

JOINT REGIONAL PLANNING PANEL (Hunter and Central Coast)

Council Assessment Report

Panel Reference	2014HCC021 DA
DA Number	46209/2014
Local Government Area	Central Coast Council
Proposed Development	Mixed Use - Retail, Commercial, Restaurant, Residential Development and Demolition of Existing Structures
Street Address	Lot: A DP: 355117, Lot: C DP: 355117, LOT: 10 DP: 591670, LOT: 11 DP: 591670, LOT: 1 DP: 382784, LOT: 2 DP: 382784, LOT: 3 DP: 382784, LOT: 4 DP: 382784 37 Mann Street, 125 Georgiana Terrace, 35 Mann Street, 33 Mann Street, 31 Mann Street, 29 Mann Street, 27 Mann Street, & 27A Mann Street Gosford
Applicant	Rola Property Group Pty Ltd
Owner	Ancestry Pty Ltd
Date of DA Lodgement	22/08/2014
Number of Submissions	Scheme 1: Original Notification Aug 2014 – 119 Scheme 2: Notification of Amended Plans Oct 2015 – 190 Scheme 3: Notification of Amended Plans Jul 2016 – 8
Recommendation	Approval - subject to conditions
Regional Development Criteria (Schedule 4A of the Act)	Development with a capital investment value over \$20m
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979 - Section 79C • Local Government Act 1993 - Section 89 • State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land) (SEPP 32) • State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

	<ul style="list-style-type: none">• State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65)• State Environmental Planning Policy No 71 - Coastal Protection (SEPP 71)• State Environmental Planning Policy (<u>Building</u> Sustainability Index: BASIX) 2004 (BASIX)• Gosford Local Environmental Plan 2014• Gosford Development Control Plan 2013• Gosford City Centre Masterplan• Civic Improvement Plan• Section 94A Contribution Plan – Gosford City Centre• Gosford Local Environmental Plan 2014 draft amendment - (Ref: PP_2016_CCOAS_002_00)																																																																																																																																																																					
List all documents submitted with this report for the Panel's consideration	Architectural Plans by Thrum Architects																																																																																																																																																																					
	<table><tr><th>Drawing</th><th>Description</th><th>Sheets</th><th>Issue</th><th>Date</th></tr><tr><td>DA-000</td><td>Cover Sheet</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-001</td><td>Locality Plan</td><td>1</td><td>A</td><td>24/06/16</td></tr><tr><td>DA-002</td><td>Site Analysis Plan</td><td>1</td><td>A</td><td>24/06/16</td></tr><tr><td>DA-003</td><td>Survey Plan</td><td>1</td><td>A</td><td>24/06/16</td></tr><tr><td>DA-004</td><td>Site Plan</td><td>1</td><td>C</td><td>28/06/16</td></tr><tr><td>DA-101</td><td>Basement 2 Plan</td><td>1</td><td>F</td><td>24/06/16</td></tr><tr><td>DA-102</td><td>Basement 1 Plan</td><td>1</td><td>F</td><td>24/06/16</td></tr><tr><td>DA-103</td><td>Ground Floor Plan</td><td>1</td><td>E</td><td>24/06/16</td></tr><tr><td>DA-104</td><td>Level 1 Plan</td><td>1</td><td>F</td><td>24/06/16</td></tr><tr><td>DA-105</td><td>Level 2 Plan</td><td>1</td><td>F</td><td>24/06/16</td></tr><tr><td>DA-106</td><td>Level 3 Plan</td><td>1</td><td>C</td><td>24/06/16</td></tr><tr><td>DA-107</td><td>Level 4 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-108</td><td>Level 5 Plan</td><td>1</td><td>G</td><td>24/06/16</td></tr><tr><td>DA-109</td><td>Level 6 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-110</td><td>Level 7 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-111</td><td>Level 8 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-112</td><td>Level 9 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-113</td><td>Level 10 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-114</td><td>Level 11 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-115</td><td>Level 12 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-116</td><td>Level 13 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-117</td><td>Level 14 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-118</td><td>Level 15 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-119</td><td>Level 16 Plan</td><td>1</td><td>E</td><td>24/06/16</td></tr><tr><td>DA-120</td><td>Level 17 Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-121</td><td>Level 18 Plan</td><td>1</td><td>E</td><td>24/06/16</td></tr><tr><td>DA-122</td><td>Roof Plan</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-401</td><td>Line Elevations Sheet 1</td><td>1</td><td>C</td><td>24/06/16</td></tr><tr><td>DA-402</td><td>Line Elevations Sheet 2</td><td>1</td><td>C</td><td>24/06/16</td></tr><tr><td>DA-403</td><td>Rendered Elevations Sheet 1</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-404</td><td>Rendered Elevations Sheet 2</td><td>1</td><td>B</td><td>24/06/16</td></tr><tr><td>DA-501</td><td>Sections Sheet 1</td><td>1</td><td>D</td><td>24/06/16</td></tr></table>	Drawing	Description	Sheets	Issue	Date	DA-000	Cover Sheet	1	B	24/06/16	DA-001	Locality Plan	1	A	24/06/16	DA-002	Site Analysis Plan	1	A	24/06/16	DA-003	Survey Plan	1	A	24/06/16	DA-004	Site Plan	1	C	28/06/16	DA-101	Basement 2 Plan	1	F	24/06/16	DA-102	Basement 1 Plan	1	F	24/06/16	DA-103	Ground Floor Plan	1	E	24/06/16	DA-104	Level 1 Plan	1	F	24/06/16	DA-105	Level 2 Plan	1	F	24/06/16	DA-106	Level 3 Plan	1	C	24/06/16	DA-107	Level 4 Plan	1	B	24/06/16	DA-108	Level 5 Plan	1	G	24/06/16	DA-109	Level 6 Plan	1	B	24/06/16	DA-110	Level 7 Plan	1	B	24/06/16	DA-111	Level 8 Plan	1	B	24/06/16	DA-112	Level 9 Plan	1	B	24/06/16	DA-113	Level 10 Plan	1	B	24/06/16	DA-114	Level 11 Plan	1	B	24/06/16	DA-115	Level 12 Plan	1	B	24/06/16	DA-116	Level 13 Plan	1	B	24/06/16	DA-117	Level 14 Plan	1	B	24/06/16	DA-118	Level 15 Plan	1	B	24/06/16	DA-119	Level 16 Plan	1	E	24/06/16	DA-120	Level 17 Plan	1	B	24/06/16	DA-121	Level 18 Plan	1	E	24/06/16	DA-122	Roof Plan	1	B	24/06/16	DA-401	Line Elevations Sheet 1	1	C	24/06/16	DA-402	Line Elevations Sheet 2	1	C	24/06/16	DA-403	Rendered Elevations Sheet 1	1	B	24/06/16	DA-404	Rendered Elevations Sheet 2	1	B	24/06/16	DA-501	Sections Sheet 1	1	D	24/06/16
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DA-502	Sections Sheet 2	1	C	24/06/16
DA-601	Shadow Diagrams Sheet 1	1	C	24/06/16
DA-602	Shadow Diagrams Sheet 2	1	C	24/06/16
DA-701	Rendered Perspectives Sheet 1	1	A	24/06/16
DA-702	Rendered Perspectives Sheet 2	1	A	24/06/16
DA-703	Rendered Perspectives Sheet 3	1	A	24/06/16
DA-704	Rendered Perspectives Sheet 4	1	A	27/06/16
DA-801	Envelop & Height Plan Analysis	1	B	24/06/16
DA-802	GFA & FSR Calculations	1	B	24/06/16
DA-803	Sight Lines Analysis Plans	1	A	24/06/16
DA-804	Comparison Views from Broadwater		A	24/06/16

Landscape Plans by Site Image Landscape Architects

Drawing	Description	Sheets	Issue	Date
LA-000	Coversheet, Site Plan and Plant Schedule	1	I	22/06/16
LA-C101	Landscape Masterplan Render	1	I	22/06/16
LA-101	Landscape Plan – Ground Floor	1	I	22/06/16
LA-102	Landscape Plan – Podium	1	I	22/06/16
LA-501	Landscape Details	1	I	22/06/16

Civil Engineering Design by Cubo Consulting Pty Ltd

Drawing	Description	Sheets	Issue	Date
16027-100	Cover & Notes Sheet	1	1	24/06/16
16027-105	External Works	1	1	24/06/16
16027-106	Bulk Earthworks Plan	1	1	24/06/16
16027-111	Basement 1 Plan	1	1	24/06/16
16027-112	Ground Floor Plan	1	1	24/06/16
16027-113	Level 1 Plan	1	1	24/06/16
16027-114	Level 2 Plan	1	1	24/06/16
16027-115	Podium Level Plan	1	1	24/06/16
16027-120	Waste Collection Point & Access Route	1	1	24/06/16
16027-130	Indicative Erosion and Sediment Control Plan – Stage 1	1	1	24/06/16
16027-132	Indicative Erosion and Sediment Control Plan –	1	1	24/06/16

		Stage 2			
	16027-133	Indicative Erosion and Sediment Control Plan – Stage 3	1	1	24/06/16
	Supporting Documentation				
	Author	Title	Date		
	Doug Sneddon Planning Pty Ltd	Statement of Environmental Effects	June 2016		
	Philip Graus – Cox Richardson Architects and Planners	Peer Review Report	27/06/16		
	Heritage21	Statement of Heritage Impact	24/06/16		
	Cardno	Waste Management Plan	25/11/15		
	Cubo Consulting	Supplementary Waste Management Report	24/06/16		
	Cardno	Water Cycle Management Plan	02/10/2015		
	Cubo Consulting	Supplementary Water Cycle Management Report	10/06/16		
	Cardno	Review of Geotechnical Aspects	11/08/14		
	Cardno	Traffic Impact Assessment	24/11/2015		
	Cubo Consulting	Supplementary Traffic Report	24/06/16		
	Thrumm Architects	Accessibility Assessment Report	10/06/16		
	Richard Lamb & Associates	Visual Impact Statement	June 2016		
	Cardno	Review of Wind Effects	30/09/16		
Cubo Consulting	Supplementary Wind Effects Report	24/06/16			
Thrumm Architects	Visual Impact Assessment Report	15/07/16			
Report prepared by	S A Earp				
Report date	1 December 2016				

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable comments to be considered as part of the assessment report. **Yes**

Title: Development Application No. 46209/2014, Proposed Mixed Use - Retail, Commercial, Restaurant, Residential Development and Demolition of Existing Structures on Lot: A DP: 355117, Lot: C DP: 355117, LOT: 10 DP: 591670, LOT: 11 DP: 591670, LOT: 1 DP: 382784, LOT: 2 DP: 382784, LOT: 3 DP: 382784, LOT: 4 DP: 382784, 37 Mann Street, 125 Georgiana Terrace, 35 Mann Street, 33 Mann Street, 31 Mann Street, 29 Mann Street, 27 Mann Street, & 27A Mann Street GOSFORD



Department: Environment and Planning

Report Purpose:

To enable the determination of a development application.

Applicant	Rola Property Group Pty Ltd
Owner	Ancestry Pty Ltd
Application Number	46209/2014
Description of Land	Lot: A DP: 355117, Lot: C DP: 355117, LOT: 10 DP: 591670, LOT: 11 DP: 591670, LOT: 1 DP: 382784, LOT: 2 DP: 382784, LOT: 3 DP: 382784, LOT: 4 DP: 382784 37 Mann Street, 125 Georgiana Terrace, 35 Mann Street, 33 Mann Street, 31 Mann Street, 29 Mann Street, 27 Mann Street, & 27A Mann Street GOSFORD
Proposed Development	Mixed Use - Retail, Commercial, Restaurant, Residential Development and Demolition of Existing Structures
Zoning	B4 Mixed Use
Site Area	2,948m ²
Existing Use	
Value of Works	\$48,874,650

Summary:

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 application proposes variations to the development standards applicable under Gosford Local Environmental Plan 2014 (GLEP 2014). The amendment is also considered in light of the deemed planning instrument GLEP 2014 draft amendment (Ref: PP_2016_CCOAS_002_00) (draft GLEP 2014 amendment) which is currently on exhibition. The applicant has lodged a Clause 4.6 variation to the building height and floor space ratio development standards, which is supported.

The application also seeks a number of minor variations to Gosford Development Control Plan 2013 (GDGP 2013) are proposed, the extent of which are supportable.

The site comprises the Creighton's Funeral Parlour, which is listed as an item of local heritage significance under Gosford Local Environmental Plan 2014 (GLEP 2014). The original proposal (Scheme 1, September 2014) 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 and 9 December 2015 – Scheme 2) which retained the Creighton's Funeral Parlour building and the sandstone garage. Scheme 2 included design adjustments including two (2) additional floors above the original scheme to a total of 17 floors.

The Hunter and Central Coast Joint Regional Planning Panel (JRPP) considered Scheme 2 at the meeting on 17 December 2015 and resolved to defer the application to enable the proposal to be amended to address the following nine (9) matters of deferment:

- 1. The bulk and scale of the proposed development being substantially reduced to appropriately minimise the impacts on the heritage item and to appropriately address view sharing impacts in relation to the nearby Broadwater Apartments in Parlour Lane.*
- 2. Reduce the busyness and flamboyance of the development and provide a quieter façade treatment in order to improve the Design Excellence outcomes.*
- 3. Further consideration of design criteria such as character, scale, form, siting, materials and colours and detailing in the redesign of the development to better respond to the heritage and the urban context.*
- 4. A revised approach to view sharing to reduce the impacts from this development on the nearby Broadwater Apartments in Parlour Lane and to consider the cumulative view loss impacts within the locality having regard to existing and approved development permitted under the planning controls.*
- 5. An exploration of the previous mortuary position and opportunities to interpret that key element in the design and re-use.*
- 6. Further investigation is carried out to identify an approach to retain the southern garage wall and ensure the structural suitability of the existing sandstone wall.*
- 7. Increased landscaping including the quantum of deep soil planting, particularly at the podium level.*
- 8. The amended design comprehensively addressing the provisions of SEPP 65 and the Residential Flat Design Code.*
- 9. Provision of a revised clause 4.6 submission under Gosford LEP 2014 in respect of the amended proposal.*

A final amended scheme (Scheme 3) was submitted to Council on 28 June 2016 which addressed the matters of deferment raised by the JRPP. Each of the items raised above have been referred to in the assessment report.

The final scheme proposes a total of 19 floors (unchanged) to a maximum height of RL74.38 (being an increase of 2.63m).

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. The development is considered consistent with the desired future character of the Gosford city centre.

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**.

Public Submissions:	Scheme 1: Original Notification August 2014	– 119
	Scheme 2: Notification of Amended Plans October 2015	– 190
	Scheme 3: Notification of Amended Plans July 2016	– 8

Political Donations: None declared

Recommendation:

- A That the Joint Regional Planning Panel grant consent to 46209/2014 at 37 Mann Street, 125 Georgiana Terrace, 35 Mann Street, 33 Mann Street, 31 Mann Street, 29 Mann Street, 27 Mann Street, & 27A Mann Street GOSFORD, for mixed use - retail, commercial, restaurant, residential development and demolition of existing structures
- B In accordance with Section 95(2) of the Environmental Planning & Assessment Act 1979, this consent shall be valid for a period of **two (2) years**.
- C The objectors are notified of JRPP's decision.
- D The External Authorities be notified of the JRPP's decision.

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.

Summary of Non Compliances:

Policy	Details
GLEP 2014	Building Height (+67% and +126%) – Supported. Floor Space Ratio (+72.5%) - Supported
GDCP 2013	Building Alignment – minor, supported Building Depth – minor, supported Setbacks – varied, supported Car Parking - minor, supported Dwelling Mix – minor, supported
State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development	Building Depth – supported Building Height – supported FSR - supported Internal Circulation - supported
Gosford Local Environmental Plan 2014 draft amendment - (Ref: PP_2016_CCOAS_002_00)	Building Height (+28.5% and +73.97%) – Supported. Floor Space Ratio (+32.69%) - Supported

Clauses Where Consent Authority Must be Satisfied/Have Regard

Planning Provision	Clause	Recommendations
Gosford LEP 2014 2.3(2) Zone Objectives and Land Use Table	<i>(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone</i>	The proposal has been assessed and is considered consistent with the objectives of the B4 Mixed Use Zone. (Refer Pages 18-19)

Planning Provision	Clause	Recommendations
Gosford LEP 2014 4.6(4) – Exceptions to Development Standards	<p><i>(4) Development consent must not be granted for development that contravenes a development standard unless:</i></p> <p><i>(a) the consent authority is satisfied that:</i></p> <p><i>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</i></p> <p><i>(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</i></p> <p><i>(b) the concurrence of the Secretary has been obtained.</i></p>	<p>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.</p> <p>The Clause 4.6 variation submitted by the applicant is considered well founded and Council is satisfied that it adequately addresses relevant matters under Clause 4.6(3) and (4). The above assessment concludes that the proposed variations to building height and FSR can be supported when considered on merit. (Refer Pages 23-31)</p>
SEPP 55 – Remediation of Land Clause 7(1)(a) and 7(2) – Contamination and Remediation to be Considered in Determining Development Application	<p><i>(1) A consent authority must not consent to the carrying out of any development on land unless:</i></p> <p><i>(a) it has considered whether the land is contaminated...</i></p> <p><i>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</i></p>	<p>Council has considered whether the land is contaminated and is satisfied that the site does not warrant further investigation pursuant to Clause 7(2). (Refer Page 36)</p>

Site & Surrounds:

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 (Figure 1).

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 GLEP 2014 (Item No. 37). A number of other shops and offices exist along the Mann Street frontage of the site.

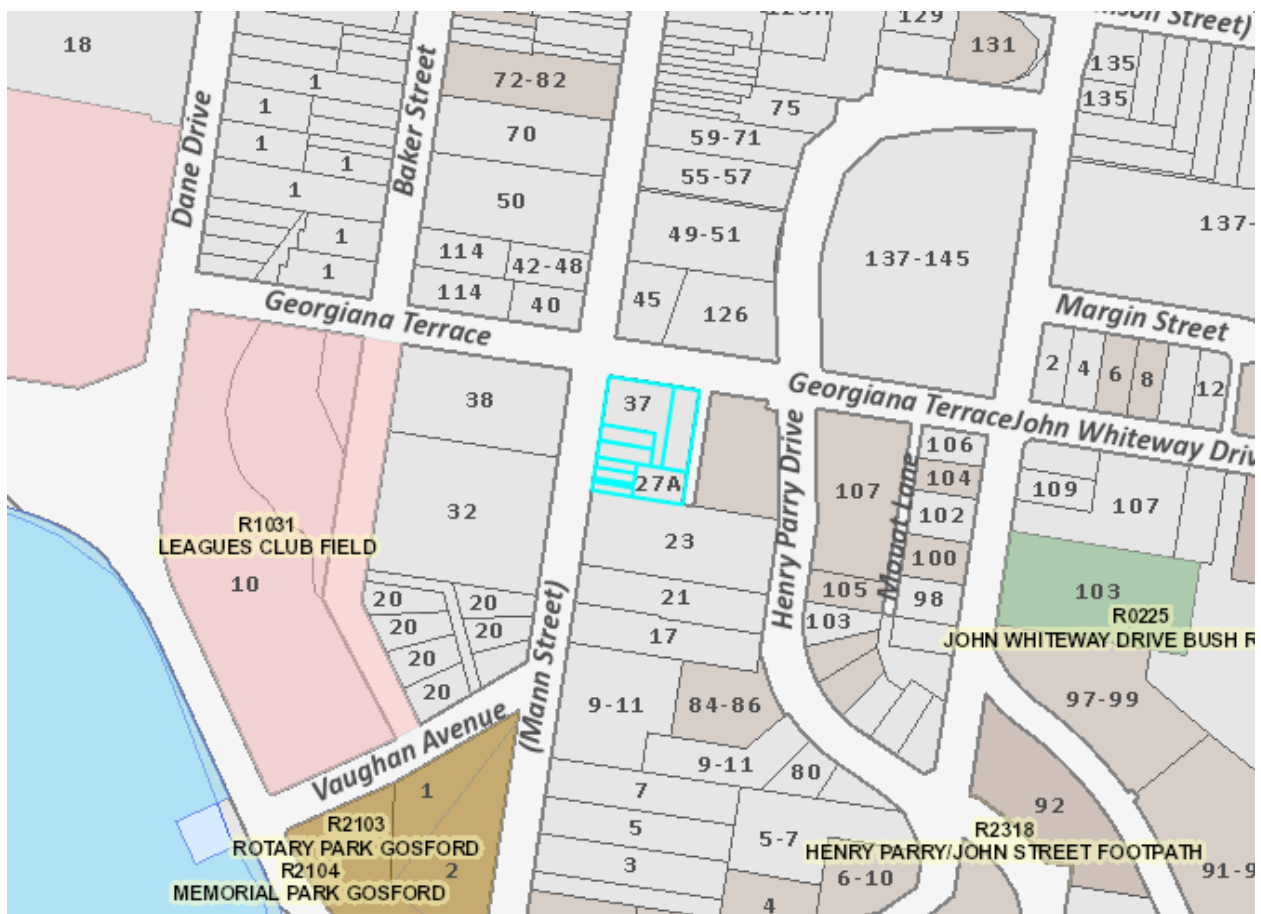


Figure 1: Site Map

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 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).



Figure 21: Site location Aerial.

Previous consents:

Development Consent 39000/2010 granted consent for *"Internal Alterations and External Door Glazing"*, including works involving *"the internal fitout of part of the garage and mortuary area of the former funeral parlour including construction of an internal stud wall between the two former garages and the fitout of a toilet area in the former mortuary area"*.

Development Consent 40581/2011 granted consent for *"Internal Alterations/Fitout & Use of Part of Premises as a Pub (Wine Bar)"*. This consent has been modified on three (3) occasions. The wine bar is currently operating.

Background of this development application:

The following history is relevant for DA 46209/2014:

- 22 August 2014:** DA Submitted (Scheme 1) for a 15 storey mixed use development (with ground floor retail and restaurant, first floor commercial and 127 residential units above) which involved demolition of the heritage listed Creighton's Funeral Parlour and reconstruction of the façade of the building. The plans were placed on notification and 119 public submissions were received, with strong community objection to the demolition of the heritage item. Council also obtained external specialist heritage advice from Clive Lucas Stapleton who objected to the development, outlining that the new building should not dominate the heritage item.

-
- **6 October 2015:** Revised DA submitted (Scheme 2) which retained the Creighton's Funeral Parlour (with the exception of the sandstone garage, which was to be reconstructed) and increased the height to 17 storeys (two additional storeys to original DA). The revised plans were placed on public exhibition and 190 submissions were received (primary objection was to the demolition of the heritage item, which was now to be retained). Council also obtained further external specialist heritage advice from Clive Lucas Stapleton who again objected to the development.
 - **27 November 2015:** Council assessment report of Scheme 2 completed for JRPP consideration which recommended approval of the development, subject to conditions.
 - **9 December 2015:** Applicant amended DA scheme so as to enable retention of the sandstone garage walls fronting Mann Street. Supplementary JRPP report prepared.
 - **17 December 2015:** JRPP resolve to defer the determination of the DA in order to address nine (9) separate matters, including matters relating to:
 - Reducing bulk and scale and appropriately address view loss;
 - Reduce busyness and flamboyance of the development to improve design excellence outcomes;
 - Further heritage consideration of design criteria;
 - Revised approach to view sharing;
 - Exploration of the previous mortuary position;
 - Further investigation of southern garage wall;
 - Increased landscaping;
 - Amended design addressing SEPP 65 and RFDC; and
 - Revised Clause 4.6 submissions.

(Refer Attachment 1)

- **30 March 2016:** Applicant submitted a 96-page document to Council detailing the proposed amendments in response to the matters of deferment, including a revised tower design with 25 floors, improved approach to view loss and overshadowing, and support from a Design Peer Review Report and View Sharing Advice letter from Dr Richard Lamb.
- **21 April 2016:** JRPP considered informally the revised concept and raised concerns with the increase in height and floor space greater than that proposed in the application considered on 17 December 2015. Further comments also provided from Council's heritage officer. Applicant advised of all comments in letter dated 2 May 2016 and meeting held with applicants shortly after.
- **28 June 2016:** Revised DA submitted to Council (Scheme 3), including revised tower design with 19 floors.

Summary of Scheme Amendments:

The following table provides a summary of the key development statistics of each Scheme under DA 46209/2014, and comments highlighting changes between Scheme 2 (2015 – deferred) and Scheme 3 (2016):

Component	Scheme 1 (2014)	Scheme 2 (2015)	Scheme 3 (2016)	Comment
Height (Above Ground)	16 storeys	19 storeys	19 storeys	No change
Height (Max RL)*	RL 63.28	RL 71.75	RL 74.38	+2.63m*
Basement Levels	2	1	2	+1
Podium Levels	3	3	2	-1
Typical Floor Plate	880m ²	800m ²	689m ²	-111m ²
No. of Residential Units	134	134	132	-2 units
Gross floor area	17,242.38m ²	17,180.28m ²	13,204.60m ²	-3,975.68m ²
Commercial Floor Space	1,090.54m ²	1,059.55m ²	644m ²	-415.55m ²
Retail Floor Space	529.29m ²	502.61m ²	455m ²	-47.61m ²
Restaurant Floor Space	148.28m ²	209.71m ²	188m ²	-21.71m ²
Car Parking Spaces	223	224	205	-19
Motorcycle Spaces	10	10	11	+1
Bicycle Spaces	67	67	80	+13

* *Note: Maximum RL does not reflect change in 'height of building' measurements. Refer to comparison table on Page 16.*

The proposed Scheme 3 (2016) development involves the following modifications compared to the deferred Scheme 2 (2015):

- Redesigned tower with new curved diamond shape responding to view corridors and new materials and finishes;
- Provision of additional separation between tower and heritage building;
- Reduction in typical floor plate (-111m²) with minor increase in maximum height RL (+2.63m) providing a more slender but slightly taller building;
- Replacement of one (1) podium level (including commercial floor space, residential units and car parking spaces) with one (1) tower level; and
- Addition of one (1) basement level, thus removing the need for residents to enter Parlour Lane.

Proposal

The proposed Scheme 3 comprises the following:

- The retention of Creighton's Funeral Parlour, including retention of the sandstone garage;
- 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 Level 2: 67 car parking spaces, 40 bicycle spaces and car wash bay;
 - Basement Level 1: 63 car parking spaces;

- Ground Floor: Retail floor space, restaurant/bar floor space, commercial and residential lift lobbies and 47 car parking spaces;
- Level 1: Commercial floor space, 28 car parking spaces, 38 bicycle spaces, vehicle entry from Georgiana Terrace, no modifications or change of use proposed to first floor of Creighton's Funeral Parlour;
- Level 2: Residential units, communal open space, communal swimming pool, garbage store and collection area;
- Levels 3-18: Residential units.
- The mixed use building will comprise the following:
 - A gross floor area of 13,204.60m²;
 - A total of 132 residential units, comprising the following mix:
 - 1br Units x 35
 - 2br Units x 62 (including the single existing 2br residential unit at the first floor of the Creighton's Funeral Parlour building which is to be retained)
 - 3br Units x 35
 - A total of 644m² of commercial floor space;
 - A total of 455m² of retail floor space;
 - A total of 188m² of restaurant floor space;
 - A total of 205 car parking spaces, comprising the following mix:
 - Residential Spaces x 173 (including 16 accessible spaces);
 - Visitor Spaces x 27
 - Commercial Spaces x 32 (including 3 accessible spaces).
 - A total of 11 motorcycle spaces and 80 bicycle spaces.

Driveway access to the car parking areas will be from Georgiana Terrace. Waste storage and collection will be from Parlour Lane.



WESTERN ELEVATION @ MANN STREET



NORTHERN ELEVATION @ GEORGIANA TERRACE

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.

For ease of reference, the following table provides a summary of changes to relevant planning matters and referrals between Scheme 2 (as considered by the JRPP on 17 December 2015) and Scheme 3 (current proposal):

DA Component		Scheme 2 (2015)	Scheme 3 (2016)	Comment
Zoning		B4 Mixed Use	B4 Mixed Use	<i>No change</i>
Zone Objectives		Consistent with objectives	Consistent with objectives	<i>No change</i>
Design Excellence		Exhibits design excellence	Exhibits design excellence	<i>No change</i>
GLEP Cl.4.3 Building Height (split height over site)	Base control Max 36m	55.95m (+55%)	60.18m (+67%)	Height increased by 4.23m
	Base control Max 24m	55.09m (+129%)	54.28m (+126%)	Height reduced by 0.81m
GLEP Cl. 4.4 FSR (split FSR over site)	Base control Max 4:1	8.1:1 (+102%)	6.9:1 (+72%)	Reduced by 1.2:1
	Base control Max 3:1	1.88:1 (complies)	0.29:1 (complies)	Reduced by -1.59:1
Draft GLEP Building Height 30% bonus (split height over site)	30% bonus height Max 46.8m	55.95m (+19%)	60.18m (+28%)	Height increased by 4.23m
	30% bonus height Max 31.2m	55.09m (+76%)	54.28m (+73%)	Height reduced by 0.81m
Draft GLEP FSR 30% bonus (split FSR over site)	30% bonus FSR Max 5.2:1	8.1:1 (+53%)	6.9:1 (+32%)	Reduced by 1.2:1
	30% bonus FSR Base control Max 3.9:1	1.88:1 (complies)	0.29:1 (complies)	Reduced by -1.59:1
DCP Variations		Building setbacks Street frontage height Building dimensions Maximum floor plate Variations supported.	Building setbacks Building dimensions Car parking Unit Mix Variations supported.	Minor changes, variations supported

DA Component	Scheme 2 (2015)	Scheme 3 (2016)	Comment
SEPP 65	Complies with design principles and generally complies with Apartment Design Guide	Complies with design principles and generally complies with Residential Flat Design Code.	<i>No change</i>
View Loss	<i>Tenacity</i> assessment concluded proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments.	Proposal adopts revised approach to view loss, improving sight lines from The Broadwater Apartments to surrounding views. Improved outcome. <i>Tenacity</i> assessment conclusion has not changed.	Improved outcome. No change to <i>Tenacity</i> conclusion.
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.	<i>No change</i>
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 and the external heritage consultant have provided comments on the amended Scheme 3 DA, which are discussed below.	Refer heritage discussion below
Section 94A Contributions	1% contribution rate applies. Contribution required is \$497,000. Reimbursement required by Council is \$1,491,000.	Revised Quantity Surveyors Report submitted, value amended to \$48,874,650.	Value amended
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.	Council's Waste Management Assessment Officer has reviewed Scheme 3 and raises no objections. Conditions have been recommended for inclusion in any consent issued.	No objections to Scheme 3
Architect	No objections, 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.	Council's Development Engineer has reviewed the amended proposal and raises no objections, subject to conditions.	<i>No change</i>

DA Component	Scheme 2 (2015)	Scheme 3 (2016)	Comment
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 trade waste 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>

Gosford Local Environmental Plan 2014:

The land is zoned B4 Mixed Use under GLEP 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 B4 Mixed Use 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. In doing so the proposal will 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 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 GLEP 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 either streetscape character or 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

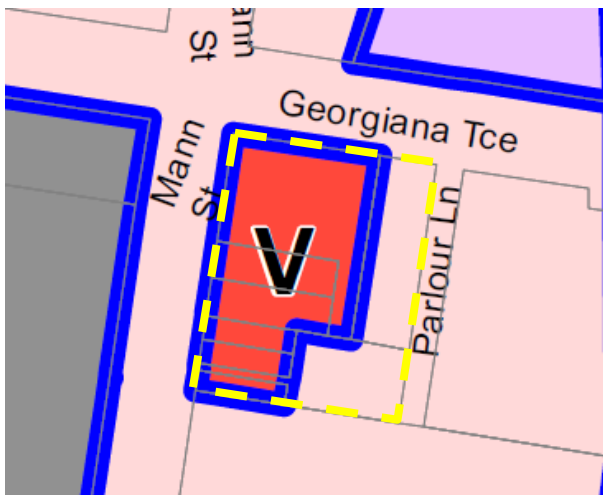
The site is located within the B4 Mixed Use Zone. The emphasis of the B4 Zone is to promote employment generating and economically stimulating development with high density residential accommodation to support the commercial core of Gosford City.

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.

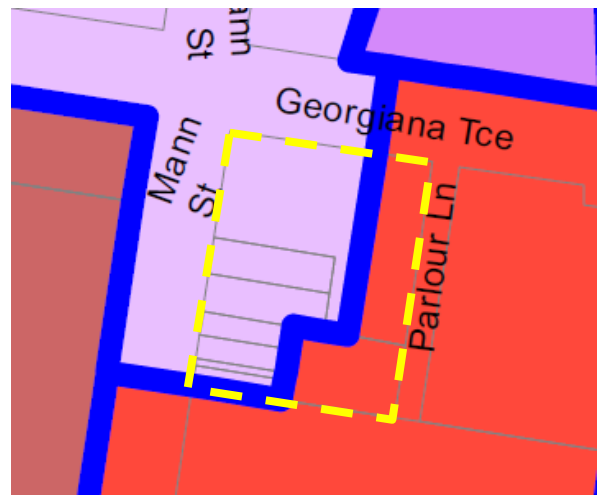
Principal Development Standards

The site has split height and FSR controls applying to the site. The proposed development has been designed to site the building towards the Mann Street side of the site. This area of the site is subject to greater building height and floor space ratio controls 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.

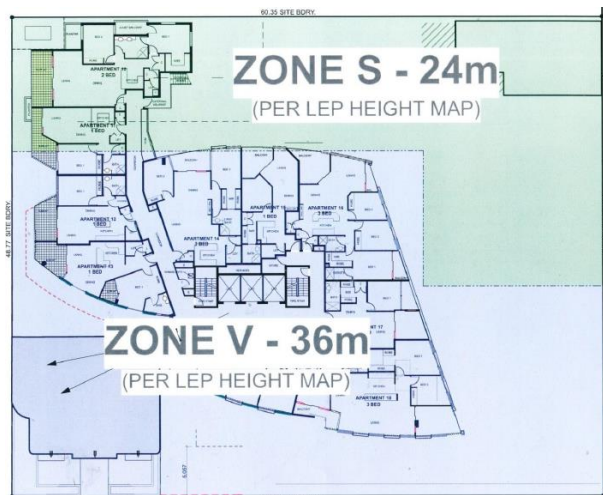


Building Height – Pink = 24m, Red = 36m

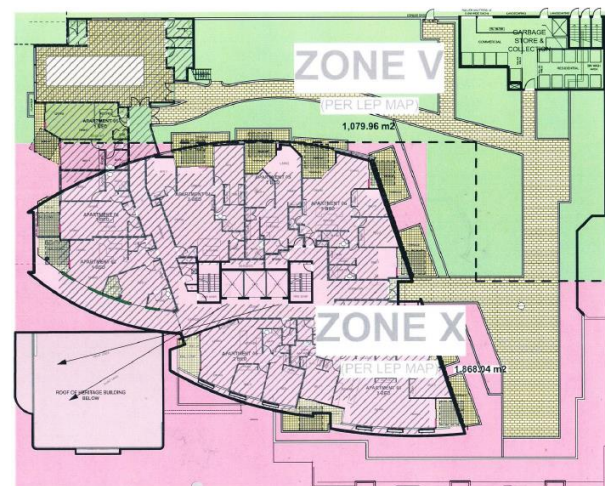


FSR – Red = 3:1, Purple = 4:1

The following extracts show the relationship of the building footprint with the building height and FSR development controls:



Building Height Demarcation Diagram



GFA/FSR Demarcation Calculation Diagram

The controls are discussed further below.

Clause 4.3 Height of buildings

The provisions of Clause 4.3 GLEP 2014 establish a maximum height limit for buildings. In addition GLEP has bonus provisions under Clause 8.9, which seek to promote development within Gosford and surrounds. The GLEP was amended in April 2015 via Amendment 12 to extend the timeframe that the 30% bonus height and floor space provisions for a further 12 months. The incentive provision (Clause 8.9) ceased to apply 12 months after the gazettal of Amendment 12 (1 April 2016).

The subject application was lodged on 22 August 2014 and so sought the benefit of the bonus height and floor space provisions, however in determining this application it is considered that the bonus provisions are not currently applicable.

In recognition that there are a number of applications in this position, a planning proposal has been progressed to amend Clause 8.9 to confirm that the bonus provisions are applicable to all relevant development applications lodged prior to 1 April 2016.

The draft GLEP 2014 amendment has been placed on public exhibition from 25 November 2016. Pursuant to Section 79C(1)(a)(ii), the proposed instrument has been the subject of public consultation and is therefore a matter for consideration.

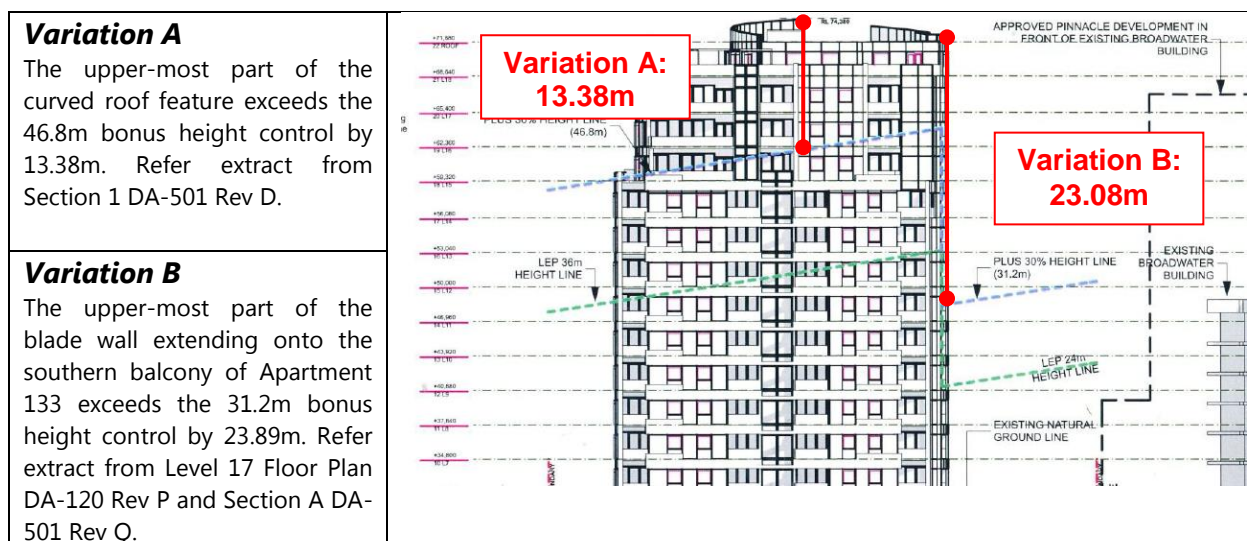
In relation to height:

- the GLEP 2014 applies a split base height control for the site, with a maximum of 36m for the majority of the site and 24m for a smaller portion of the site
- Draft GLEP 2014 amendment (30% bonus) applies a split bonus height control for the site, with a maximum of 46.8m for the majority of the site and 31.2m for a smaller portion of the site.

Clause	Item	Base Control	30% bonus Standard*	Proposed	Compliance	Variation
Cl. 4.3	Height	36m	46.8m	60.18m	No	+13.38m (28.5%)
		24m	31.2m	54.28m	No	+23.08m (73.97%)

* Note: proposed via Draft GLEP 2013 Amendment (currently on exhibition)

The proposal involves a tower element which exceeds the bonus building height control applicable to the Mann Street frontage of the site (Zone V – 46.8m), and due to the curvature of the building, will extend by 600mm into the building height control applicable to the Parlour Lane frontage of the site (Zone S – 31.2m). The extent of each variation is discussed below in detail with reference made to the following Site Plan extract:



The proposed development height of 60.18m for the majority of the site and 54.28m for the remainder, is a variation of the GLEP 2014 base control of 67% and a variation to the bonus control of 28.5%.

A clause 4.6 variation has been provided in this case.

4.4 Floor space ratio

The provisions of Clause 4.4 GLEP 2014 establish a maximum floor space ratio for buildings. Similarly to the above discussion in relation to height, Clause 8.9 provided a 30% bonus to incentivise development which ceased to apply 12 months after the gazettal of Amendment 12 (1 April 2016).

The subject application was lodged on 18 March 2016 and so sought the benefit of the bonus height and floor space provisions, however in determining this application it is considered that the bonus provisions are not currently applicable.

To address this situation, a draft GLEP 2014 amendment has been progressed to amend Clause 8.9 to confirm that the bonus provisions are applicable to all relevant development applications lodged prior to 1 April 2016. This draft GLEP 2014 amendment has been placed on public exhibition from 25 November 2016. Pursuant to Section 79C(1)(a)(ii), the proposed instrument has been the subject of public consultation and is therefore a matter for consideration.

In relation to floor space:

- the GLEP 2014 applies a split base FSR control for the site, with a maximum of 4:1 for the majority of the site and 3:1 for a smaller portion of the site
- Draft GLEP 2014 amendment (30% bonus) applies a split FSR of 5.2:1 for the majority of the site and 3.9:1 for a smaller portion of the site

Clause	Item	Base Control	30% bonus Standard*	Proposed	Compliance	Variation
Cl. 4.4	FSR	4:1	5.2:1	6.9:1	No	+1.7:1 (32.69%)
		3:1	3.9:1	0.29:1	Yes	Nil

* Note: proposed via Draft GLEP 2013 Amendment (currently on exhibition)

The Architectural Plans include a gross floor area (GFA) and FSR calculations diagram (Refer Plan No. DA-802 Rev B) 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 current proposal (Scheme 3) comprises a total GFA of 13,204.6m², representing a reduction in GFA of 3,975.68m² from Scheme 2.

Within the part of the site subject to a maximum FSR development standard of 5.2:1 (maximum permitted floor area of 9,713.80m²), the proposal will result in a FSR of 6.9:1 (i.e. total floor area of 12,887.87m² within the front part of the site). This represents a FSR variation of 1.7:1, or 32.69%, and a reduction from the Scheme 2 FSR variation of 1.2:1. A clause 4.6 variation has been provided in this case.

Within the part of the site subject to a maximum FSR development standard of 3.9:1 (maximum permitted floor area of 4,211.84m²), the proposal will result in a FSR of 0.29:1 (i.e. total floor area of 316.73m²). Therefore there is no variation proposed to this FSR standard.

It should be noted that while a FSR calculation across the whole site is inconsistent with the development standards under GLEP 2014, such a calculation has been provided for information purposes. An average maximum FSR control across the site would be 4.55:1, and the proposal would result in a combined FSR of 4.48:1. Therefore in this case, the proposal would comply with a combined maximum FSR control.

4.6 Exceptions to Development Standards

As discussed above, Amendment 12 to GLEP 2014 was gazetted to extend a 30% bonus height and floor space provisions under Clause 8.9. The incentive provision (Clause 8.9) ceased to apply 12 months after the gazettal of Amendment 12 (1 April 2016).

In recognition that there are a number of applications in this position, a planning proposal has been progressed to amend Clause 8.9 to confirm that the bonus provisions are applicable to all relevant development applications lodged prior to 1 April 2016.

The draft GLEP 2014 amendment has been placed on public exhibition from 25 November 2016. Pursuant to Section 79C(1)(a)(ii), the proposed instrument has been the subject of public consultation and is therefore a matter for consideration.

Notwithstanding, the proposal must be assessed as if the 30% height and FSR bonus under Clause 8.9 does not apply. As such a Clause 4.6 variation has been provided to address the

variations from the base height and FSR controls. This satisfies item 9 of the JRPP matters for deferral. A copy of the updated Clause 4.6 variation is included at **Attachment B**.

With the 30% bonus applying, the proposal comprises variations to the height and FSR development standards, as discussed above. However because the proposal must be assessed as if the 30% bonus does not apply, the Clause 4.6 variation submitted by the applicant has been updated to reflect variations from the base controls, with reference to the draft LEP as re-introducing the 30% bonus to the development.

This assessment has been carried out having regard to the amended Clause 4.6 variation submitted by the applicant. For the purposes of Council's report, the assessment under Clause 4.6 has referenced the variations from the development controls including the 30% bonus.

This assessment concludes that the Clause 4.6 variations are well founded and are worthy of support.

Clause 4.6 of the GLEP 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.*

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 2)

The Applicants submission includes a detailed response to considerations arising from *Whebe v Pittwater Council* [2007] NSWLEC 827 and *Four2Five v Ashfield Council* [2015] NSWLEC 90, and concludes as follows:

"Amended DA 46209/2014 proposes to:

- Contravene the 24m and 36m maximum permissible building height development standards applying across the subject, resulting in the proposed development having a maximum height above ground level of 54.28m and 60.18m within each of the „height zones“ applying across the land; and*
- Contravene the 4:1 maximum floor space ratio development standard applying to part of the subject land, resulting in the proposed development having a floor space ratio of 6.9:1 within that part of the site.*

Central Coast Council is requested to exercise its discretion under Clause 4.6 (2) of Gosford Local Environmental Plan 2014 for development consent to be granted to amended DA 46209/2014 for 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, even though the proposed development would contravene the applicable 24m and 36m maximum permissible building height development standards and the 4:1 maximum permissible floor space ratio development standard applying to the subject land.

This request addresses the matters required by Clauses 4.6 (3) – (5) of Gosford Local Environmental Plan 2014 and demonstrates that any requirement for the proposed development to strictly comply with the applicable building height and floor space ratio development standards is unreasonable or unnecessary in the circumstances of the site and the proposed development because:

- The objectives of the building height and floor space ratio development standards and the objectives of the B4 Mixed Use Zone are achieved by the proposed development, notwithstanding non-compliance with the development standards; and*
- There are sufficient environmental planning grounds to justify the proposed development contravening the building height and floor space ratio development standards.*

This request for contravention of the applicable maximum permissible building height and floor space ratio development standards is well founded and the requested

variations to the particular development standards are considered appropriate in the circumstances.

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."

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 46.8m maximum building height control (Variation A). This variation is resultant from the additional 3 residential storeys atop the building tower, with associated roof design features. 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 at the eastern end of the site under a compliant scheme would be RL 59.32.

The highest point of the proposed building is RL 74.38 (being the curved roof feature) which provides appropriate transition between with the highest point of the approved residential flat building under DA 46272/2015, being RL 70.00 and the highest point of the approved mixed use development under DA 47046/2015, being RL 117.03.

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.

Variation A is consistent with the objectives of Clause 4.3 as the part of the building exceeding the height control:

- Continues to achieve a high quality urban form;
- Does not detract from the exposure to sky and sunlight for surrounding buildings and public areas;

-
- Achieves an appropriate transition in built form and land use intensity;
 - The built form responds to the location of the heritage item on the site; and
 - Is located appropriately so as to minimise view corridors and view impacts.

This assessment will now examine the proposed building height variation to the 31.2m maximum building height control (Variation B). This variation is resultant from a small portion of the building encroaching 600mm 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 comprises part of the curved façade of the building, the remainder of which is located within the part of the site subject to a higher building height control. The design is such that if the proposal was amended to remove the 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 the adjoining building.

Variation B is consistent with the objectives of Clause 4.3 as the part of the building exceeding the height control:

- Continues to achieve a high quality urban form;
- Does not detract from the exposure to sky and sunlight for surrounding buildings and public areas;
- Achieves an appropriate transition in built form and land use intensity; and
- Is located appropriately so as to minimise view corridors and view impacts.

Council's Assessment - FSR

The objectives of the Floor Space Ratio development standard of the GLEP 2014 are:

4.4 Floor space ratio

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

- (a) to establish standards for the maximum development density and intensity of land use,*
- (b) to control building density and bulk in relation to site area in order to achieve the desired future character for different locations,*
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (d) 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,*
- (e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (f) to facilitate design excellence by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design,*
- (g) to ensure that the floor space ratio of buildings on land in Zone R1 General Residential reflects Council's desired building envelope,*
- (h) to encourage lot amalgamation and new development forms in Zone R1 General Residential with car parking below ground level.*

Scheme 3 has been prepared in response to the matters of deferment set out by the JRPP in December 2015. In particular, the proposal was required to reduce the bulk and scale of the

proposal to appropriately minimise impacts on the heritage item and appropriate address view sharing impacts. The following changes have been made under Scheme 3 which result in an overall reduction in bulk and scale (and GFA):

- Reduction in tower floor plate to address view sharing while providing greater separation from the heritage item;
- Containment of reduced tower floor plate within the part of the site subject to higher FSR and height development controls;
- Adoption of a curved façade design; and
- Removal of one podium level, including commercial floor space and car parking and replacement with one tower level and one additional level of basement car parking.

The above design changes have reduced the total GFA of the proposal by 3,975.68m². This has reduced the FSR under both controls by -1.2:1 (in the part of the site subject to maximum bonus FSR of 5.2:1) and -1.59:1 (in the part of the site subject to maximum bonus FSR of 3.9:1). Scheme 3 now proposes a reduced variation to the 5.2:1 bonus FSR control of +1.7:1 (being a total FSR of 6.9:1).

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 podium has been reduced by one (1) storey and residential units fronting Georgiana Terrace have been relocated to the replacement tower storey, therefore this has reduced the visual impact of the proposal to the Georgiana Street frontage, and reduced bulk adjacent to Creighton's Funeral Parlour.

In regard to the 3 storeys above the maximum building height, the likely visual impacts of this floor area will arise when viewing the Gosford cityscape. In this regard, the height of the proposal achieves appropriate transition between the height of adjoining development approved under DA 46272/2015 and DA 47046/2015. Therefore the proposal 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 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 Central Coast 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 high level strategic considerations and therefore cannot be applied to the present assessment.

Therefore the variation of the FSR under the GLEP 2014 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 above, 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 3.61:1 of FSR (or 3,899.52m² of GFA) 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 (i.e. 3.61:1 of 3,899.52m² of GFA) was transferred to the front (thereby reducing the FSR of the proposal from 6.9:1 to 3.29:1), the proposal would comply with the maximum bonus FSR standard of 5.2:1.

In place of the transferral of FSR, another test would be to consider an averaging of FSR controls across the site, however this is not considered appropriate in all cases where split controls apply to a property. An average maximum FSR control across the site would be 4.55:1, and the proposal would result in a combined FSR of 4.48:1. Therefore in this case, the proposal would comply with a combined maximum FSR control. Given the need to address height transition between surrounding properties, this test is not given significant weighting in this assessment.

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.

Clause 4.6 Assessment

Clause 4.6(3) requires Council to consider a written request from the applicant. A written request has been received and has been considered. As discussed above, this assessment concludes that the Clause 4.6 variation submitted by the applicant is well founded as it has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6(4) requires Council to be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) and that the proposed development will be in the public interest. This assessment concludes that the development is in the public interest because it is consistent with the objectives of the building height and FSR standards and the objectives of the B4 Mixed Use zone.

Clause 4.6(3) requires Council to consider a written request from the applicant to adequately demonstrate compliance with the relevant matters. This assessment concludes that the Clause 4.6 variation submitted by the applicant is well founded as it has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

In response to Clause 4.6(4)(a)(ii), the proposed development has been assessed as being in the public interest as it is consistent with the objectives of the building height and FSR standards, and is consistent with the objectives of the B4 Mixed Use zone.

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 and Council is satisfied that it adequately addresses relevant matters under Clause 4.6(3) and (4). The above assessment concludes that the proposed variations to building height and FSR can be supported when considered on merit.

Clause 8.5 Design Excellence

On 17 December 2015 the JRPP resolved to defer the application to enable the proposal to be amended. Amongst the matters of deferment listed by the JRPP, the following are of particular relevance to design excellence.

- 1. Reduce the busyness and flamboyance of the development and provide a quieter façade treatment in order to improve the Design Excellence outcomes.*

The requirements for design excellence in Clause 8.5 of GLEP 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. A number of improvements have been made to the development scheme in response to the matters of deferment raised by the JRPP;
- 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. Further the proposal will provide appropriate transition between the surrounding approved developments, including the three waterside towers at 50-70 Mann St and 114 Georgiana Terrace under DA 47046/2015.
- 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 of Scheme 3 has been carried out which concludes that the proposal will result in a general improvements to view sharing and 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 which will likely overshadow this land as well;

- An assessment has been carried out against the provisions of GDCP 2013, which concludes that the development is generally consistent with the GDCP 2013 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 GLEP 2014 and GDCP 2013. The assessment in this Report has 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. 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 GLEP 2014 to allow a high density mixed use development on the site. This is consistent with the strategic direction of GLEP 2014 having regard to the transformation of the Gosford City Centre;
- The design characteristics of the amended tower (Scheme 3) result in the proposal not having an unacceptable bulk and massing under the relevant development control objectives, and in accordance with the matters for deferment raised by the JRPP;
- The development will provide a two storey podium to Mann Street, atop which the primary tower is located. The reduced 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 heritage listed building and in doing so avoids unnecessary adverse impacts upon the public domain. When considered from a distance, the new building will achieve appropriate transition between the height

of surrounding approved development and incorporates a slender design with high quality materials which avoids an unacceptable visual impact.

Clause 8.9 Development Incentives

As discussed earlier in this report, in April 2015 GLEP 2014 was amended to extend the 30% bonus height and floor space provisions under Clause 8.9. The incentive provision (Clause 8.9) ceased to apply 12 months after the gazettal of Amendment 12 (1 April 2016).

In recognition that there are a number of applications in this position, a planning proposal has been progressed to amend Clause 8.9 to confirm that the bonus provisions are applicable to all relevant development applications lodged prior to 1 April 2016.

The draft GLEP 2014 amendment has been placed on public exhibition from 25 November 2016. Pursuant to Section 79C(1)(a)(ii), the proposed instrument has been the subject of public consultation and is therefore a matter for consideration. Therefore the 30% bonus to building height and FSR has been included in the report assessment.

The draft LEP will amend Clause 8.9 as follows:

- (4) *This clause 8.9 applies to development applications made on or after 31 August 2012 and on or before 2 April 2016, and operates in respect of any such development application so made whether finally determined before or after the date on which the commencement of Gosford Local Environmental Plan 2014 (Amendment No 12) commenced.*

Notwithstanding, the proposal must be assessed as if the 30% height and FSR bonus under Clause 8.9 does not apply. As such a Clause 4.6 variation has been provided to address the variations to height and FSR.

GDCP 2013:

Control	LEP/DCP Standard	Proposed Development	Complies	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	11.1m	Y	
Maximum Floor Plate Size	750m ² > 16m	689.7m ²	Y	
Maximum Building Dimension	45m	43.6m	Y	
Maximum Building Depth (Excluding Balconies)	24m	11.2m-26m	N	+ 2m
Minimum Boundary Setback Commercial Uses < 16m	Front – Street Setback	0m	N	Varies
	Side – 0m	Varies	Y	
	Rear – 6m	N/A	Y	
Minimum Boundary Setback Residential Uses < 12m	Front – Street Setback 6m	6.6m	Y	
	Side – 3m (NHR)	N/A	Y	
	Side – 6m (HR)	3m	N	-3m
	Rear – 6m (NHR)	2m	N	-4
	Rear – 9m (HR)	0.6m (Variable)	N	- 8.4m
Minimum Boundary Setback Residential Uses 12-24m	Front – 6m	6.6m	Y	
	Side – 4.5m (NHR)	15m	Y	

Control	LEP/DCP Standard	Proposed Development	Complies	Variation
	Side – 9m (HR)	4.3m	N	-4.7m
	Rear – 6m (NHR)	N/A	Y	
	Rear – 9m (HR)	13.5m	Y	
Minimum Boundary Setback Residential Uses > 24m	Front – 8m	6m	N	-2m
	North Side – 13m	4.3m	N	- 8.7m
	South Side – 13m	16m	Y	
	Rear – 13m	13.5m	Y	
Minimum Floor to Ceiling Heights (new buildings)	Commercial office: 3.3m	Comm: 4m	Y	
	Retail/Restaurant: 3.6m	Retail: 3.7m	Y	
	Residential: 2.7m	Residential: 2.7m	Y	
Maximum Site Cover	75%	72.5%	Y	
Deep Soil Zone	Min 15% of total site area	32.6%	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 (DCP)	213 Spaces	205 Spaces	N	-8
Car Parking (RMS GTGD)	176 spaces	205 Spaces	Y	
Motorcycle Parking	10 Spaces	11 Spaces	Y	
Bicycle Parking	63 Spaces	80 Spaces	Y	
Dwelling Mix	1 Bedroom: 10% - 25%	26%	N	-1%
	2 Bedroom: Max 75%	47%	Y	

Discussion

The variations identified above are discussed in detail below, as well as further specific assessment of the proposal under the provisions of GDCP 2013.

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 minor variations to building setbacks, building dimensions, car parking and dwelling mix which are addressed below.

4.1.2.4 Building Depth and Bulk

The maximum building depth (excluding balconies) promoted by GDCP 2013 is 24m, however the proposal will comprise a maximum building depth of 26m 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.

4.1.2.5 Boundary Setbacks

The proposal generally complies with front building setbacks, aside from street frontage setbacks with a variation of 2-2.5m and setbacks above 24m in height with a variation of 2m. The proposed street frontage variations are capable of being supported given the variance of street frontage setbacks in the vicinity of the site and in particular the retention of the Creighton's Funeral Parlour building. The proposed setback variations above 24m in height are capable of being supported as the encroachments will not result in adverse visual outcomes or impacts on surrounding properties.

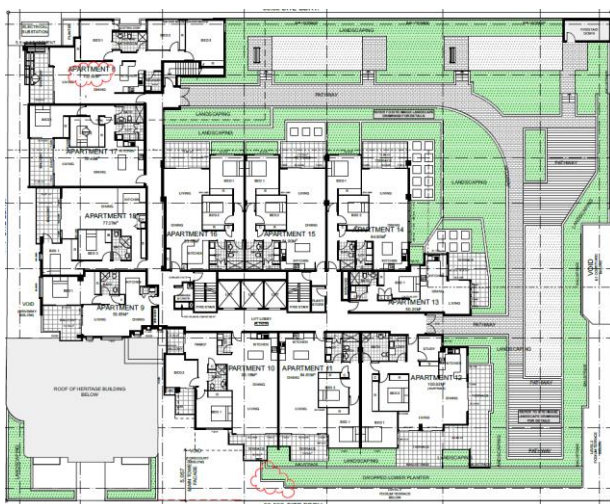
The primary side and rear setback variations relate to the apartments located below 21m in height in the north-eastern corner of the site (corner of Georgiana Terrace and Parlour Lane). Given the separation with surrounding development, topography of the land and frontage to roads the proposed setbacks are capable of being supported.

The setback variations are supported.

4.1.2.7 Site Cover and Deep Soil Zones

The DCP requires a maximum site cover of 75%, and minimum deep soil planting of 15% of the site area. Further, the matters of deferral set out by the JRPP on 17 December 2015 included the requirement for *"increased landscaping including the quantum of deep soil planting, particularly at the podium level"*.

Scheme 2 provided site coverage of 72.5%, and total deep soil planting (including podium landscaping) of 810.72m² (27.5% of the site area). Scheme 3 provides a site coverage of 72.5% and total deep soil planting (including podium landscaping) of 961.1m² (32.6% of the site area). A comparison between the Scheme 2 podium and Scheme 3 podium is provided below.



Scheme 2 Level 3 Floor Plan



Scheme 3 Level 2 Floor Plan

The application provides an increase in the quantum of deep soil planting consistent with the requirements of the DCP. In particular the Scheme 3 design provides improved external podium landscaped areas which are larger in area, which are provided as communal open space, and therefore are more functional and usable as deep soil zones. Scheme 3 satisfies the DCP requirements and addresses the relevant matter for deferment set out by the JRPP.

4.1.4.4 On-Site Parking

The proposal will result in a minor variation to the parking standard provided in GDCP 2013, however as discussed below, the proposal is consistent with the RMS Guide to Traffic Generating Development policy which would otherwise apply if the proposal was being assessed under the Apartment Design Guide.

The car parking variation is supported.

4.1.6.2 Housing Choice and Mix

The proposed unit mix involves a minor (1%) variation to the maximum number of 1 bedroom apartments. Other unit mix controls are satisfied. The extent of this variation is considered negligible and is not a variation that would on its own warrant refusal of the application.

The variation to unit mix is supported.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 of SEPP 55 requires a consent authority to consider the potential for contamination of land before granting consent to the carrying out of any development. The historical background set out in the Statement of Heritage Impact which accompanied the amended Scheme 3 identifies the location of the site (previously comprising multiple residential allotments) dating back to 1839. The subject site was developed for the purpose of a funeral parlour in 1938.

Pursuant to Clause 7(4), the land is not:

- a) Land within an investigation area;
- b) Land on which development for a purpose referred to in Table 1 to the Contaminated Land Planning Guidelines is being, or is known to have been carried out; and
- c) Land on which it would have been lawful to carry out development for a purpose referred to in Table 1 to the Contaminated Land Planning Guidelines during any period after the creation of the original Gosford town plan in 1839, as the site:
 - a. Was originally held as residential parcels under various family estates before being purchased the Creighton family;
 - b. Was subsequently developed for the purpose of the Creighton's Funeral Parlour and was operated for this purpose (with ancillary residential accommodation) since 1938; and
 - c. Has therefore not been developed for a use which would result in the potential contamination of land.

Accordingly under Clause 7, Council has considered whether the land is contaminated and is satisfied that the site does not warrant further investigation pursuant to Clause 7(2).

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

The proposal is subject to the requirements of SEPP 65. Pursuant to the transitional provisions under Clause 31 of State Environmental Planning Policy No 65 - Design Quality of Residential

Flat Development, the proposed development must be assessed as if SEPP 65 (Amendment No 3) had not commenced. Therefore SEPP 65 (Amendment No 2) and the Residential Flat Design Code (RFDC) are relevant in the assessment of the proposal.

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. The modified proposal is also supported by a Peer Review Report prepared by Cox Richardson Architects addressing relevant matters of deferment raised by the JRPP, having regard to the design of the proposal.

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 the RFDC has been carried out, and is included at **Attachment 3**. The proposal meets the requirements of SEPP 65, with variations similar to those addressed in the DCP assessment, and these are recommended for support. The assessment concludes that the proposal meets the requirements of the SEPP 65 to a satisfactory degree.

State Environmental Planning Policy (BASIX) 2004

The original application is supported by a BASIX certificate which confirms the proposal was capable of meeting the NSW government's requirements for sustainability, if built in accordance with the commitments in the certificate. Following recent modifications to the BASIX Certification process, Council will include a condition of consent to address BASIX for Scheme 3 prior to the issue of a Construction Certificate. **(Refer Condition 2.20)**

The proposal is considered to be consistent with the requirements of State Environmental Planning Policy ([Building Sustainability Index: BASIX](#)) 2004.

Visual/View Loss Assessment

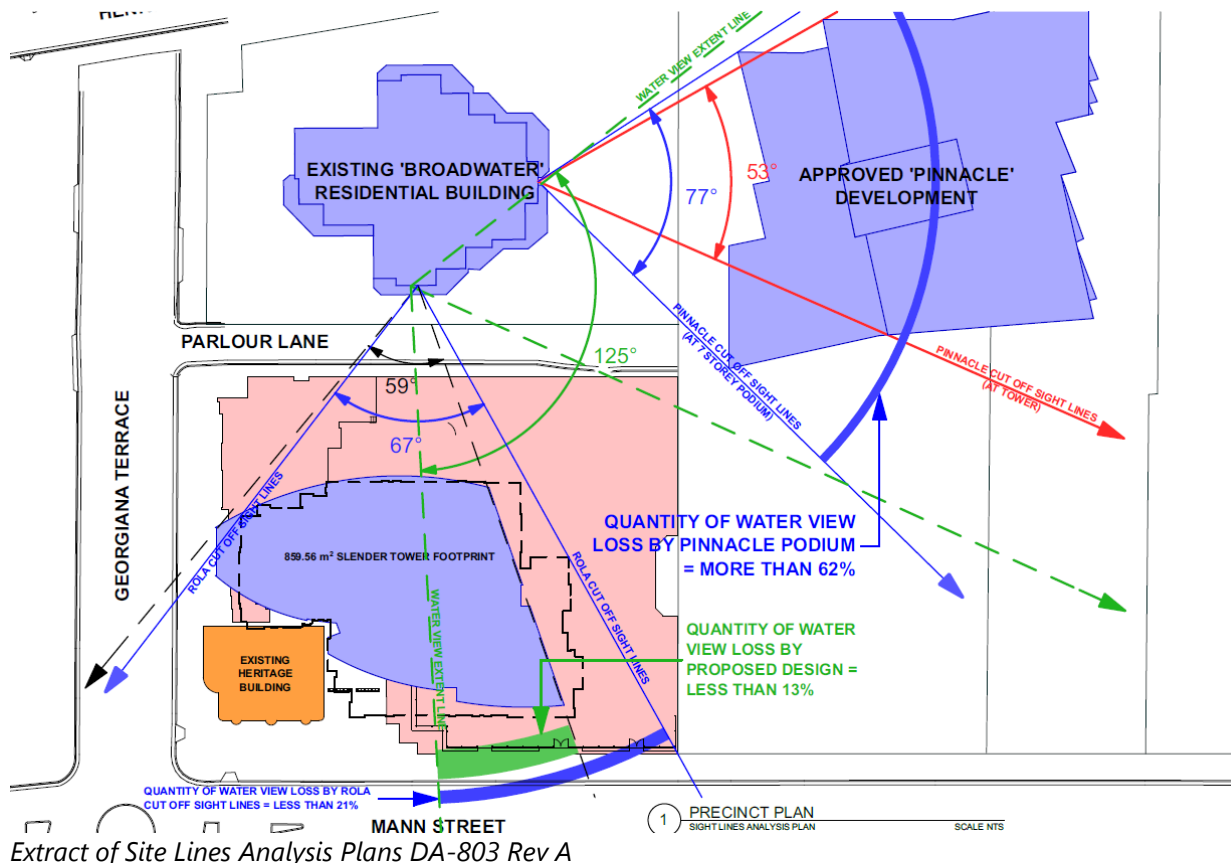
Visual/View Loss Assessment Preamble: Council's Assessment Report for Scheme 2 provided a detailed visual/view loss assessment and for reference an extract is provided at **Attachment 4**. Council's assessment of Scheme 2 concluded that on balance, the proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments. Given this position, the below assessment has been condensed to respond to the changes in Scheme 3 pursuant to the matters of deferment raised by the JRPP.

On 17 December 2015 the JRPP resolved to defer the application to enable the proposal to be amended. Amongst the matters of deferment listed by the JRPP, the following are of particular relevance to the visual/view loss assessment:

- 1. The bulk and scale of the proposed development being substantially reduced to appropriately minimise the impacts on the heritage item and to appropriately address view sharing impacts in relation to the nearby Broadwater Apartments in Parlour Lane.*
- 4. A revised approach to view sharing to reduce the impacts from this development on the nearby Broadwater Apartments in Parlour Lane and to consider the cumulative view loss*

impacts within the locality having regard to existing and approved development permitted under the planning controls.

Scheme 3 has been designed to provide a balance between view sharing and built form constraints (including height, FSR, heritage, setbacks and other matters discussed above). The revised approach to view sharing has taken into consideration the view corridors of The Broadwater Apartments as well as the cumulative impacts resulting from the approval of DA 46272/2015, the outcomes of which have been detailed within the Scheme 3 DA documentation, an extract of which is provided below:



Scheme 3 is supported by both a Visual Impact Assessment Report prepared by Thrumm Architects, and a Visual Impact Statement prepared by Richard Lamb and Associates, which provide analysis and assessment of view sharing and visual impacts resulting from Scheme 3. The content of both of these documents has been taken into consideration by Council as part of this assessment.

Seven (7) objections were received by Council following notification of the Scheme 3 documentation, each of which maintained objection to the proposal on the basis of view loss and visual impacts. These submissions have been taken into consideration as part of this assessment.

On the basis that Scheme 2 was supported by Council in terms of view loss, and that the amendments made to the development under Scheme 3 in response to the JRPP deferment matters have improved the view loss and visual impacts of the proposal, the following is

concluded in accordance with the principles of view sharing and principles outlined in *Tenacity Consulting P/L v Warringah Council [2004] NSW LEC 140*:

- The assessment of views to be affected has not changed between Scheme 2 and Scheme 3, and the parts of The Broadwater Apartments from which views are obtained over a side boundary have not changed;
- The extent of the view impacts to Apartments 1, 2 and 3 has been improved, and the extent of the view loss for the whole of the site has also improved from that previously supported by Council; and
- The reasonableness of the proposal has been improved through a reduction in variations to development standards resulting from the Scheme 3 redesign. Variations to height, FSR, setbacks and other matters have been assessed and are supported by Council. Scheme 3 represents a more skilful design which improves view loss outcomes for adjoining development.

The visual/view loss assessment of Scheme 3 concludes that the proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments, and that the proposed development represents an improvement to view loss impacts which are supported by Council.

Gosford City Centre Masterplan

The Masterplan was adopted by the former Gosford 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 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, the former Gosford 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.

(Refer Condition 2.3)

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 GLEP 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 GLEP 2014 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 which seek to protect the coastal environment of the state and implement the principles in the NSW Coastal Policy.

Heritage Assessment

Heritage Assessment Preamble

Council's Assessment Report for Scheme 2 included a detailed assessment of heritage matters and the conflict between heritage conservation objectives with planning control objectives. The assessment concluded that Scheme 2 was acceptable on heritage grounds when considered on balance. Given this position, the below assessment has been condensed to respond to the changes in Scheme 3 pursuant to the matters of deferment raised by the JRPP, and comments from both Council's Heritage Program Coordinator and the independent heritage consultant.

On 17 December 2015 the JRPP resolved to defer the application to enable the proposal to be amended. Amongst the matters of deferment listed by the JRPP, the following are of particular relevance to the heritage assessment:

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1. *The bulk and scale of the proposed development being substantially reduced to appropriately minimise the impacts on the heritage item and to appropriately address view sharing impacts in relation to the nearby Broadwater Apartments in Parlour Lane.*
 3. *Further consideration of design criteria such as character, scale, form, siting, materials and colours and detailing in the redesign of the development to better respond to the heritage and the urban context.*
 5. *An exploration of the previous mortuary position and opportunities to interpret that key element in the design and re-use.*
 6. *Further investigation is carried out to identify an approach to retain the southern garage wall and ensure the structural suitability of the existing sandstone wall.*

Scheme 3 is supported by an amended Statement of Heritage Impact prepared by Heritage 21, including assessment of the amended design and information addressing the exploration of the previous mortuary position. The southern garage wall will be retained. The amended Statement of Heritage Impact has been taken into consideration by Council as part of this assessment.

Council's Heritage Assessment

Council's Heritage Program Coordinator has reviewed Scheme 3 and relevant supporting documentation and has provided the following comments:

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

- *Demolition of the garages that are identified as of High significance in the Clive Lucas Stapleton and Partners assessment prepared for Council.*
- *The development application results in the overdevelopment of the site which adversely impacts on the heritage significance of the building.*
- *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.*
- *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.*

Overall, I am of the opinion that the amendments do not adequately address the previously raised concerns with regard to potential heritage impacts on the Creightons Building, the garages or the setting of these items within the streetscape.

The following comments are relevant to the amended plans:

1. Demolition of the Garages

- a. *The amended plans largely indicate the retention of the garages. A dashed line on the Ground Floor Plan (DA-103 rev E) seems to indicate the demolition of the rear structure of the building and part of the eastern wall of the main garage room.*
- b. *The amendments are an improvement to the previous plans that proposed much greater demolition and alterations to the garage structure.*

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- c. *However, the Statement of Heritage Impact prepared by Heritage 21 needs to better address the potential impacts of this demolition, including the significance of these parts of the building and their contribution to the overall heritage significance of the item.*

2. Overdevelopment of the site

- a. *The major problem concerned with the scheme has always been the bulk and scale of the tower component immediately adjacent to the heritage item. It is acknowledge that the new shape of the tower is softer than previously proposed but it is still too close and too high in relation to the heritage item. I note that the tower has actually increased in height.*
- b. *Overall the proposed tower element is completely out of scale with the existing heritage item and as such would have an adverse effect on its heritage significance.*
- c. *The amended plans result in the proposed tower element having a reduced floor area and curved walls. It does however increase the number of storeys by 3 levels and the tower element is now 10 metres higher than the version of the tower that was presented to the Joint Regional Planning Panel (JRPP).*
- d. *The curved walls and increased visual separation between the Creightons building and the proposed tower is an improvement on previous plans. This will reduce the potential visual impacts on the heritage listed building when compared to the previous plans which had the tower element immediately adjacent and cantilevered over the top of the Creightons building.*
- e. *This improvement however does not equate to acceptable impacts on the heritage significance of the Creightons building.*
- f. *The setback remains minimal when comparing the height, bulk and scale of the heritage item and the new tower element proposed by the Applicant. The tower element is out of scale with the Creightons building, as well as that of the group of heritage items immediately within it vicinity.*
- g. *Despite the amendments, the proposal remains a very large building immediately adjacent to a small heritage building. This contrast is emphasised by the apparent preference for mitigation of the potential visual impacts as opposed to consideration of the potential heritage impacts. This has resulted in a much taller and bulkier building adjacent to the Creightons building than is considered acceptable.*

3. Impacts on heritage items in the immediate vicinity

- a. *The bulk and scale of the proposed tower element will adversely impact on other heritage items within the immediate vicinity. In particular this includes the former Courthouse Building, the School of Arts and archaeological sites, and the South Mann Street Post Office. The scale of these buildings are all one to two storeys and, together with Creightons, they form one of the most historic areas within the Gosford CBD.*
- b. *The scale of this collection of heritage listed buildings has also been supported by the approval of the relatively low scale Australian Taxation Office building on the former Gosford Public School Site.*
- c. *The scale of the tower element in this location is at odds with the dominate scale of the intersection of Mann Street and Georgiana Terrace, and as a result it will reduce the significance of the buildings in this location.*

4. Architectural Detailing and Finishes

- a. The amended plans simplify the proposed external detailing and finishes. Whilst there remains concern relating to the impacts of the largely glazed facades of the proposed building, it is still an improvement on previous schemes.
- b. There are visual architectural references proposed between the heritage building and the new works. Whilst this emphasises the differences between the old and new it does not create a sympathetic architectural solution.
- c. The glass facades will be highly reflective and will emphasise the contrasts between the original and the proposed buildings.

4.0 Planning Instruments

Control	Assessment	Complies
Section 5.10 Heritage Conservation (GLEP)		
(1) Objectives The objectives of this clause are as follows: (a) To conserve the environmental heritage of Gosford,	The proposal does not conserve the heritage significance of the R.H. Creighton Building in that the proposed tower building is too tall in close proximity to the heritage item. In addition the bulk and scale of the proposed development overall is excessive when viewed within the existing context of the Creightons building and other heritage items in the vicinity.	No
(b) To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,	The heritage significance of the Creightons building or others in the immediate vicinity are not conserved as the overdevelopment of the site adversely impacts on the setting, streetscape character and the ability to interpret these buildings within the streetscape.	No
(c) To conserve archaeological sites,		N/A
(d) To conserve Aboriginal objects and Aboriginal places of heritage significance.		N/A
(2) Requirement for Consent Development consent is required for any of the following: (a) Demolishing or moving any of the following or altering the exterior of any of the following (including in the case of a building making changes to its detail, fabric, finish or appearance) (i) A heritage item	Development consent is required.	N/A
(b) Altering a heritage item that is a building by making structural changes to its	Development consent is required. More detail is required for the approval of the interior alterations and adaptive reuse of the	N/A

Control	Assessment	Complies
interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item.	building. This will need to be a separate development application.	
(e) Erecting a building on land: (i) On which a heritage item is located or that is within a heritage conservation area,	Development consent is required because the proposal involves the erection of a mixed use commercial and residential development on the site.	N/A
(3) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause.		No
Section 4.1.7.2 Heritage Items (GDCP)		
Objectives <ul style="list-style-type: none"> • To facilitate the conservation and protection of heritage items and heritage conservation areas and their settings. • To reinforce the special attributes and qualities of heritage items by ensuring that development has regard to the fabric and prevailing character of the item or special area e.g., scale, proportions, materials and finishes. • To conserve, maintain and enhance existing views and vistas to buildings and places of historic and aesthetic significance. 	The proposed development does not conserve or protect the heritage item. The proposed development does not have regard to the prevailing character of the item, especially with regard to the scale and proportions of the new building which has minimal relation to that inherent in the R.H. Creighton building.	No
Conservation Criteria Any new development within this chapter's study area must ensure that the significance of heritage items and their setting are retained and enhanced.	The development does not retain nor enhance the significance of the heritage item or its setting.	No

Control	Assessment	Complies
<p>(a) Scale. <i>The scale and bulk of any new building or work must be in scale with the original building and new development must not obstruct important views or vistas of the item. In the case of infill work in a conservation area, the scale of the new building must be similar to those around it. Where this is not feasible, sufficient curtilage around the heritage item must be included to assist interpretation of its heritage significance. In some circumstances where site depth would allow, a higher building could be erected behind a heritage shopfront.</i></p>	<p><i>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.</i></p> <p><i>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 item 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.</i></p>	No
<p>(b) Siting. <i>If the existing street façade of the building is sympathetic to the character of the street, then alteration must be avoided. New work is best located to the rear or side of the building.</i></p>	<p><i>The existing street facades are sympathetic to the character of the street and contribute to the townscape of South Mann Street and Gosford's CBD. While new work within the site can be expected, the bulk and scale and the location of the new works in relation to the heritage item are critical if significant impacts to the heritage values of the Creightons Building are to be avoided. In this proposal the tower element is too high and is placed too close to the Creightons Building and the intersection of Mann Street and Georgiana Terrace.</i></p>	No
<p>(c) Architectural form. <i>The basic architectural form of any new work needs to respect what exists. Issues to consider are the roof form, proportion and location of windows and doors.</i></p>	<p><i>The basic architectural form of the proposed does not respect that of the existing heritage item.</i></p>	No
<p>(d) Architectural detailing. <i>It is important to be aware of the particular era and architectural style of the building or buildings and make sure that any proposed changes are contextual to the period. For example, it is not appropriate to mix Victorian features with a California Bungalow. Overuse of historical architectural features on new work should be avoided, with preference given to uncomplicated interpretive</i></p>	<p><i>There is a clear definition between the existing heritage item and the contemporary architecture of the new works. However the use of highly reflective glass facades over the bulk of the new building elements is of concern as this will impact on the setting of the heritage items.</i></p>	No

Control	Assessment	Complies
<i>forms and detailing.</i>		
(e) Materials and finishes. <i>Reuse existing materials where possible. New materials and detailing must be compatible with the original and consideration must be given to the colour, texture and type of materials and finishes.</i>	<i>The extensive use of glass on the façade of the tower element of the proposal is of concern given its reflectivity and character when viewed within the existing streetscape character.</i>	No
(f) Use. <i>The best use for a building is usually the one for which it is built. Where this is not possible, a use sympathetic to the layout of the building and requiring minimal alterations will be more compatible.</i>	<i>The use of the R.H. Creighton building as a ground floor restaurant and Level 1 residence is generally considered an acceptable adaptive reuse.</i>	Yes
(g) Original fabric. <i>It is important to minimise alterations to the original fabric and where possible, repair rather than replace individual elements, such as windows and doors</i>	<i>The amended plans do retain much of the original fabric.</i>	Yes
(h) The aging process. <i>The patina of age on a building adds much to its character and significance. A worn step for example demonstrates the many years of feet crossing a threshold. Such features add to the uniqueness and character of a place and must be retained wherever this does not present a public safety risk.</i>	<i>The amended plans do retain much of the original fabric and as such the "patina of age" also.</i>	Yes

Conclusion

The proposed development for the R.H. Creighton site is not supported on heritage grounds. This is despite the improvements made to the application with regard to retention of more of the significant garage structure and the increased separation between the new structure and the heritage listed building. This is 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 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.*

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- *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 Assessment

Council has sought input from Lucas Stapleton Johnson (LSJ)(formerly Clive Lucas Stapleton & Partners) in regard to the assessment of Scheme 3. A copy of the full letter of advice is provided at **Attachment 5**. LSJ conclude the following:

"While it is an improvement on previous attempts, the latest design suffers from many of the same problems as the previous unacceptable proposals. It clearly conflicts with the copious guidance provided by the Gosford DCP of how to deal with development in vicinity of heritage items...

Due to its visually dominating height, proximity to the listed building, use of reflective materials, lack of front setback and lack of sympathetic adaptive reuse, the proposal clearly contravenes the DCP and would impose unacceptable heritage impacts on the listed former funeral parlour and other nearby significant listed buildings."

Submissions Received

Scheme 3 was publically notified/advertised and a total of eight (8) submissions were received, seven (7) of which were in objection to the amended proposal and one (1) of which was in support. Of the objections, one (1) raised concern in regard to heritage matters. No submissions were received from the National Trust or Royal Australian Historical Society in regard to Scheme 3.

Under Scheme 2, the overwhelming majority of the 190 public submissions received sought the retention and protection of Creighton's Funeral Parlour, which was achieved by the proposed design.

Planning/Heritage Discussion

The assessment of Scheme 3 again examines the planning difficulties that exist on the site as a result of the conflict between the retention/protection of the heritage item and extent of development controls which apply under GLEP 2014 and GDCP 2013.

Consistent with the assessment of Scheme 2, the assessment of Scheme 3 has included the following extent of heritage assessment:

- Review of heritage listing under GLEP 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*;

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- Assessment against *Principles of Conservation Work on Heritage Places* (NSW Heritage Office, 1999).

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 assessment of Scheme 3 has taken into consideration the inherent conflict of city centre growth objectives and heritage retention, and again concludes that it is necessary to assess the application on its merits in order to establish if it is acceptable that one objective prevails over another. Further the assessment takes into consideration the matters for deferment raised by the JRPP upon consideration of Scheme 2.

Having regard to the above and to the assessment carried out by Council under Scheme 2, this report concludes the following in regard to Scheme 3:

- The primary issue raised by public submissions under Scheme 1 and Scheme 2 (i.e. the demolition of the Creighton's Funeral Parlour and garage) has been resolved, and this is maintained under Scheme 3;
- Scheme 3 has accommodated the retention of the southern wall of the garage, in response to the matter of deferment raised by the JRPP;
- The bulk and scale of the modified building, including variations to building height and FSR development controls, are supported on the merits of the application under the provisions of GLEP 2014 and GDCP 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;
- The tower element has been redesigned so as to reduce the business and flamboyance of the building, improving design criteria such that the development provides a better response to the heritage context; and
- Investigations carried out by the applicant in regard to the previous mortuary position confirm that while the original layout of the rear garage is unclear, it is evident that the internal layout of the garage has been repeatedly altered and remodelled over time.

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 amended proposal (Scheme 3) 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.

In accordance with Clause 5.10 of GLEP 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 (Scheme 3) is acceptable on heritage grounds when considered on balance between heritage conservation objectives and planning control objectives.

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 building from the heritage item assists in avoiding an undesirable visual setting for the preserved 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 Scheme 3 amendments reinforces the scale of the Mann Street streetscape in that precinct where there a number of other buildings of heritage character.

Section 94A Contributions

The land zoned B4 Mixed Use is subject to the 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. A Quantity Surveyors Report has been submitted with the amended Scheme 3 documents confirming the revised development cost of \$48,874,650.

The contribution required is \$488,746.50. In accordance with Part B of Council's Resolution, the reimbursement of the CP required by Council is \$ 1,466,239.50.

(Refer Recommendation D & G and Condition 2.14)

Internal Referrals

Building

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 is required.

Health & Food

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 is required.

Waste Management Assessment Officer

Council's Waste Management Assessment Officer has reviewed Scheme 3 and raises no objections. Conditions have been recommended for inclusion in any consent issued. The development will be required to provide the following waste requirements:

- 2 x 1.5m³ / 2 x 1.1m³ mixed waste bulk bins serviced 3 times weekly
- 2 x 1.5m³ / 2 x 1.1m³ 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

This is an amended assessment in response to amended drawings submitted by the applicant dated Friday 24 June 2016.

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 within the Gosford city centre and 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 application proposes a 2 storey commercial podium with a street front height of approximately 9.5 metres. This matches the height of the heritage building, is consistent with the DCP and creates a suitable scale to define the street and reduce possible wind impacts at street level.

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

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

The residential units are located within the tower building. This is set back from the Mann Street frontage 6 metres on the south and curves back to 21 metres on the north. This opens the corner and allows the heritage item to be viewed as a freestanding building with the new work as a background.

SCALE

The scale of the new application is generally supported. The new building is far larger than the heritage building and it is accepted that it will visually dominate the funeral parlour. Despite this it is acknowledged that the site is zoned for greater density, a new building must be expected to be constructed on the site and the application generally complies with the relevant controls.

It is acknowledged there is 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, or up to 23% above this. The 23% non-compliance may be excessive however some non-compliance is supported in this instance for the following reasons.

The LEP includes incentive provisions allowing Council to consider variations in development standards to encourage the conservation of an item of environmental heritage. As the

application now proposes to fully retain and conserve the heritage item including the garage, additional height is considered to be a reasonable use of the incentives provision.

A complying building would also be significantly larger and a contrast in scale to the heritage item. The additional non-complying height will have little further impact on the heritage item or the streetscape.

While the total building height is significantly greater than the heritage item, the street front podium is similar in height and scale and is generally sympathetic to the heritage building. The parapet height of the commercial podium is similar to the parapet of the heritage façade and the awning matches the height of the garage wall and the length is divided vertically into smaller scale elements consistent with the scale of the funeral parlour and the other heritage buildings adjacent.

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 funeral parlour and garage.

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 and the new work is set back behind the heritage façade.

BUILT FORM

The built form of the amended application is generally supported. The podium is similar in scale, 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. It also steps back as it approaches the heritage item to create an entry forecourt and to open view lines to the funeral parlour and garage from the street.

The main residential section proposes a simpler façade that curves away to the east behind the heritage building to reduce the visual impact on the heritage building and the streetscape. This is considered an improvement on the previous highly modelled façade design.

This section of the development is a response to current conditions 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. The stepped height, changes in the curves of the façade and alternating balcony design add visual interest to the design.

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.

RESOURCE, ENERGY AND WATER EFFICIENCY

BASIX certification supplied indicating compliance with energy controls.

LANDSCAPE

The landscaping is acceptable with common areas within the development having suitable shade trees as well as lower screen planting.

There is also screen planting on the east and south boundaries to soften the building and provide visual separation from adjoining residential developments.

AMENITY

Amenity is acceptable with the majority of units achieving solar access objectives, 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.

The provision of views and natural light to lift lobbies is a further benefit to occupants.

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

Acceptable."

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

(Refer Attachment 3)

Development Engineer

Council's Development Engineer has assessed the amended 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 included in the consent. No change proposed to the extent of tree removal. Therefore no change to tree conditions is required.

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. No change to the trade waste arrangements for the development is proposed. Therefore no change to trade waste conditions is required.

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." No change to the water and sewer connections is proposed. Therefore no change to the water and sewer conditions is required.

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. No change to environmental health matters. Therefore no change to environmental health conditions is required.

Legal

Council's Legal Advisor has reviewed the application and in a note dated 28 August 2014 raises no objections to the proposal. No change to legal matters has arisen as part of Scheme 2.

Public Submissions

Each of the three (3) schemes under DA 46209/2014 has received the following submissions following notification of the relevant documentation:

- Scheme 1: Original Notification Aug 2014 – 119 (all objections)
- Scheme 2: Notification of Amended Plans Oct 2015 – 190 (all objections)
- Scheme 3: Notification of Amended Plans Jul 2016 – 8 (7 objections, 1 in support)

The following table provides comments on the issues raised by the submissions to the Scheme 3 DA documentation:

Issue	Submission	Comment
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Issue	Submission	Comment
Heritage	One (1) submission raised concern in regard to the impacts on the significance of the heritage item.	The heritage impacts of the proposed Scheme 3 development have been assessed and found acceptable, when considered in balance with planning objectives.
Height + FSR	Four (4) submissions objected to the overall height and FSR of the proposal, primarily in regard to view loss and overshadowing.	Height and FSR variations supported by Clause 4.6 variations which are considered well founded. View loss and overshadowing outcomes assessed and considered supportable.
Scenic Views	Two (2) submissions objected to the impact of the proposal upon scenic views towards Gosford.	This Assessment Report has concluded that the proposal will not result in unacceptable impacts upon scenic views towards Gosford.
View Loss	Five (5) submissions objected to the extent of view loss to nearby residential development. Primary concerns related to The Broadwater Apartments building.	View loss assessment concludes that the proposal will not unreasonably reduce the amenity of residents within The Broadwater Apartments.
Traffic + Parking	Two (2) submissions objected to the traffic and parking impacts that would result from the proposal.	The traffic impacts (including waste movements) from the proposal are considered acceptable. Parking supply adequately caters for the demand generated by the proposal.
Solar Access	Three (3) submissions objected to the impact the proposal would have on solar access of surrounding properties. Primary concerns related to The Broadwater Apartments building.	Impacts upon land currently used 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	Four (4) 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	Four (4) 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. (Refer Conditions 2.2, 2.4, 5.11)
Cumulative Impacts	One (1) submission raised concern that the cumulative impacts of the current proposal and DA46272/2015 have not been adequately considered.	The documentation supporting the Scheme 3 DA includes consideration of the cumulative impacts arising from both DA 46272/2015 and DA47046/2015. Council's assessment report includes assessment of the cumulative impacts of these developments.

Issue	Submission	Comment
Residential Supply	Two (2) submissions raised concern that the City of Gosford had approvals to provide sufficient supply of residential apartments, and that the current proposal is not required.	Strategic planning objectives for the City of Gosford identify the region and City as accommodating a significant increase in population in the years to 2031. The proposal will assist in meeting the residential supply targets of relevant strategic policies.
Vehicular Access to Broadwater Apartments	Three (3) submissions raised concerns that the vehicular access to and from The Broadwater Apartments on Parlour Lane will be impacted by the construction of the proposed development.	Parlour Lane is a public road and cannot be used for construction purposes without Council consent, which will not be issued as part of this DA. Relevant conditions are provided to ensure that appropriate permits are obtained before Parlour Lane is used, and access to/from The Broadwater Apartments will be key considerations of any proposal to use the public roadway.

Conclusion

Scheme 2 was considered by the JRPP on 17 December 2015 and the Panel resolved to defer the determination so to allow the applicant to modify the proposal in order to address the nine (9) matters raised at that meeting. The applicant has provided an extensive response to each of the matters of deferment as part of the Scheme 3 documentation. This assessment has found that sufficient information has been provided to address each of the matters raised by the JRPP.

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 and the sandstone garage structure. Further investigations have been carried out in regard to the location of the former mortuary. Scheme 3 includes further amendments to the tower footprint, design and finishes which are improvements upon Scheme 2 in terms of works in proximity to a heritage item, however Scheme 3 is not supported by Council's Heritage Officer or Council's external Heritage Consultant. 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 (which addresses the draft LEP and its application to Clause 8.9) 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 and Council is satisfied that it adequately addresses relevant matters under Clause 4.6(3). 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. Building setback, building dimension, car parking and unit mix 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.

Scheme 3 received seven (7) objections and one (1) submission in support of the DA. The matters raised in response to Scheme 3 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, and consideration of neighbouring views and amenity. 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 (**DN 23666870**)
- 2 State Environmental Planning Policy (SEPP) No 65 - Design Quality of Residential Flat Development – Assessment
- 3 Architectural Plans (**DN 23412009**)

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.

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- 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 \$1,466,239.50.

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	B	24/06/16
DA-001	Locality Plan	1	A	24/06/16
DA-002	Site Analysis Plan	1	A	24/06/16
DA-003	Survey Plan	1	A	24/06/16
DA-004	Site Plan	1	C	28/06/16
DA-101	Basement 2 Plan	1	F	24/06/16
DA-102	Basement 1 Plan	1	F	24/06/16
DA-103	Ground Floor Plan	1	E	24/06/16
DA-104	Level 1 Plan	1	F	24/06/16
DA-105	Level 2 Plan	1	F	24/06/16
DA-106	Level 3 Plan	1	C	24/06/16
DA-107	Level 4 Plan	1	B	24/06/16
DA-108	Level 5 Plan	1	G	24/06/16
DA-109	Level 6 Plan	1	B	24/06/16
DA-110	Level 7 Plan	1	B	24/06/16
DA-111	Level 8 Plan	1	B	24/06/16
DA-112	Level 9 Plan	1	B	24/06/16
DA-113	Level 10 Plan	1	B	24/06/16
DA-114	Level 11 Plan	1	B	24/06/16
DA-115	Level 12 Plan	1	B	24/06/16
DA-116	Level 13 Plan	1	B	24/06/16
DA-117	Level 14 Plan	1	B	24/06/16
DA-118	Level 15 Plan	1	B	24/06/16
DA-119	Level 16 Plan	1	E	24/06/16
DA-120	Level 17 Plan	1	B	24/06/16
DA-121	Level 18 Plan	1	E	24/06/16
DA-122	Roof Plan	1	B	24/06/16
DA-401	Line Elevations Sheet 1	1	C	24/06/16
DA-402	Line Elevations Sheet 2	1	C	24/06/16
DA-403	Rendered Elevations Sheet 1	1	B	24/06/16
DA-404	Rendered Elevations Sheet 2	1	B	24/06/16

Drawing	Description	Sheets	Issue	Date
DA-501	Sections Sheet 1	1	D	24/06/16
DA-502	Sections Sheet 2	1	C	24/06/16
DA-601	Shadow Diagrams Sheet 1	1	C	24/06/16
DA-602	Shadow Diagrams Sheet 2	1	C	24/06/16
DA-701	Rendered Perspectives Sheet 1	1	A	24/06/16
DA-702	Rendered Perspectives Sheet 2	1	A	24/06/16
DA-703	Rendered Perspectives Sheet 3	1	A	24/06/16
DA-704	Rendered Perspectives Sheet 4	1	A	27/06/16
DA-801	Envelop & Height Plan Analysis	1	B	24/06/16
DA-802	GFA & FSR Calculations	1	B	24/06/16
DA-803	Sight Lines Analysis Plans	1	A	24/06/16
DA-804	Comparison Views from Broadwater		A	24/06/16

Civil Engineering Design by Cubo Consulting Pty Ltd

Drawing	Description	Sheets	Issue	Date
16027-100	Cover & Notes Sheet	1	1	24/06/16
16027-105	External Works	1	1	24/06/16
16027-106	Bulk Earthworks Plan	1	1	24/06/16
16027-111	Basement 1 Plan	1	1	24/06/16
16027-112	Ground Floor Plan	1	1	24/06/16
16027-113	Level 1 Plan	1	1	24/06/16
16027-114	Level 2 Plan	1	1	24/06/16
16027-115	Podium Level Plan	1	1	24/06/16
16027-120	Waste Collection Point & Access Route	1	1	24/06/16
16027-130	Indicative Erosion and Sediment Control Plan – Stage 1	1	1	24/06/16
16027-132	Indicative Erosion and Sediment Control Plan – Stage 2	1	1	24/06/16
16027-133	Indicative Erosion and Sediment Control Plan – Stage 3	1	1	24/06/16

Landscape Plans by Site Image Landscape Architects

Drawing	Description	Sheets	Issue	Date
LA-000	Coversheet, Site Plan and Plant Schedule	1	I	22/06/16
LA-C101	Landscape Masterplan Render	1	I	22/06/16
LA-101	Landscape Plan – Ground Floor	1	I	22/06/16
LA-102	Landscape Plan – Podium	1	I	22/06/16
LA-501	Landscape Details	1	I	22/06/16

Supporting Documentation

Document	Title	Date
DN 22873375	Statement of Environmental Effects	June 2016
DN 22873372	Peer Review Report	27/06/16
DN 22873376	Statement of Heritage Impact	24/06/16
DN 22873280	Waste Management Plan	25/11/15
DN 22873278	Supplementary Waste Management Report	24/06/16
DN 22873409	Water Cycle Management Plan	02/10/2015
DN 22873399	Supplementary Water Cycle Management Report	10/06/16
DN 22873277	Review of Geotechnical Aspects	11/08/14
DN 22873401	Traffic Impact Assessment	24/11/2015
DN 22873398	Supplementary Traffic Report	24/06/16
DN 22873412	Accessibility Assessment Report	10/06/16
DN 22873279	Visual Impact Statement	June 2016
DN 22873374	Review of Wind Effects	30/09/16
DN 22873400	Supplementary Wind Effects Report	24/06/16
DN 23029315	Visual Impact Assessment Report	15/07/16

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.

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. Submit an application to Council under Section 138 of the *Roads Act, 1993*, for the approval of required works to be carried out within the road reserve.

Submit to Council Engineering plans for the required works within a public road that have been designed by a suitably qualified professional in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control. The Engineering plans must be included with the Roads Act application for approval by Council.

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. The longitudinal grades of the vehicle crossing from the rear of the heavy-duty layback to the property boundary shall be +2% along its eastern edge and +5% along its western edge. The vehicle crossing shall not encroach north of the kerb and gutter into the road pavement.
- c. Heavy-duty layback located in Georgiana Terrace associated with the heavy-duty vehicle crossing.
- 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 approximately 11.5m from the southern boundary.
- e. Reinforce concrete layback in Parlour Lane associated with the vehicle crossing.
- f. All redundant dish crossings and/or damaged kerb and gutter are to be removed and replaced with new kerb and gutter.
- g. The piping of stormwater from within the site to Council's drainage system located in Georgiana Terrace.
- h. Extension of the piped stormwater drainage system within Georgiana Terrace to the eastern side of the proposed heavy-duty vehicle crossing.
- i. Construction of public stormwater in Parlour Lane at the southern end of the property frontage generally in accordance with the plan prepared by Cubo Consulting Pty Ltd, drawing number 16027-105 (revision 1).

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- j. 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 Roads Act application must be approved by Council.

A fee for the approval of engineering plans under the *Roads Act 1993* applies. The amount of this fee can be obtained by contacting Council's Customer Services on (02) 4325 8222.

- 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 an application to Council, under Section 68 of the Local Government Act, for the approval of required drainage works associated with public stormwater / watercourse works.

Engineering plans for the works must be prepared and designed by a suitably qualified professional in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control, and submitted to Council for approval with the Local Government Act application.

The required works to be designed are as follows:

- a. Construction of public stormwater drainage over Lots 101 & 102 DP 1204968, from the southern end of Parlour Lane connecting to Council's drainage system located on Lot 101 DP 1204968, generally in accordance with the plan prepared by Cubo Consulting Pty Ltd , drawing number 16027-105 (revision 1).

The Local Government Act application must be approved by Council.

A fee for the approval of engineering plans under the Local Government Act applies. The amount of this fee can be obtained by contacting Council's Customer Services on (02) 4325 8222.

- 2.7. 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.

- 2.8. 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 Civil Works Specification. 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 (OSD) is not permitted within private courtyards, drainage easements, and/or secondary flowpaths. Any reduction in the OSD volume obtained by applying a credit of 50% of the stormwater retention volume shall be determined by including the half-full retention tank volume in the runoff routing computer model.
 - 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.

- 2.9. 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.

- 2.10. 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
- 2.11. 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".
- 2.12. 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.
- 2.13. 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.

- 2.14. The payment to Council of a contribution of **\$488,746.50** 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

- 2.15. The waste truck servicing grade is to be 3% or less for the following areas:
- Within the enclosure
 - For bulk bin roll out pads.
- 2.16. No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.
- 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. An amended BASIX Certificate is to be prepared to reflect the approved plans pursuant to the provisions of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- 2.21. Prepare a Construction Traffic Management Plan (CTMP) including a Vehicle Movement Plan and Traffic Control Plan. The CTMC shall be prepared with the intention of causing minimal impact on the operation of the road network during construction of the development. The Construction Traffic Management Plan (CTMP) shall be prepared and approved by the Principal Certifying Authority and provide for:
- Delivery and storage of materials
 - Worker's parking and amenities
 - Hours of construction
 - Noise and dust mitigation
 - Process of handling complaints
 - Crane permits (crane location plan).

3. PRIOR TO COMMENCEMENT OF ANY WORKS

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- 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 construction 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.

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- 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 top level soffit of slab framework 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 Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control.
 - 4.9. Construct the public stormwater / watercourse works that required approval under the *Local Government Act 1993*. The works must be constructed in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control.
 - 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. Comply with all Demolition and Construction requirements as detailed within the Waste Management Plan dated 25 November 2015 by Cardno and the Supplementary Waste Management Report dated 24 June 2016 by Cubo Consulting.
 - 4.15. 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.

- 4.16. 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.

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- 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. 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.
- 5.10. Construct, grade, drain, seal and line mark including directional arrows with impervious paving material the driveway, vehicle manoeuvring area and 205 car parking spaces as shown on the approved plans, in accordance with *AS2890.1-2004: Parking facilities - Off-street parking*.
- 5.11. Provide mail receptacles appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.
- 5.12. The street number is to be at least 100mm high and be clearly visible from the street frontage.
- 5.13. 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
- 5.14. Complete works within the road reserve that required approval under the Roads Act. The works must be completed in accordance with Council's Civil Works Specification 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.
- 5.15. 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.
- 5.16. Complete the internal engineering works within private property in accordance with the plans and details approved with the construction certificate.
- 5.17. 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.
- 5.18. 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.

- 5.19. 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.
- 5.20. 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.
- 5.21. 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.
- 5.22. Compliance with Part 5.4.1 Refuse Collection as detailed in the Traffic Impact Assessment Ref. 80514016, dated 25 November 2015 by Cardno.
- 5.23. 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

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- 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 Drawing DA-103, Revision E, dated 24 June 2016 by Thrum Architects, Drawing DA-104, Revision F, dated 24 June 2016 by Thrum Architects and Drawing No. DA-105, Revision F, dated 24 June 2016 by Thrum Architects.
 - 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.

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- 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 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 to be suitably trained and skilled in the operation of mechanical bin transfer devices and bin lifters.
 - 6.19. Comply with On-going Use requirements generally as detailed in the Waste Management Plan dated 25 November 2015 by Cardno. **Note:** No recyclables disposal through chutes permitted and the supplementary Waste Management Report dated 24 June 2016 by Cubo Consulting.

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. The inspection fee for works associated with approvals under the Local Government Act is calculated in accordance with Council's current fees and charges policy.
- 7.7. 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 >>

ATTACHMENT 1

Copy of Clause 4.6 Variation Prepared by Doug Sneddon Planning Pty Ltd
(DN 23666870)

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 26m in the central portion of the tower, however the northern and southern portions of the tower are more compliant with this control, with a width of 11.2m. This reflects the curved layout of the floor plate and is considered acceptable as assessed under GDCP 2013.	No. This issue is addressed in the assessment report in relation to building depth and is considered reasonable in the circumstances.
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.	No. Variations to building height and FSR development controls assessed in this report and considered supportable.
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.

Element	Required	Proposed	Compliance
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.	No. Variations to building height and FSR development controls assessed in this report and considered supportable.
Floor to ceiling height	Min 2.7m	Meets standard.	Yes
Storage	1 bedroom – 6m ² 2 bedroom - 8m ² 3 bedroom - 10m ²	Development will meet, in apartments and basement.	Yes
Open Space	Provide suitable open space, including communal areas where possible	1,205.20m ² of communal open space is provided at the top podium area and includes a heated indoor swimming pool.	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.	36% open space/deep soil zone provided (1,068m ²).	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	9 units Level 2 (podium) 10 units Level 3 (tower) 8 units Levels 5-17 (tower) Proposal considered acceptable given layout and design of apartments, including level of amenity achieved.	No. Variation to number of units serviced by the core is considered acceptable.
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 proposal will provide a maximum of 10% of units (13 units) as single aspect south-facing units.	Yes
Natural Ventilation	60% of units naturally cross ventilated, 25% of kitchens naturally ventilated	62% of units will be naturally cross ventilated, including natural ventilation of kitchens.	Yes

ATTACHMENT 3

Architectural Plans

(DN 23412009)

<<Insert Attachment Link/s Here >>