

DETERMINATION AND STATEMENT OF REASONS

HUNTER & CENTRAL COAST
JOINT REGIONAL PLANNING PANEL

DATE OF DETERMINATION	15 December 2016
PANEL MEMBERS	Jason Perica (Chair), Lindsay Fletcher, Abigail Goldberg, Bob Ward and Ken Greenwald
APOLOGIES	None
DECLARATIONS OF INTEREST	Ms Kara Krason State Member of the Panel declared an interest and did not sit on this matter. She advised that she has previously sat on this matter but was recently engaged on a project in Sydney with Phillip Grauss from Cox Architects who is the architect that was engaged by the proponent following the previous JRPP determination of this matter, to address the concerns of the previous Panel. While not a pecuniary interest, the association may lead to a perceived conflict of interest.

Public meeting held at Gosford Council Chambers on Thursday 15 December 2016, opened at 2.00 pm and closed at 4.50pm.

MATTER DETERMINED

2014HCC021 – DA46209/2014, Central Coast Council, Mixed use – Demolition of existing structures, retain and adaptively reuse a listed heritage item (Creighton's Funeral Parlour") and erect a new 18 storey retail, commercial, restaurant and residential development with 132 units and 205 car spaces 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, known as 27-37 Mann Street and 125 Georgiana Terrace, Gosford.

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at Item 6, the material listed at Item 7 and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to uphold the clause 4.6 variations to maximum building height and FSR under Gosford Local Environmental Plan 2014 and to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*. The decision was carried 3-2 (Lindsay Fletcher, Abigail Goldberg, Bob Ward voting for approval and Jason Perica and Ken Greenwald voting for refusal).

REASONS FOR THE DECISION

Views of the Majority of the Panel:

The Panel considered the written variation request under Clause 4.6 of Gosford Local Environmental Plan 2014 (GLEP 2014) to the maximum Height of Buildings development standard and maximum Floor Space Ratio (FSR) development standard for the site and considered that compliance with the standards was unnecessary and/or unreasonable, and that there were sufficient environmental planning grounds to support the proposed variation. In particular, the Panel considered the proposal was consistent with the zone objectives and consistent with the objectives of the height and FSR standards within Clause 4.3 and Clause 4.4 of GLEP 2014, and the non-compliance(s) did not give rise to an adverse precedent, due to the unique nature of the site and the application of bonus

provisions though the planning instrument. No matters of regional or State significance arose from the non-compliances.

The Panel noted that the proposed Gross Floor Area (GFA) was less than the total GFA of achieved from applying the applicable FSRs to the respective site areas, assuming application of a 30% bonus through Clause 8.9 of GLEP 2014. While the Panel did not rely on the 30% "bonus" provisions in Clause 8.9 of GLEP 2014 as it did not apply to the site, it gave some consideration and weight to an exhibited draft Planning Proposal which sought to clarify the timing of the application of the Clause 8.9. It was considered by the Panel that a plain reading of the current Clause 8.9 of GLEP 2014 would lead to a conclusion that the Clause would apply to proposals lodged prior to the date specified in the Clause and that many surrounding approved developments have made use of the provision/Clause, which also affects the likely future character of the area.

The approach by the applicant to distribute the bulk on the site had appropriate regard to both view impacts (particularly to the Broadwater residential building to the east of the site) and heritage considerations and impacts. In particular, the building, notwithstanding FSR and height non-compliances, had less impacts on the views of the neighbouring building(s) than may occur with a complying building, due to the siting of the building towards the north-west and leaving a sizeable portion of the site well below the height limit (toward the south), where view corridors exist over the site.

The negative comments on the heritage impacts of the proposal from Council's heritage adviser (and the peer review noting concern) were carefully considered, although there were positive aspects in terms of retention and adaptive reuse. Also, the podium to Mann Street complemented the retained building, the public domain was appropriately incorporated into the retained building/recessed "garage" and the new building was separated from the retained building, with its curved shape helping to reduce the visual impacts of the proposed bulk and scale. While the new building would be considerably higher than the retained heritage item, this relationship was likely and reasonably foreseen from the applicable planning controls and, on balance, a good outcome was achieved.

The proposal was considered to exhibit design excellence and had been considerably improved over time, with a new development which will positively contribute to the City.

Further, the specific nature of the site, including the corner location, location of a heritage item, slope of the land and proposed design measures resulted in a development that suited the site and did not cause any significantly adverse impacts on neighbouring land from the non-compliances.

In terms of other matters, the Panel generally concurred with the environmental assessment and balance of considerations within the Council staff assessment report, although took the view that a certain aspect of the proposed development warranted further regulation, related to a Heritage Interpretation Plan.

Dissenting views of Mr Perica and Greenwald:

Mr Perica and Mr Greenwald held different views to those above. They noted the site was zoned Mixed Uses B4 and was not within the "City Centre" but within a precinct whose setting needed to respect the heritage significance of the site/precinct and the transition to open space and the waterfront to the south and west. They were of the view that the proposal had negative impacts on the setting and significance of the heritage item on the site due to the size, width, height and proximity of the proposed building to the retained building, which crowded and visually dominated the heritage item, thereby negatively affecting its' significance. They noted the negative comments from two heritage experts engaged by Council regarding the proposal and were of the opinion the proposal needed very strong reasons for support in light of such justified concern. The height and proximity of the proposed building to the heritage item was also considered to cause adverse visual impacts on the setting of the surrounding items and this was at least in part attributable to the non-compliances with the height and FSR. Accordingly, while

there were acknowledged to be some positive aspects of the proposal, these were not considered to be sufficient to warrant the proposed FSR and height non-compliances.




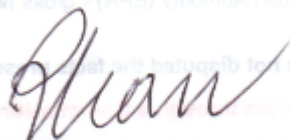

It was also acknowledged that there were efforts to address view impacts upon a building to the east. However, view and heritage impacts should not be "traded off" against each other as both are environmental constraints applying to the site and maximum standards cannot always assume to be achieved.

In terms of view impacts, Mr Greenwald had greater concerns with the proposed height non-compliance which would also affect outlook and sky views to the Broadwater Apartments. This concern was not shared by Mr Perica who was of the opinion the retention of more highly valued views to the water by the proposed siting was appropriate (and agreed a building of complying height may have greater impacts).

CONDITIONS

The development application was approved subject to the draft conditions recommended within the Council staff Supplementary Assessment Report, with the addition of a Condition 2.22 stating:

"An Interpretation Plan shall be prepared by a suitably qualified heritage consultant, to include appropriate measures to interpret the heritage significance of the building to be retained and adaptively reused, including measures for ongoing maintenance. The Plan is to be submitted for approval and approval obtained prior to the approval of the Construction Certificate and approved measures shall be detailed in the application for the Construction Certificate."

PANEL MEMBERS	
	
Jason Perica (Chair)	Abigail Goldberg
	
Lindsay Fletcher	Bob Ward
	
Ken Greenwald	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2014HCC021 – DA46209/2014, Central Coast Council
2	PROPOSED DEVELOPMENT	Mixed use – retail, commercial, restaurant, residential development and demolition of existing structures
3	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.
4	APPLICANT/OWNER	Applicant: Rola Property Group Pty Ltd Owner: Ancestry Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital investment value of more than \$20 million.
6	RELEVANT MANDATORY CONSIDERATIONS	<p>Environmental planning instruments:</p> <ul style="list-style-type: none"> • 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 • 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 (Building Sustainability Index: BASIX) 2004 (BASIX) • Gosford Local Environmental Plan 2014 <p>Draft environmental planning instruments:</p> <ul style="list-style-type: none"> • Gosford Local Environmental Plan 2014 draft amendment – (Ref: PP_2016_CCOAS_002_00) <p>Development control plans:</p> <ul style="list-style-type: none"> • Gosford Development Control Plan 2013 • Section 94A Contribution Plan – Gosford City Centre • Gosford City Centre Masterplan • Civic Improvement Plan <p>Planning agreements: Nil</p> <p>Regulations:</p> <ul style="list-style-type: none"> • Environmental Planning and Assessment Act Regulation 2000 <p>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</p> <p>The suitability of the site for the development.</p> <p>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> and <i>Environmental Planning and Assessment Regulation 2000</i>.</p> <p>The public interest, including the principles of ecologically</p>

		sustainable development.
7	MATERIAL CONSIDERED BY THE PANEL	<p>Council Assessment Report with draft conditions of consent; Supplementary Assessment Report by Council staff with revised Conditions of Consent</p> <p>Council staff calculation of GFA applying the FSRs to the site areas against the proposed GFA (with and without a bonus)</p> <p>Architectural plans by Thrum Architects</p> <p>Landscape plans by site image landscape architects</p> <p>Civil engineering design by Cubo Consulting Pty Ltd</p> <p>Statement of Environments Effects</p> <p>Peer review report</p> <p>Statement of heritage impact</p> <p>Waste management plan</p> <p>Supplementary water cycle management report</p> <p>Review of geotechnical aspects</p> <p>Traffic impact assessment</p> <p>Supplementary traffic report</p> <p>Accessibility assessment report</p> <p>Visual impact statement</p> <p>Review of wind effects</p> <p>Supplementary wind effects report</p> <p>Visual impact assessment report</p> <p>Draft Planning Proposal to amend Clause 8.9 of GLEP 2014</p> <p>Written submissions during public exhibition:</p> <ul style="list-style-type: none"> • Scheme 1 – original notification – 119 submissions • Scheme 2 – notification of amended plans – 190 • Scheme 3 – notification of amended plans - 8 <p>Verbal submissions at the panel meeting:</p> <ul style="list-style-type: none"> • Support – nil • Object: <ul style="list-style-type: none"> - Professor Christine Duffield: On behalf of “The Broadwater” building 127 Georgiana Tce GOSFORD - Kay Williams on behalf of Crown Land Our Land • On behalf of the applicant: <ul style="list-style-type: none"> - Paul Anton Rappoport - John Zavolokin - Philip Graus of Cox Architecture - Richard Lamb
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<p>15 December 2016 – Site Inspection</p> <p>15 December 2016 – Final Briefing Meeting</p>
9	COUNCIL RECOMMENDATION	Approve
10	DRAFT CONDITIONS	Attached to the council assessment report.