use.

The area above the garage will be a fully glazed commercial level to reduce the visual impact of the new work and emphasise the stone walls of the garage.

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."

CONCLUSION

The proposed amendments improve the response of the development to heritage conservation objectives and in response to the public concerns about the previously intended demolition of the garage structure.

The extent of the amendments proposed are relatively minor and do not result in any change to building height, FSR, building design, setbacks, façade treatments or other matters which have been assessed under the primary JRPP planning report.

The variations resulting from the amended plans have been assessed and are acceptable. These include:

- A car parking surplus of one (1) space;
- A motorbike parking shortfall of seven (7) spaces;
- A bicycle parking shortfall of six (6) spaces.

Council's Heritage Program Coordinator has reviewed the amended plans and has provided comments. A range of new conditions are proposed to address the matters raised within this assessment.

Further amendments to the plans are proposed to resolve minor design matters such as notations and provision of waste facilities.

The assessment carried out by Council under the original DA (modified October 2015) remains valid, as do the conclusions of the various assessments carried within that report, including:

- Assessment of Clause 4.6 variation for building height and FSR;
- Assessment of view loss; and
- Assessment of heritage impacts.

Re-notification of the proposal is not required under Section 7.3.13 of Gosford DCP 2013 as, in the opinion of Council, the amendments are minor and will result in no additional impacts.

All relevant matters under Section 79C of the Environment 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.

Gosford City Council supports this proposed development and recommends that the JRPP grant consent to this development application subject to the attached conditions.

Attachments: Attachment 1 – Amended Architectural Plans
Attachment 2 – Amended Statement of Heritage Impact
Attachment 3 – Amended Clause 4.6 variation

Tabled Items: Nil

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 and as modified as follows:
- i) Plan No. DA-102 Rev R is modified to reinstate an area for a glass recycle bin as required under the waste management provisions of Gosford Development Control Plan 2013.
 - ii) Plan No. DA-103 Rev S is modified to show the notation "*Sandstone wall reconstructed using original fabric of heritage item. Refer to Retail Heritage Report*" as relating to the part of the southern garage wall which is subject to demolition and reconstruction.
- 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

Drawing	Description	Sheets	Issue	Date
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
DA-102	Basement 1 Plan	1	R	08/12/2015
DA-103	Ground Plan	1	S	08/12/2015
DA-104	Level 1 Plan	1	T	08/12/2015
DA-105	Level 2 Plan	1	Y	08/12/2015
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	R	08/12/2015
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	Q	08/12/2015
DA-502	Sections Sheet 2	1	R	08/12/2015
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	S	08/12/2015

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

Drawing	Description	Sheets	Issue	Date
805 14016- CI-100	Cover & Notes Sheet	1	2	02/10/2015
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

Drawing	Description	Sheets	Issue	Date
805 14016- CI-113	Level 1 Plan	1	4	02/10/2015
805 14016- CI-114	Level 2 Plan	1	4	02/10/2015
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 21873972	Statement of Heritage Impact (Amended)	09/12/2015
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.
 - c. Plan No. DA-102 Rev R is modified to reinstate an area for a glass recycle bin as required under the waste management provisions of Gosford Development Control Plan 2013.
 - d. Plan No. DA-103 Rev S is modified to show the notation "*Sandstone wall reconstructed using original fabric of heritage item. Refer to Retail Heritage Report*" as relating to the part of the southern garage wall which is subject to demolition and reconstruction.

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
- 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

- 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.
- 2.20. The portion of the sandstone garage walls being demolished must be reconstructed of the same, or similar materials.

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).

- 3.11. A Photographic Archival Recording (PAR) shall be prepared by a suitably qualified heritage consultant prior to any development or excavation being carried out on site.

The report must consist of an archival standard photographic record of the heritage item (*Creighton's Funeral Parlour*) internally and externally and include views of it from the

street to illustrate its relationship to neighbouring properties and heritage items in the vicinity.

The record is also to illustrate the remainder of the development site and any existing views from the public domain onto the existing buildings and structures to be demolished.

The recording shall be undertaken in accordance with the guidelines for *Photographic Recording of Heritage Items Using Film or Digital Capture* prepared by the NSW Office of Environment & Heritage (2006). Copies will be retained in Gosford City Council's Archives and Local Studies.

- 3.12. A Temporary Protection Plan shall be prepared by a suitably qualified expert before any works are carried out on the development site outlining the protection measures taken to avoid any physical impact onto the fabric of the heritage item *Creighton's Funeral Parlour* including its side garage.

The contractor is to develop a strategy that identifies potential risks and outlines measures to reduce the potential for damage to the heritage item *Creighton's Funeral Parlour* during the demolition, excavation and construction processes on the development site.

- 3.13. A Schedule of Conservation Works is to be prepared by a suitably qualified heritage consultant for the heritage item *Creighton's Funeral Parlour*. The schedule is to identify the external and internal elements of significance of the building before their individual condition is assessed and conservation measures given on an element-by-element basis.

All conservation works prescribed to the building in the schedule of works should later be carried out by suitably qualified heritage trade experts and monitored by the heritage architect.

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.
- 4.16. A suitably qualified heritage architect is to be appointed to provide advice, monitor and report during the partial demolition and construction processes of the proposed works to the sandstone garage located to the south of the main heritage building.

Only suitably qualified heritage tradespeople and experts with relevant references are to be appointed during the carrying out of works to the main heritage building and side garage.

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.
- 5.26. An Interpretation Strategy should be prepared by a suitably qualified heritage consultant to optimise appreciation of the cultural significance of the *Creighton's Funeral Parlour* by the public.

This should include identification of interpretation options available for the site, design of an interpretation plan and interpretation of the building's history and significance.

The interpretation strategy should be prepared in accordance with the NSW Office of Environment & Heritage guidelines *Interpreting Heritage Places and Items Guidelines (2005)*.

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 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 >>