

# JOINT REGIONAL PLANNING PANEL (Hunter and Central Coast)

## Supplementary 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"> <li>• Environmental Planning &amp; Assessment Act 1979 - Section 79C</li> <li>• Local Government Act 1993 - Section 89</li> <li>• State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land) (SEPP 32)</li> <li>• State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)</li> </ul>

	<ul style="list-style-type: none"><li>• State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65)</li><li>• State Environmental Planning Policy No 71 - Coastal Protection (SEPP 71)</li><li>• State Environmental Planning Policy (<u>Building</u> Sustainability Index: BASIX) 2004 (BASIX)</li><li>• Gosford Local Environmental Plan 2014</li><li>• Gosford Development Control Plan 2013</li><li>• Gosford City Centre Masterplan</li><li>• Civic Improvement Plan</li><li>• Section 94A Contribution Plan – Gosford City Centre</li><li>• Gosford Local Environmental Plan 2014 draft amendment - (Ref: PP_2016_CCOAS_002_00)</li></ul>																																																																																																																																																																					
List all documents submitted with this report for the Panel's consideration	<b>Architectural Plans by Thrum Architects</b>																																																																																																																																																																					
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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**

<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
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**

<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
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
	<b>Supporting Documentation</b>				
	<b>Author</b>	<b>Title</b>	<b>Date</b>		
	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			
Supplementary Report prepared by	S A Earp				
Supplementary Report date	8 December 2016				

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**Summary of s79C matters**

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

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**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**

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**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**

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**Special Infrastructure Contributions**

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

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**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**

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**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

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**Report Purpose:**

Supplementary assessment 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 <sup>2</sup>
Existing Use	
Value of Works	\$48,874,650

**Summary:**

This supplementary report provides additional detailed assessment of the proposed mixed use development at 27-37 Mann Street and 125 Georgiana Terrace, Gosford against the following policies/plans:

- Central Coast Regional Plan 2036
- Gosford Development Control Plan 2013

It is also proposed to include two (2) new conditions to ensure protection of the Creighton's Funeral Parlour building and Council assets through the excavation, shoring and construction works associated with the proposal.

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In addition, the applicant has requested further consideration of changes to the DA conditions following review of the draft conditions which were provided for comment. Relevant changes to Condition 2.13 and a new additional **Condition XXX** are included in the amended conditions below.

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.

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**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.

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.</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).</p>

### Central Coast Regional Plan 2036

The Central Coast Regional Plan 2036 (CCRP) was approved and launched by the NSW Department of Planning and Environment on 14 October 2016. The CCRP sets out the vision for the Central Coast over the next 20 years and identifies economic, social and environmental opportunities to build a more prosperous region, and actions to guide development and land use.

The proposal has been assessed against the relevant goals and actions of the CCRP in the following table:

Goal/Action No.	Goal/Action	Assessment
Goal 1	A prosperous Central Coast with more jobs close to home	The proposed development will provide a mixture of commercial, retail and restaurant uses as part of
Direction 1	Grow Gosford City Centre as the region's capital	

Goal/Action No.	Goal/Action	Assessment
Action 1.1	Grow Gosford City Centre as the region's capital and focus of professional, civic and health services for the region's population.	the mixed use proposal. The proposal will provide new high quality commercial floor space within Gosford City Centre which will provide space for new business and jobs, assisting in catering for the projected increase of 24,674 jobs within the region by 2036. The proposal is consistent with these goals, directions and actions.
Action 1.3	Attract and facilitate greater commercial development within Gosford City Centre by improving the public domain and providing opportunities for development through local planning controls.	
Action 1.8	Ensure that development in Gosford City Centre responds to its natural setting and complements the public domain.	The site has a natural setting between Presidents Hill and Rumbalara Reserve and has been designed to complement and provide transition between nearby high density development within the CBD. The proposal is consistent with this action.
Action 7.1	Facilitate economic development that will lead to more local employment opportunities on the Central Coast	The proposal will produce construction employment opportunities and provide new commercial, retail and restaurant floor space which will lead to more local employment opportunities on the Central Coast. The proposal is consistent with this action.
Goal 4	A variety of housing choice to suit needs and lifestyles	The proposal will provide 132 new residential units with an acceptable mix of 1, 2 and 3 bedroom units. The proposed dwelling supply is appropriately located and will improve housing choice that suits a range of needs and lifestyles.
Action 20.1	Improve housing choice by supporting housing delivery in and near the growth corridors and local centres.	
Action 20.3	Implement policies, plans and investment options that will support greater housing diversity in centres.	

Having regard to the above assessment, the proposal is consistent with the relevant goals, directions and actions of the Central Coast Regional Plan 2036.

### Gosford Development Control Plan 2013

A detailed assessment of the DCP is provided in the table below, with further discussion on specific DCP controls following the assessment table. In particular, additional assessment of character, scenic quality, on-site parking, and heritage items is provided. For completeness, DCP provisions which are addressed by internal referrals and already discussed in the Report are summarised below, including Chapters 6.3, 6.4, 6.7 and 7.2.

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 <sup>2</sup> > 16m	689.7m <sup>2</sup>	Y	
Maximum Building Dimension	45m	43.6m	Y	
Maximum Building Depth (Excluding Balconies)	24m	11.2m-26m	N	+ 2m
Minimum Boundary Setback	Front – Street Setback	0m	N	Varies

Control	LEP/DCP Standard	Proposed Development	Complies	Variation
Commercial Uses < 16m	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	
	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)	210 Spaces	205 Spaces	N	-5
Car Parking (RMS GTGD)	174 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 2.1 Character

Section 2.1.4 of the DCP sets out the matters which must be considered by Council in the assessment of an application, as follows:

Matter for Consideration	Assessment
(a)(i) Merit provisions in Section 79c of the Environmental Planning and Assessment Act 1979,	The merit provisions of Section 79C of the EP&A Act have been considered in the body of the primary assessment report. The report provides assessment of relevant planning instruments, environmental, economic and social impacts and concludes that the development is generally consistent with the requirements of Section 79C.

Matter for Consideration	Assessment
(a)(ii) Bushfire protection provisions of the Rural Fires and Environmental Assessment Legislation Amendment Act 2002	The subject site is not identified as wholly or partially containing bush fire prone land, therefore the bushfire protection provisions of the Rural Fires Act 1997 and Environmental Assessment Legislation Amendment Act 2002 do not apply.
(a)(iii) Provisions of all applicable State, regional and local environmental planning instruments	The assessment carried out in the primary assessment report has considered the provisions of all State, regional and local environmental planning instruments. This supplementary assessment report has been prepared to provide further detailed assessment under the DCP and relevant strategies.
(a)(iv) Matters for consideration that are specified by this Plan	All matters for considered specified by the DCP have been considered and are set out in full within this supplementary report.
(a)(v) Any adopted policies or strategies that might be applicable	This supplementary assessment report has been prepared to provide further detailed assessment under the DCP and relevant strategies.
(c)(i) Consider: Preferred land use + development density: conformity with the preferred use and compatibility with the amenity typically associated with that use	The whole of the site is zoned B4 Mixed Use, which permits the proposed development, however the site is subject to split building height and FSR controls. The proposed development involves a variation to both the building height and FSR controls and an assessment of the proposal against conformity with controls and compatibility with the amenity associated with high density mixed use developments have been undertaken. The assessment concludes that on balance, the proposal is acceptable given the circumstances of the site and reduced impacts on surrounds.
(c)(ii) Consider: Scenic prominence + distinctiveness: protection and enhancement	The proposal has been redesigned to address the nine (9) matters of deferment raised by the JRPP, including reducing the bulk and scale of the building to improve the design excellence of the proposal. The assessment has concluded that the proposal will provide scenic prominence and positively contribute to both the local Mann Street streetscape and the Gosford City profile when viewed from outside of the city.
(c)(iii) Consider: Existing natural features: conservation and enhancement	The site does not comprise existing natural features which warrant conservation and enhancement.
(c)(iv) Consider: Siting of buildings + surrounding gardens: consistency with predominant patterns across the surrounding neighbourhood	This objective is focused more on low density residential development, however in the case of the current proposal, the siting of the building has taken into account the collocation between a site with a corner frontage, shared with a heritage item on that corner frontage. The proposal has been designed to provide adequate corner address while providing appropriate setback distances to protect (as much as possible) the significance of the heritage item.
(c)(v) Consider: Height, size + scale of buildings: compatibility with predominant patterns across the surrounding neighbourhood	The proposal involves a variation to both building height controls. The applicant has submitted a Clause 4.6 assessment which has been assessed. Council is satisfied that the proposal and the applicant's Clause 4.6 variation provide sufficient justification for the height and scale of the building and address the relevant matters for consideration under Clause 4.6 of the Gosford LEP.

Matter for Consideration	Assessment
(c)(vi) Consider: Architectural form, construction + detail: appropriateness to existing scenic quality and streetscape character	The proposal has been assessed against the design excellence provisions of Clause 8.5 of Gosford LEP. The proposal is considered to achieve design excellence.
(c)(vii) Consider: Garden design, including outdoor structures: compatibility with scenic quality and streetscape character	Scheme 3 has been amended to provide improved and more functional deep soil planting spaces on the podium, as required by the JRPP matters of deferment.
(c)(viii) Consider: Street verges: conservation of visually-prominent landscape features plus effective integration with urban services.	The site does not comprise a visually-prominent landscape feature which warrants conservation/integration.
(d)(i) Demonstrate consistency or compatibility with Character Statement	The Gosford City Centre is excluded from the character statements set out under Chapter 2.1. Refer to discussion under Chapter 4.1 Gosford City Centre, which applies instead of Chapter 2.1
(d)(ii) Demonstrate consistency or compatibility with character of site and its surrounds	

### Chapter 2.2 Scenic Quality (Gosford Central)

The site is located within the Gosford Central Geographic Unit, and identified within the East Gosford Land-Unit. The development of higher density development within the Gosford CBD is identified as a scenic conservation issue within this landscape unit, with a moderate absorption capacity and visual sensitivity, where over-scale and bulky residential buildings at the waterfront are identified as detracting elements.

The proposed mixed use development is located within the Gosford CBD in an area which visually adjoins other high density development and is not viewed as part of the waterfront. Further the proposed development has been redesigned to address matters of deferment raised by the JRPP, including modifications to reduce the bulk and scale of the development and provide an improved design excellence outcome. Scheme 3 has been assessed in detail and is considered to achieve these outcomes. The scenic quality of the East Gosford Land-Unit will not be unacceptably impacted as a result of the proposed development proceeding in its current form.

### 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.

The proposal has been assessed against the Mixed Use (City Edge) character area under Section 4.1.1.4 and is consistent with the intended outcomes for this character area.

A detailed assessment against relevant DCP provisions has been undertaken above/below. 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



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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 of eight (8) spaces 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.

Under Gosford LEP 2014 (Clause 8.6), the proposal is required to provide car parking as follows:

- Commercial activities:  $(644.4 + 188) / 75$  = 11 spaces (11.1)
- Retail activities:  $455.6 / 40$  = 11 spaces (11.39)
- Total parking required by Clause 8.6: = **22 spaces**

Under Gosford DCP 2013, the proposal is required to provide car parking (excluding motorcycle and bicycle parking) for a residential flat building (as a conservative assessment), as follows:

- 1br Unit:  $35 \times 1$  space = 35 spaces
- 2br Unit:  $62 \times 1.2$  spaces = 74 spaces (74.4)
- 3br+ Unit:  $35 \times 1.5$  spaces = 53 spaces (52.5)
- Visitor Parking:  $132 \times 0.2$  = 26 spaces (26.4)
- Total residential parking: = 188 spaces
- Total including commercial: = **210 spaces**

Under the RMS Guide, the proposal would generate the following car parking demand:

- 1br Units:  $35 \times 0.6$  spaces = 21 spaces
- 2br Units:  $62 \times 0.9$  spaces = 56 spaces (55.8)
- 3br Units:  $35 \times 1.4$  spaces = 49 spaces
- Visitor Parking:  $132 / 5$  (1 space per 5 units) = 26 spaces (26.4)
- Total residential parking: = 152 spaces
- Total including commercial: = **174 spaces**

The proposed development provides a total of 205 car parking spaces, including 32 dedicated commercial car parking spaces. The proposal is capable of satisfying the car parking provisions of Gosford LEP 2014, and results in only a minor shortfall of fifteen (15) residential car parking spaces when assessed under Gosford DCP 2013. If assessed under the provisions of the RMS Guide (which would apply to a similar development submitted recently due to the Apartment Design Guide), the proposal would provide sufficient car parking with one (1) excess parking space.

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On these grounds, the car parking calculations of the RMS Guide are considered most relevant having regard to the location of the proposal within the Gosford City Centre with access to public transport facilities, public open space areas and nearby retail facilities.

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 it's own warrant refusal of the application.

The variation to unit mix is supported.

#### 4.1.7.2 Heritage Items

This section sets out specific conservation criteria to be considered when new development is proposed involving or adjacent to a heritage item. The proposed development has regard to the Creighton's Funeral Parlour, located on the north-western corner of the site and which is listed as a heritage item of local significance under Gosford LEP 2014.

<b>Conservation Criteria</b>	<b>Assessment</b>
a) Scale	The proposed development will not be in scale with the original building, however it will not obstruct important views or vistas of the item from Mann Street or Georgiana Terrace. The scale of the development has been assessed against the heritage conservation objectives and it is considered that the planning objectives for a high density mixed use development permit such a development and the proposal has incorporated various design techniques to reduce or avoid visual impact as much as possible. The scale of the development is supported on planning grounds.
b) Siting	Creighton's Funeral Parlour is located on the corner of Mann Street and Georgiana Terrace, and the proposed development has provided appropriate siting and treatment to provide sufficient corner address while providing adequate visual separation from the heritage item, being located at the rear/side of the existing item.
c) Architectural Form	The podium level of the proposed mixed use development provides appropriate architectural rhythm in response to the prominent features of the Creighton's Funeral Parlour, but provides these in contemporary materials which help to distinguish the new and old buildings while retaining an appropriate architectural form to Mann Street.
d) Architectural Detailing	The proposed mixed use development does not propose to adopt any architectural detailing from the art deco period, which is attributed to the existing heritage item.
e) Materials and Finishes	The sandstone garage walls are being retained and used as a feature wall to the commercial and residential lobbies from Mann Street. The new mixed use development will utilise contemporary materials and finishes (predominantly glazing) which will enable the new and old built form to be readily distinguished within the Mann Street streetscape.
f) Use	Creighton's Funeral Parlour is being retained and its future use for residential and restaurant purposes is proposed.
g) Original Fabric	The proposal has been modified over the life of the assessment process to minimise alterations to the original fabric of the heritage item. Creighton's Funeral Parlour will be retained (including the sandstone garage) and only minor internal modifications made to improve/enable ongoing use of the building as mentioned above.
h) The Aging Process	The proposal will ensure that the patina of age on the building will be respected, where appropriate.

Conservation Criteria	Assessment
i) Curtilage	The proposal will be located within the curtilage of the heritage item and will detract from the curtilage area in terms of the boundaries of the property, however the proposal has been designed to retain and promote the heritage item at the Mann Street and Georgiana Terrace frontages. As assessed against the scale of the development, the planning objectives outweigh the heritage conservation objectives in regard to curtilage impacts.
j) Infill Development	The scale and design of the development has been assessed against the heritage conservation objectives and it is considered that the planning objectives for a high density mixed use development permit such a development and the proposal has incorporated various design techniques to reduce or avoid visual impact as much as possible. The design of the development is supported on planning grounds.

### Chapter 6.3 Erosion Sedimentation Control

The DCP requires the submission of an Erosion and Sediment Control Plan with an application. The applicant has submitted this plan which has been assessed by Council's Development Assessment Engineer. No objection has been raised in regard to the documentation provided, and it is considered that the Erosion and Sediment Control Plan sufficiently addresses the requirements of the DCP.

### Chapter 6.4 Geotechnical Requirements for Development Applications

The DCP requires the submission of sufficient geotechnical assessment with a site subject to landslip. The site is not subject to landslip however the applicant has submitted a Review of Geotechnical Aspects which identifies relevant geotechnical considerations for the site. The information within the report has been considered as part of the assessment.

### Chapter 6.7 Water Cycle Management

The applicant has submitted a Water Cycle Management Report which addresses the provisions of Chapter 6.7 and has been assessed by Council's Development Assessment Engineer. The water cycle management measures proposed in this application are acceptable to Council and have been incorporated into the recommendations/conditions of the Report.

### Chapter 7.2 Waste Management

The applicant has submitted an updated Waste Management Report which has been assessed by Council's Waste Management Officer and is supported subject to relevant conditions. The provisions of Chapter 7.2 have been satisfied.

### **Additional DA Conditions**

It is proposed to include the two (2) following additional conditions to ensure protection of the heritage listed Creighton's Funeral Parlour and Council's assets during the excavation, shoring and construction works associated with the proposed development.

1. New Condition 3.11 included under "Prior to Commencement of Works":

Action the following when an excavation extends below the level of the base of the footings of any building, structure or work on the land:

- a. protect and support the building, structure or work from possible damage from the excavation, and

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- b. underpin the building, structure or work where necessary, to prevent any such damage.

These actions must be undertaken by the person having the benefit of the development consent at their own expense.

2. New Condition 4.17 included under "During Works":

No road or ground anchors are to extend into Council road reserves.

The full conditions are set out below, including the two (2) additional DA conditions.

### **Further Requested Amendments**

The applicant has requested further amendment of the DA conditions, in particular Condition 2.13 and Condition 4.7, as follows:

- Condition 2.13: Applicant notes that the timing of the condition is not acceptable as the mechanical ventilation details cannot be reasonably resolved until the tenant details are known later in the project. They contend that it is highly impractical to satisfy the requirements of Condition 2.13 so early in the project, when they are unknown. They request modifying the condition so as to allow the submission of mechanical ventilation details for food premises prior to the issue of an Occupation Certificate.

Response: Council accepts the potential conflict of timing and appropriately modifies Condition 2.13 to be a requirement prior to the issue of Occupation Certificate (now Condition 5.24) and a new Condition 4.18 has been included to require the design of any mechanical ventilation system during works to be capable of complying with the relevant Australian Standards.

- Condition 4.7: This condition requires each floor of the building to be surveyed when being constructed to ensure the building height is consistent with the approved plans. The applicant requests rewording the condition to allow for the preparation and submission of a report by a registered surveyor prior to the issue of an Occupation Certificate, so as to avoid disruptions for the structure crews during construction.

Response: Council does not accept the proposed modification as the purpose of the condition (which is standard) is to ensure that the construction is carried out in accordance with the plans. If a surveyors report shows that the building was constructed with a variation to the building height, the cost and time implications to rectify the issue would outweigh the minor delay caused by having each floor checked during construction. Therefore no modification is supported.

## **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**

<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
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
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

<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
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**

<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
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**

<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
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**

<b>Document</b>	<b>Title</b>	<b>Date</b>
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.

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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).
- 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.

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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

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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](http://www.gosford.nsw.gov.au)

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

- 2.14. The waste truck servicing grade is to be 3% or less for the following areas:
- Within the enclosure
  - For bulk bin roll out pads.
- 2.15. No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.
- 2.16. 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.
- 2.17. 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

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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.

- 2.18. Storage is to be provided for each unit in accordance with the requirements of Gosford DCP 2013, as varied by the SEPP 65 guidelines.
- 2.19. 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.
- 2.20. 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**

- 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:

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- 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

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lawfully receive asbestos) to which the non friable asbestos material or friable asbestos material is to be delivered.

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

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

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

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

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

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

- 3.11. Action the following when an excavation extends below the level of the base of the footings of any building, structure or work on the land:
- a. protect and support the building, structure or work from possible damage from the excavation, and
  - b. underpin the building, structure or work where necessary, to prevent any such damage.

These actions must be undertaken by the person having the benefit of the development consent at their own expense.

## 4. DURING WORKS

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

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

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

- a No work is permitted on Sundays and Public Holidays
- b No work is permitted on:
  - Saturdays when a public holiday is adjacent to that weekend.
  - Construction industry awarded rostered days off.
  - Construction industry shutdown long weekends.

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

- i Minor renovation or refurbishments to single dwelling construction.
  - ii Owner occupied renovations or refurbishments to single dwelling construction.
  - iii Owner builder construction of single dwelling construction; and/or
  - iv Any cottage constructions, single dwellings or housing estates consisting of predominantly unoccupied single dwellings.
- 4.2. Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Erosion Sedimentation Control Policy D6.46.
- 4.3. Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.
- 4.4. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made is responsible to notify the neighbour and responsible for the protection and preservation of the adjoining allotment of land.
- 4.5. Buildings are to be demolished in a safe and systematic manner in accordance with the requirements of Australian Standard *AS 2601-2001 - Demolition of Structures*, and disposed of in an approved manner.
- 4.6. Should any Aboriginal objects or artefacts be uncovered during works on the site, all works shall cease. The Office of Environment and Heritage shall be contacted immediately and any directions or requirements complied with.
- 4.7. Submit a report prepared by a registered Surveyor to the Principal Certifying Authority at each floor level of construction of the building (prior to the pouring of concrete) indicating that the 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.

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- 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.
- 4.17. No road or ground anchors are to extend into Council road reserves.

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- 4.18. The design of any mechanical ventilation system must be carried out by a practising Mechanical Engineer and must be capable of certifying that the construction, installation and operation of the exhaust hood ventilation system will meet the requirements as AS 1668.1 and/or AS 1668.2.

## 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

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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.
- 5.24. 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

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location points) are to be submitted to and approved by the PCA prior to the issuing of an Occupation Certificate.

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.

## 6. ONGOING OPERATION

- 6.1. The motor, filter, pump and all sound producing equipment or fitting associated with or forming part of the pool filtering system is to be sound insulated and/or isolated so as not to create an offensive noise to the occupants of the adjoining premises as defined in the *Protection of the Environment Operations Act 1997*.
- 6.2. All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.
- 6.3. All loading and unloading of goods are to be conducted wholly within the site. Loading facilities, internal docks or goods handling areas are to be maintained free of obstruction for the sole use of delivery vehicles.
- 6.4. Maintain the on-site stormwater detention facility in accordance with the operation and maintenance plan.
- 6.5. Maintain the nutrient / pollution control facilities in accordance with the operation and maintenance plan.
- 6.6. Permanent signage to be prominently displayed within the waste room on each residential level to ensure no glass or bagged recycling is disposed of via the recycling chute.
- 6.7. All commitments detailed under Ongoing Management of the approved Waste Management Plan by Cardno dated 25 November 2015 (as modified by Condition 2.16) to be fully implemented.
- 6.8. Do not store materials, waste matter or products outside the building or the approved waste storage area at any time.
- 6.9. Line-mark and maintain the line-marking of all car parking areas and spaces required by this consent. Such spaces must be made available to all users of the site at all times during trading hours.
- 6.10. Waste storage to be as indicated on 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.

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- 6.11. Commercial waste to be serviced by a Private Commercial waste contractor at times that do not conflict with Residential waste servicing.
  - 6.12. The Commercial waste contractor to undertake risk assessment of the required reverse manoeuvre from Parlour Lane into Georgiana Terrace and implement relevant procedure/s to ensure the commercial waste contractor can safely service commercial waste from the commercial waste storage enclosure accessed off Parlour Lane.
  - 6.13. Commercial waste to be serviced at a frequency to ensure adequate storage space is available at all times.
  - 6.14. Commercial food waste ie restaurant/café to be double bagged and serviced at maximum 3 day intervals to minimise odour/vermin nuisance etc.
  - 6.15. Prominent signage to be installed adjacent to the Residential waste chute to each floor to state "Mixed waste only disposed of into garbage chute".
  - 6.16. A bin lifter is to be provided within the Residential and Commercial waste storage enclosures.
  - 6.17. A mechanical waste bin transfer device 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.

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- 7.2. All work carried out under this Consent should be done in accordance with WorkCover requirements including the Workplace Health and Safety Act 2011 No 10 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.

7.3. Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

- 7.4. The inspection fee for works associated with approvals under the Roads Act is calculated in accordance with Council's current fees and charges policy.
- 7.5. Payment of a maintenance bond may be required for civil engineering works associated with this development. This fee is calculated in accordance with Council's fees and charges.
- 7.6. 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

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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.