

JOINT REGIONAL PLANNING PANEL (Hunter and Central Coast)

JRPP No	2014HCC023				
DA Number	46256/2014				
Local Government Area	Gosford City Council				
Proposed Development	Mixed Use Development, Commercial/Retail, Supermarket, Hotel and Shop Top Housing Development				
Street Address	No 108 Donnison Street and No 110, 114, 116, 118, 118A Mann Street GOSFORD				
Applicant Name	Gosford City Development				
Owner Name	Mistlake Investments Pty Ltd & Malachite Holdings Pty Ltd				
No. Submissions	130				
Regional Development Criteria (Schedule 4A of the Act)	Value greater than \$20 million - (\$157 million)				
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none">• Environmental Planning & Assessment Act 1979 - Section 79C• Local Government Act 1993 - Section 89• Gosford Local Environmental Plan 2014• Gosford Development Control Plan 2013• State Environmental Planning Policy (SEPP) No 71 - Coastal Protection• SEPP (Building Sustainability Index BASIX) 2004• Section 94A Contribution Plan – Gosford City Centre• SEPP (Infrastructure) 2007• SEPP 65 Design Quality of Residential Flat Buildings				
List all documents submitted with this report for the panel's consideration	Plans				
	Drawing	Description	Sheets	Issue	Date
	DA000	Cover Page	1	A	27/08/2014
	DA001	Drawing List	1	A	27/08/2014
	DA002	Development Summary	1	C	02/04/2015
	DA003	Location Plan	1	A	27/08/2014
	DA004	Site Analysis 1 – Wind & Solar	1	A	27/08/2014
	DA005	Site Analysis 2 – Topography and Views	1	A	27/08/2014
	DA006	Site Plan	1	A	27/08/2014
	DA007	Public Domain	1	A	27/08/2014
	DA200	Basement 1 Plan	1	B	20/11/2014
	DA201	Ground Floor Plan – Hotel Lobby and Retail	1	B	20/11/2014
	DA202	Level 1 Plan – Restaurant and	1	A	27/08/2014

		Conference			
	DA203	Level 2 Plan – Car Parking	1	A	27/08/2014
	DA204	Level 3 Plan – Car Parking	1	A	27/08/2014
	DA205	Level 4 Plan – Car Parking	1	A	27/08/2014
	DA206	Level 5 Plan – Hotel and Gym	1	A	27/08/2014
	DA207	Level 6 Plan 6 – Hotel and Pool/Lounge	1	A	27/08/2014
	DA208	Level 7-8 Plan – Typical Hotel	1	A	27/08/2014
	DA209	Level 9 Plan – Residential	1	A	27/08/2014
	DA210	Level 10-22 Plan – Residential	1	A	27/08/2014
	DA211	Level 23-24 Plan – Residential	1	A	27/08/2014
	DA212	Level 25 Plan	1	A	27/08/2014
	DA213	Level 26 Plan	1	A	27/08/2014
	DA214	Level 27 East Plan	1	A	27/08/2014
	DA215	Level 28 East Plan	1	A	27/08/2014
	DA216	Roof Plan	1	A	27/08/2014
	DA218	West Tower – Typical Residential Plan – Level 10-22	1	A	27/08/2014
	DA219	West Tower – Typical Residential Level 23-24	1	A	27/08/2014
	DA300	Section AA	1	A	27/08/2014
	DA301	Section BB – West Tower	1	A	27/08/2014
	DA400	North Elevation	1	A	27/08/2014
	DA400A	North Elevation	1	A	27/08/2014
	DA401	South Elevation	1	B	20/11/2014
	DA401A	South Elevation Coloured	1	B	20/11/2014
	DA402	East Elevation	1	B	20/11/2014
	DA402A	East Elevation Coloured	1	B	20/11/2014
	DA403	West Elevation	1	B	20/11/2014
	DA403A	West Elevation Coloured	1	B	20/11/2014
	DA404	Inner East Elevation	1	A	27/08/2014
	DA405	Inner West Elevation	1	A	27/08/2014
	DA406	Podium Elevation – South Entrance	1	A	27/08/2014
	DA407	Podium Elevation – South Corner	1	A	27/08/2014
	DA408	Podium Elevation – East	1	A	27/08/2014
	DA409	Podium Elevation – West	1	A	27/08/2014
	DA700	Materials and Finishes Schedule A	1	A	27/08/2014
	DA701	Materials and Finishes Schedule B	1	A	27/08/2014
	DA710	Adaptable Units	1	A	27/08/2014

	DA711	Accessible Hotel Rooms	1	A	27/08/2014
	DA721	GFA Diagrams Sheet 2	1	C	02/04/2015
	DA740	Shadow Diagrams 21 June Sheet 1	1	B	20/11/2014
	DA741	Shadow Diagrams 21 June Sheet 2	1	B	20/11/2014
	DA742	Shadow Diagrams March/September Sheet 1	1	B	20/11/2014
	DA743	Shadow Diagrams March/September Sheet 2	1	B	20/11/2014
	DA744	Shadow Diagrams December Sheet 1	1	B	20/11/2014
	DA745	Shadow Diagrams December Sheet 2	1	B	20/11/2014
	DA750	Cut and Fill Plan	1	A	27/08/2014
	DA760	Elevation Detail A	1	A	27/08/2014
	DA761	Elevation Detail B	1	A	27/08/2014
	DA762	Elevation Detail C	1	A	27/08/2014
	DA763	Elevation Detail D	1	A	27/08/2014
	DA770	Waste Travel Paths - Basement Level	1	A	20/11/2014
	DA771	Waste Travel Paths – Ground Level	1	A	20/11/2014
	DA772	Waste Travel Paths – Level 1	1	A	20/11/2014
	DA773	Waste Travel Paths – Levels 10-22 (Residential)	1	A	20/11/2014
	DA900	Photomontage Sheet 1	1	B	20/11/2014
	DA901	Photomontage Sheet 2	1	B	20/11/2014
	Project 60327943	Landscape Package	1	A	August 2014
	DA00	Content	1	A	26/08/2014
	DA01	Site Context	1	A	26/08/2014
	DA02	Landscape Plan Ground Floor	1	A	26/08/2014
	DA03	Landscape Plan Level 1	1	A	26/08/2014
	DA04	Landscape Plan Level 4	1	A	26/08/2014
	DA05	Landscape Plan Level 5	1	A	26/08/2014
	DA06	Landscape Plan Level 6	1	A	26/08/2014
	DA07	Landscape Plan Level 9	1	A	26/08/2014
	DA08	Landscape Plan Level 26	1	A	26/08/2014
	DA09	Landscape Plan Level 28	1	A	26/08/2014
	DA10	Landscape Sections	1	A	26/08/2014
	DA11	Landscape Sections	1	A	26/08/2014
	DA12	Landscape Sections	1	A	26/08/2014
	DA13	Materials and Planting Palette	1	A	26/08/2014
	DA14	Materials and Planting Palette	1	A	26/08/2014
	DA15	Character Images	1	A	26/08/2014
	DA16	Character Images	1	A	26/08/2014

	Supporting Documentation		
	Document	Title	Date
	Project 14-022	Statement of Environmental Effects Revision A	27/08/2014
	Project 14-022	Clause 4.6 Variation Building Height Revision A	27/08/2014
	Project 14-022	Clause 4.6 Variation Floor Space Ratio Revision A	26/08/2014
	Project 14-022	Crime Prevention Through Environmental Design Assessment Revision A	25/08/2014
	Project 14-022	SEPP 65 Design Verification statement	27/08/2014
	Project 14-022	Visual Assessment	27/08/2014
		Visual Assessment Addendum 1	22/10/2014
		Building Code of Australia Capability Statement	27/08/2014
	141303	Structural Design Report	21/08/2014
		Heritage Report	August 2014
	CC140046R02	Traffic and Parking Impact Assessment	August 2014
	CC140046R02A	Addendum to Traffic and Parking Impact Assessment	28/11/2014
	CC140046R03	Waste & Loading Bay Management Plan	August 2014
	Coffey	Geotechnical Assessment	09/07/2014
	Coffey	Phase 1 Contamination report	09/07/2014
	60327943	DA Services Report – Mechanical, Electrical, Fire and Hydraulics	25/08/2014
	60327943	Standards, Codes, Guides and Legislation for Design Development	25/08/2014
	60327943	Concept Design – Vertical Transportation	25/08/2014
	60327943	Development Application Acoustic Assessment Report	25/08/2014
		Waste Management Plan and Strategy	17/02/2015
		NATHERS Rating Certificate No 1006791048	26/08/2014
	569169M-02	BASIX Certificate	26/08/2014
	569185M-02	BASIX Certificate	26/08/2014
	563734M-02	BASIX Certificate	26/08/2014
	141303	Water Cycle Management Plan	21/11/2014
	60327943	Waste Management Plan and Strategy	25/11/2014
Recommendation	Approval		
Report by	R A Eyre		

Assessment Report and Recommendation Cover Sheet

REPORT TO HUNTER & CENTRAL COAST JOINT REGIONAL PLANNING PANEL

TITLE **DEVELOPMENT APPLICATION NO. 46256/2014**
APPLICANT: GOSFORD CITY DEVELOPMENT
PROPOSED: MIXED USE DEVELOPMENT, COMMERCIAL/RETAIL,
SUPERMARKET, HOTEL AND SHOP TOP HOUSING DEVELOPMENT ON
LOT: 5 DP: 1015908, LOT: A DP: 161913, LOT: 2 DP: 653312, LOT: 10 DP:
225125, LOTS: C & D DP: 162014 NO 108 DONNISON STREET GOSFORD &
NO 110, 114, 116, 118, 118A MANN STREET GOSFORD

Directorate: Governance and Planning
Business Unit: Development

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

EXECUTIVE SUMMARY

Reason for Referral to Joint Regional Planning Panel (JRPP)

Value greater than \$20 million

Assessing Officer: R A Eyre

Reviewing By: Manager – Development and Compliance
CEO

Application Received: 28/08/2014 **Date of Amended Plans:** 28/11/2014, 17/2/2015

Synopsis: An application has been received for a Mixed Use Development, Commercial/Retail, Supermarket, Hotel and Shop Top Housing Development. The building will consist of a podium with 2 towers above. The application has been assessed against the matters for consideration detailed in 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979.

The proposal significantly exceeds the maximum height and FSR under Gosford LEP 2014. The applicant has submitted written justifications to vary the height and FSR development standards under Clause 4.6 of Gosford LEP 2014.

The proposal generally complies with the requirements of DCP 2013 except for car parking and building setbacks.

The proposal is supported for the following reasons:

- The design is an innovative approach to the site with three (3) street frontages;
- It achieves design excellence through a high standard of architectural design featuring active street fronts, articulated facades, variation in external materials and finishes, stepping the building back at higher levels, landscaping at street level and above;
- The 4-5 storey podium provides a pedestrian scale at street level;
- The economic and social benefits of providing a much needed tourist facility to revitalize the Gosford City Centre;
- The visual interest and possible iconic structure to identify the Gosford City Centre;
- The variety of uses will strengthen the viability of the proposal;
- The size and scale will strengthen Gosford as the Regional Capital of the Central Coast;
- The proposal includes a 134 room hotel which is lacking in the City Centre;

- The proposal is in accordance with Council's adopted "Statement of Strategic Intent" (SOSI);
- The unique nature and size of the site in the commercial core zone; and
- The design merits of the proposal and street improvements.

A total of 130 public submissions were received with 95% supporting the proposal. The main reasons for **support** are the perceived economic and social benefits and the development role in the revitalization of Gosford City Centre. The main reasons for **objection** are the height and visual impact of the proposal.

The proposal will not detract from the character or scenic qualities of the area nor will it have unreasonable impacts on the environment.

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

Zone: B3 Commercial Core

Area: 5553.6m²

Topography: Relatively flat with less than 5° slope from Mann Street to Baker Street.

Public Submissions: 130 (6 objections and 124 in support of proposal)

Employment Generating: Yes **Value of Work:** \$157,000,000.00

Political Donations: None declared.

Relevant Statutory Provisions

1. Environmental Planning & Assessment Act 1979 - Section 79C
2. Local Government Act 1993 - Section 89
3. Gosford Local Environmental Plan 2014
4. Gosford Development Control Plan 2013
5. State Environmental Planning Policy (SEPP) No 71 - Coastal Protection
6. SEPP (Building Sustainability Index BASIX) 2004
7. Section 94A Contribution Plan – Gosford City Centre
8. SEPP (Infrastructure) 2007
9. SEPP 65 Design quality of Residential Flat Buildings

Key Issues

1. Statement of Strategic Intent (SOSI)
2. Gosford Local Environmental Plan 2014
3. Principal Development Standards
4. Environmental and Coastal Considerations
5. Gosford City Centre MasterPlan
6. Civic Improvement Plan/Streetscape/Landscape
7. Shadow Impact
8. Visual Assessment
9. Section 94 Contributions
10. Economic and Social Assessment
11. External Referrals
12. Internal Referrals
13. Public Submissions

Recommendation

Approval, subject to conditions

REPORT

The Site

The site is located on the corner of Mann Street, Donnison Street and Baker Street. The site is bounded to the north by existing commercial/retail premises and the north-west boundary adjoins the Baker Street car parking station.

The site currently contains the Union Hotel on the corner of Mann Street and Donnison Street with other commercial premises to the north (hairdresser, subway, discount store) orientated to Mann Street. Existing buildings are two-storey.

The western, or Baker Street, side of the site generally contains parking areas at the rear of the site serving the existing premises, with access off Baker Street. Parking currently exists on the site for 67 vehicles.

All road frontages are fully constructed.



Site map

Background

Previous approvals on the various lots within the site relate mainly to minor alterations or change of use to existing premises.

Locality

The site is located within the Gosford City Centre.

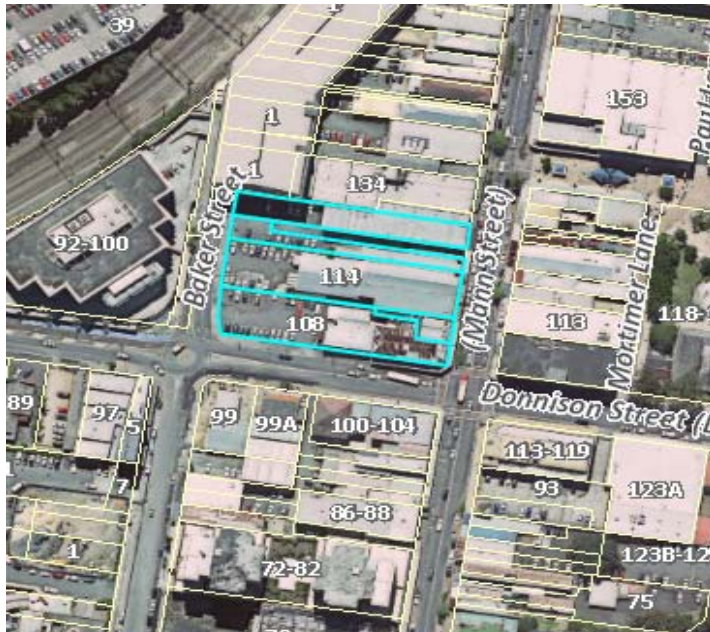
To the east are shops and Kibble Park.

To the south are commercial/retail premises, with Gosford City Council Administration building about 100m away.

To the west is the existing WorkCover building and Sydney-Newcastle Railway Line.

Adjoining to the north is the Baker Street car parking station and other commercial/retail premises.

Gosford Railway station is about 250m to the north and further to the north-west is Gosford Hospital.



Locality

Referrals

The application was referred to the following:

- NSW Police
- Roads and Maritime Services
- Internal Referrals
 - Architect
 - Heritage Co-ordinator
 - Development Engineer
 - Health and Food Officers
 - Trade Waste
 - Traffic Engineer
 - Waste Officer
 - Building Surveyor
 - Water and Sewer
 - Economic Development
 - Corporate and City Planning

Proposal

It is proposed to demolish the existing buildings on the site and erect a proposed building containing:

- Hotel lobby, Retail/Commercial/Supermarket on ground floor level with:
 - 134 room Hotel
- 276 Residential apartments as shop top housing consisting of:
 - 68 x 1 bedroom
 - 170 x 2 bedrooms
 - 38 x 3 bedrooms
- A total of 53,925m² gross floor area including above ground parking levels.
- 476 on-site car parking spaces within basement level and on levels 2, 3 and 4.

The proposed building has:

- 26 storeys on the western side tower with a ridge height of RL 97.20m AHD; and
- 28 storeys in the eastern side tower with a ridge height of RL 103.20m AHD.

The following are contained within each level:

- Basement 1 – car parking, access from Baker Street and waste storage;
- Ground Floor Level – hotel lobby, supermarket and other retail shops (3,123m² GFA);
- Level 1 – hotel kitchen, bar, offices, function rooms, restaurant (3,995m² GFA);
- Levels 2, 3 and 4 – car parking (13,070m² GFA);
- Level 5 – hotel rooms and gym (2,045m² GFA);
- Level 6 – hotel rooms and pool lounge (1,889m² GFA);
- Levels 7 and 8 – hotel rooms (3,778m² GFA);
- Levels 9-25/27 – residential units (26,025m² GFA);
- Level 26 – West tower – communal open space (158m²); and
- Level 28 – east tower – communal open space (192m²).

From Level 5 and above, the building will be divided into 2 Towers (East and West) with 24.43m separation between towers, facing Donnison Street.

The Ground Floor and Levels 1-3 above will have a nil setback to Mann Street, Donnison Street and the northern boundary, and a 3.2m setback to Baker Street.

Level 4 will be setback 5.48m from Mann Street, 2.5m from Donnison Street and 8.83m from Baker Street and nil setback on northern boundary.

Levels 5-8 will be setback about 6m from Mann Street, 2.5m from Donnison Street, 9.8m from Baker Street and 4.9m from the northern boundary.

Levels 9-25 will be setback about 6m from Mann Street, 5.1m from Donnison Street, 9.8m from Baker Street, and 12m from the northern boundary.

Levels 26-27 on the eastern tower are setback about 6m from Mann Street and 5.1m from Donnison Street and 12m from the northern boundary.

On Level 25 (west tower) and Levels 26 and 27 (east tower) the balcony widths increase to reduce the floor space on the levels.

Both Towers have roof gardens/commercial open space on Levels 26 and 28 respectively.



Photomontage view from corner of Mann and Donnison Streets

Assessment

This application has been assessed using the heads of consideration specified under Section 79C of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans. The assessment supports **approval** of the application and has identified the following key issues which are elaborated upon for Council's information.

Statement of Strategic Intent

The following comments are provided by Council's Manager Corporate and City Planning:

Gosford City Centre is the regional capital of the Central Coast, its role and function extends beyond the boundaries of Gosford LGA into Wyong LGA and beyond. The importance of Gosford as a Regional Centre has long been referred to in State Government Regional Planning however, despite years of strategic planning, a renewed, vibrant and successful Centre has been slow to eventuate.

Past strategic plans, including the Gosford LEP 2005, Gosford LEP 2007, Gosford Challenge/Gosford City Master Plan 2011-2012, Gosford Water – State Significant Site 2014 and the current Gosford LEP 2014, have not managed to clearly implement a vision that reflects Community's, the market's and Council's vision for the centre. Primary reasons for the failure to revitalize the Centre are a clear inconsistency between the LEP and the actual development potential of the CBD (as discussed below).

This financial year has shown that a new era of growth is on the horizon. Council remains committed to embracing new opportunities for economic stimulus and growth to ensure Gosford takes advantage of its location and strengthens its position as a Regional Capital of the Central Coast. This financial year, Council has seen an unprecedented level of renewed interest in the development of the centre, with a significant number of development applications being lodged with Council for land within the Gosford CBD boundary.

The form and function of these applications are reflective of increased market confidence and a new approach to city planning. However these buildings, whilst reflective of a market approach, clearly are inconsistent with the Gosford LEP 2014 (GLEP 2014), in respect of the statutory controls for height and floor space ratio (FSR). In any other circumstance, the form and function of development achieved under an environmental planning instrument should represent the vision of Council as expressed in master plans, it should represent the Community's vision for place making and it should represent the State Government's centre hierarchy, population and economic growth. In this situation, a variation to the statutory controls should only be entertained where site specific circumstance warranted a variation. However, in the situation faced by Gosford Council and the Joint Regional Planning Panel, the GLEP 2014 is not representative of a future CBD and as such variations, irrespective of the numeric departure, must be considered as a site specific issue that warrants planning intervention to enable a future strategic outcome.

This gap between the market and the GLEP 2014 was a matter for consideration by Council's Sustainable Corporate and City Planning Department, resulting in the development of a Statement of Strategic Intent for the Gosford CBD. The role of the Statement of Strategic Intent is to:

- Provide Council with a roadmap for revitalization of the city centre;
- Ensure the future direction for planning controls for the Gosford City Centre are flexible and align with Council's strategic directions and current market conditions;
- With a focus on the city core, review the appropriateness of building heights, floor space ratios and building forms with a view to reframing the development capacity of the city;
- Provide a basis for Council to commence the preparation of a planning proposal; and
- Allow current development applications within the city centre to be assessed within the context of Council's renewed strategic direction for the city centre

The outcomes of the Strategic review indicate that the existing statutory LEP controls, whilst aiming to revitalize and activate the City Centre, are unclear and potentially contradictory when measured against strategic planning objectives. This impact is most apparent in the CBD. The fringe areas of the City are generally zoned R1 General Residential and currently enjoy the benefits of bonus provisions and LEP/DCP controls that provide appropriate densities and quality buildings to satisfy the needs of the market.

However, the primary area where the mismatch between controls and vision is most evident, is the CBD of the City Centre. This area was defined in the Statement of Strategic Intent and it is within this area, variations to the LEP controls need to be considered.

The Statement of Strategic Intent identifies a new approach to massing in the centre: fine grain podiums and floating slender towers, providing a visually attractive skyline and enabling views through the towers to both water and vegetated ridges in the background, will be the defining statement of a new CBD. This approach to massing is a departure from the FSR and height controls, which encourage mid-rise, squat and heavy-built forms that would detract from an emerging regional centre. Key considerations in the new approach are heights that respect the surrounding ridgelines and podiums that create a pedestrian scale.

The Statement of Strategic Intent is the first step in preparing a planning proposal that provides clarity and consistency to the planning framework. Council has had discussion with the NSW

Department of Planning and Environment regarding the form of a planning proposal. The approaches available are:

1. Amend statutory controls so that existing heights and FSR are regularised to support the Statement of Strategic Intent. This would be likely to further over value land including existing narrow lots and small sites that, in the current zoning, cannot realise meaningful development without consolidation. This approach will also be time consuming and could possibly result in a period where the potential of the momentum on the CBD is lost.
2. Prepare planning proposals to support individual development applications on the basis that these sites are landmark or iconic within the context of the CBD. This approach would only support a proliferation of iconic sites within a CBD. In addition, this approach would cement height and FSR ratios as precedents for other sites that couldn't be developed to a similar scale.
3. Prepare a planning proposal to allow height and floor space ratio departures from the existing LEP, based on design excellence and the inclusion of a control that supports an overall density for the CBD. This approach enables council to use design excellence as a basis for departures (as would be considered in a development application) and where departures are approved reduce the overall GFA of the CBD core to ensure a density that responds to infrastructure and place making principles. Council is currently in discussion with the Department of Planning and Environment regarding this approach.

The approach (No. 3) considered by Council as the best way forward, demonstrates a mechanism for consideration of development applications within the CBD despite significant variations to the existing LEP. This approach acknowledges that strict compliance with GLEP 2014 will not achieve best practice urban design or Council's current vision for the CBD.

Right now the Central Coast is entering a development revolution supported by population growth, improved economic times, interest from foreign investors, new economic support for the City Centre and people interested in the lifestyle on the Coast. This intersection of forces is an opportunity that needs to be acted upon immediately to provide the catalyst for a revitalized Gosford City Centre.

Traditionally strategic planning provides the environment within which these forces can realise future visions and outcomes. In this very unusual situation, Council's GLEP 2014 is not reflective of a vision for the future. Rather, its implementation provides obstacles to development which reflects the State Government's, the Community's and Council's vision for a revitalized and vibrant town centre-development that provides opportunity for housing choice, economic growth and retention of the environmental values that are so important to the people of the coast.

Despite the significant variations to the controls, it is my opinion that strict compliance with these controls in their current form would result in development that is not economically viable and therefore, the continued spinning of wheels that has for too long plagued planning in Gosford City Centre would continue. Approval of the application, despite the height and FSR variations, is reflective of Council's strategic vision for the CBD and would support Council's intended approach to a future planning proposal.

Gosford Local Environmental Plan 2014

(a) Permissibility

The land is zoned B3 Commercial Core under Gosford Local Environmental Plan 2014. The proposal is defined as a mixed use development and is permissible within the zone.

A “mixed use development” means a building or place comprising two (2) or more different land uses. The following uses are permissible with consent on B3 Zone land and included in the proposal:

- Commercial premises means:
 - (a) *business premises;*
 - (b) *office premises; and*
 - (c) *retail premises)*
- Food and drink premises means:
 - *premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:*
 - (a) *a restaurant or cafe;*
 - (b) *take away food and drink premises;*
 - (c) *a pub; and*
 - (d) *a small bar.*
- Function Centre means:
 - *a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.*
- Hotel or Motel accommodation means:
 - *a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that:*
 - (a) *comprises rooms or self-contained suites; and*
 - (b) *may provide meals to guests or the general public and facilities for the parking of guests’ vehicles, but does not include backpackers’ accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.*
- Recreation facilities (indoor) means:
 - *a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.*
- Shop Top Housing means:
 - *one or more dwellings located above ground floor retail premises or business premises. Residential accommodation (except for shop-top housing) is prohibited on B3 zoned land. In the recent case of Hrsto v Canterbury City Council (No 2) [2014] NSW LEC 121, the definition of shop-top housing was clarified. To comply with the definition of shop-top housing, the residential component must be in the same building and above the commercial/retail premises. This is the case in this application.*

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

(b) Objectives of the B3 Zone are:

- *To provide a wide range of retail, business, office, entertainment, community and suitable land uses that serve the needs of the local and wider community;*

- *To encourage appropriate employment opportunities in assessable locations;*
- *To maximise public transport patronage and encourage walking and cycling;*
- *To strengthen the role of Gosford City Centre as the Regional business, retail and cultural centre of the Central Coast;*
- *To encourage a diverse and compatible range of activities, including commercial and retail development, cultural and entertainment facilities, tavern lessee and recreation facilities and social, educational and health services;*
- *To provide for residential uses if compatible with neighbouring uses and employment opportunities;*
- *To create opportunities to improve the public domain and pedestrian links throughout Gosford City Centre;*
- *To provide for the retention and creation of view corridors; and*
- *To protect and enhance the scenic quality and character of Gosford City Centre.*

Council Comment

The proposal is consistent with the above objectives for the following reasons:

- The proposed scale contributes to the economic revitalization of the City Centre by including retail, tourist and visitor accommodation, restaurants and residential use;
- The site is located 5 minutes walk from Gosford Railway station and is on a bus route;
- The size of the proposal and the mix of uses will strengthen Gosford as the Regional capital of the Central Coast, as identified in the Regional Strategy;
- The proposal provides for tourist accommodation as well as permanent residential use in the higher levels of the two towers;
- The tourism uses are highly compatible with and complement the adjoining nearby stadium;
- The proposal offers significant improvements to the public domain by providing a continuous podium at Level 5 which creates a human scale and landscaping and street improvements. Mann Street is the primary frontage and Donnison Street the secondary frontage with a porte cochere, which creates weather protection;
- The treatment of the three street frontages contributes positively to pedestrian amenity and pedestrian links;
- View corridors are retained as identified in Figure 2.14 of Chapter 4.1 of DCP 2013;
- The building setbacks above the podium level and separation of the towers increases view opportunity in a north-south direction;
- Views from Kibble Park or the waterfront to adjoining hills are not significantly impacted. The design of the 2 Towers provides visual interest and will be a focal point when viewed from the waterfront and other parts of the City;

- The proposal includes landscape elements to provide a softer green appearance which is lacking in the commercial core; and
- Landscaping is provided around the car parking on Level 4, as well as at street level, Level 5 around the pool, on the northern boundary and on the roof tops of the 2 Towers.

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

(c) Character

The site is located within the commercial core of the City. The B3 Zone emphasis is employment generation and economic development.

The hotel and retail component will generate significant employment. The addition of residential above will increase residential and tourist accommodation, essential to support and supplement the hotel/retail uses.

In December 2014, Council adopted a Statement of Strategic Intent (SOSI) which supports increased heights and greater floor space on such significant sites compared to what the current development standards permit even with the 30% bonus to height and FSR.

(d) Development Incentives

The site is located within the Development Incentives area of the City. Under Clause 8.9 of the Gosford LEP 2014, a 30% bonus to height and FSR applies to applications lodged on/or before 31 August 2014.

As a result of the 30% bonus, the maximum height is 62.4m and maximum FSR is 5.2:1.

(e) Design Excellence

The requirements for design excellence in Clause 8.5 of Gosford LEP 2014 have been considered in the assessment of the application and the proposal is considered to be consistent with the requirements for the following reasons:

- The proposal exhibits a high standard of architectural design appropriate to the building type and location;
- The external appearance will improve the quality and amenity of the public domain;
- The proposal does not detrimentally overshadow Kibble Park, William Street Plaza or the waterfront; and
- The proposal is generally constructed in accordance with the applicable development control plan and addresses the relevant controls.

Principal Development Standards

(a) Gosford LEP 2014

Item	Permissible	Proposed	Compliance/Variation
Height (with 30% bonus) *Excluding Architectural roof features permitted under Clause 5.6 of Gosford LEP 2014	62.4m	West Tower 83m-86m East Tower 88m-91m	N – 20.6m (33%) 23.6m (38%) N – 25.6m (41%) 28.6m (46%)
FSR (including 30% bonus)	5.2:1	9.7:1 (including car parking Levels 2-4) 7.4:1 (excluding car parking Levels	N – 4.5:1 or 86% 2.2:1 or 42%

Clause 4.6 of Gosford LEP 2014 states:

4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (1) Height
 The maximum height permissible (including the 30% bonus) is 62.4m under Clause 8.9 of Gosford LEP 2014. This is a development standard.

The proposed height of the two towers is up to 86m and 91m. These are variations to the development standard up to 23.6m (38%) and 28.6m (46%) respectively.

The applicant has lodged a written submission which contends that compliance with the development standard is unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental grounds to justify contravening the development standard.

Applicant's Submission

- (i) *Objectives of height standard of Clause 4.3 of Gosford LEP 2014.*
 - (a) *"To establish maximum height limits for buildings."*
 - *The site is optimally located for more intensive development;*
 - *It is located within 5 minutes walk of Gosford Railway station;*

- Does not cast significant shadow on Kibble Park or the Gosford Waterfront;
- Does not screen views of Waterview Park from Kibble Park; and
- The additional height does not cause unreasonable visual or other impacts.

(b) *“To permit building heights that encourage high quality urban form.”*

The proposal achieves a design excellence with a high quality streetscape through:

- Active street frontages;
- Architectural facades;
- Variation in materials and finishes;
- Stepping of built form;
- Upper level setbacks;
- Public domain improvements;
- Modulation of built form by varying setbacks;
- Variation in height of the two towers to create a visual interest in the skyline;
- Height is below the height of Rumbalara Reserve and Waterview Park and does not affect view corridor identified in Chapter 4.1 of DCP 2013; and
- The proposal complies with the desired future character and built form in the City Centre Core. The site is identified as being capable of sustaining additional bulk and scale.

(c) *“To ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight.”*

- The proposal maintains a podium consistent with the DCP heights and provides setbacks consistent with the RFDC;
- The additional height increases the length of the shadows but the slender profile of the towers from east to west and gap between towers minimises the extent of shadow on any one particular property by creating a quick moving shadow;
- The curved form of the towers and gap between towers maintain a large north-south view corridor above the podium level; and
- The additional height has very little impact on the public domain. The proposal does not significantly overshadow Kibble Park, Gosford Stadium, or the waterfront.

(d) *“To nominate heights that will provide appropriate transition in built form and land use intensity.”*

- The site is located on the Mann Street axis well away from the more sensitive areas of the ridgelines and public open space areas;
- The past and current planning controls envisaged a significant increase in height on and around this site; and
- The development is located on a prominent corner with a street wall height via the podium level which complies with the DCP requirements.

(e) *“To ensure taller buildings are located approximately in relation to view corridors and in a manner that is complimentary to the natural topography of the area.”*

- View corridors are identified in Figure 2.14 of Chapter 1 of DCP 2013. The proposal does not impact these view corridors and is within the setting between Rumbalara Reserve to the east and Waterview Park to the west when viewed from the waterfront.

(f) *"To protect public open space from excessive overshadowing and to allow views to identify natural topographical features."*

- *The proposal does not overshadow public open space including Kibble Park, Gosford Stadium, and the waterfront between 9:00am and 3:00pm in mid-winter;*
- *The shadow impact from the separate two towers moves across the landscape quickly; and*
- *View corridors are maintained from Kibble Park to the west to Waterview Park.*

(2) Floor Space Ratio (FSR)

The maximum FSR permitted under Clause 8.9 of the Gosford LEP 2014 is 5.2:1 (including the 30% bonus). This is a development standard.

The proposal has a FSR of 9.7:1 including the above ground car parking levels. This is a variation of 4.5:1 or 86% to the development standard. The definition of gross floor area in the LEP excludes car parking required for the development. However Clause 8.6(3) of the Gosford LEP 2014 states that any area of the building at/or above ground level used for car parking is to be included in the building gross floor area.

Clause 4.1.4.4 of Gosford DCP 2013 also states that for the B3 Zone, on-site parking is to be accommodated underground, or otherwise fully integrated into the design of the building with a minimum 8m setback of the parking from the lot boundary. Where integration is not achieved, the DCP states that car parking spaces will count towards the gross floor area for the purposes of calculating FSR. If the three (3) above ground car parking levels were excluded from gross floor area, the gross floor area would be 40,855m² and result in an FSR of 7.4:1 (42% variation).

Car parking on Levels 2 and 3 are located within the base podium levels. On Level 4, the parking is setback 2.68m from Donnison Street, 5.89m from Mann Street and 8.83m from Baker Street boundaries.

To set the parking levels back from the street will reduce the podium base level and significantly reduce the on-site car parking. It is concluded the car parking on Levels 2-4, with landscaping on Level 4 provides a high standard of architectural design and has been integrated into the design of the building. The external facade on Levels 2 and 3 has provided a variety of building methods, colours and architectural features which when combined should adequately screen the car parking from public view.

A condition of consent will ensure the external materials are opaque to disguise the parking.

(Refer Condition 2.15)

The applicant has lodged a written submission which contents that compliance with the FSR standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify contravening the standard.

Applicant's submission

Objectives of the FSR development standard.

(a) *To establish standards for the maximum development density and intensity of land use.*

- *In setting FSR and height bonuses for the City Centre, it was clear that the City is unlikely to be redeveloped and revitalized without substantial increases in height and FSR.*

- The site is optimally located and one of the largest sites in the City Centre which should benefit from an even higher FSR.
- (b) To control building density and bulk in relation to site area in order to achieve future character for different locations.
- The desired future character is for a destination for workers and visitors. The B3 zone is the economic centre of the City with the majority of the new 6,000 jobs within the B3 zone. The proposal meets the key objectives by providing a range of employment generating uses plus housing/residential use to support employment.
 - Height and FSR go hand in hand. The bulk and scale of the building is provided in the podium level with the two towers above contributing to the height. At street level, the bulk and scale will not be obvious and at a distance the separation of the towers marry in with the vision for the area.
- (c) To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.
- The site is located at the southern end of the B3 Zone. The adjoining property to the north is the only property sharing a common boundary. The podium level complies with the height under the DCP and the residential component is set back from the boundary in accordance with Council's DCP/RFDC.
 - The increased bulk and scale contribute to a shadow impact to the south which is mitigated by the separation of the two towers.
 - There is no impact on the public domain.
- (d) To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing and are not likely to undergo, a substantial transformation.
- The existing building stock is generally aged and out of character with the desired future character as a Regional city.
 - The proposed bulk and scale reflects the incentives and strategic intent of Council to revitalize the City Centre. This can only be achieved with higher density.
- (e) To provide an appropriate correlation between the size of the site and the extent of any development on that site.
- The site has an area of 5,553.6m² which is one of the largest sites in the City centre and the largest in the B3 Zone. Therefore the site should be subject to a higher FSR.
- (f) To facilitate design excellence by ensuing the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.
- Design excellence is achieved by:
 - Active street frontages;
 - Articulated frontages;
 - Variation in materials and finishes;
 - Stepping the building form;
 - Upper level setbacks;
 - Incorporation of landscape elements;
 - Public domain improvements; and
 - Modulation of building form with podium level and towers above, and curved form of the towers.

(3) Council's Assessment and Conclusion

The applicant's submission to significantly vary the height and FSR are supported. Shadow diagrams have been provided at 1 hour intervals for March/September, June and December, which show the movement of shadow impacts across other sites.

Whilst the proposal does rely on significant variations to the development standards of height and FSR, which are normally beyond the ambit of Clause 4.6 (or previous SEPP 1), the following should be taken into consideration:

- Gosford City Centre has had 4 planning schemes since 2004. Each scheme has changed or increased the potential height and floor space;
- Despite numerous attempts to revitalize the City, very little development has actually occurred in the commercial core;
- The preparation of a Planning Proposal has a lengthy time process and development opportunities may be lost by the time changes are made;
- The increased applications received and value of around \$3/4 billion indicates the bonus incentives have at least given a "kick start" and created a situation of confidence to enable development to occur;
- With the announcement of major redevelopment of Gosford Hospital and a new Australian Tax Office in Gosford to open in 2017, development approval is needed now to take advantage of when such infrastructure is completed, otherwise the opportunities may be lost;

The economic and social benefits far outweigh the impacts of the additional height and FSR. Council has identified a strategic need for additional height and FSR for this site through the "SOSI" adopted in December 2014. **(Refer Attachment 3);**

- The proposal complies with the objectives of Clause 8.1 and 8.9 of the GLEP to give incentive bonuses to revitalize the City Centre particularly;
 - (a) to promote the economic and social revitalization of Gosford City Centre;
 - (b) to strengthen the regional position of Gosford City Centre as a multi-functional and innovative centre for commerce, education, health care, culture and the arts, while creating a highly liveable urban space with design excellence in all elements of its built and natural environments;
 - (c) to protect and enhance the vitality, identity and diversity of Gosford City Centre;
 - (d) to promote employment, residential, recreation and tourism opportunities in Gosford City Centre;
 - (e) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Gosford City Centre achieves sustainable social, economic and environmental outcomes;
 - (f) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Gosford City Centre for the benefit of present and future generations; and
 - (g) to help create a mixed use place, with activity during the day and throughout the evening, so that Gosford City Centre is safe, attractive and efficient for, and inclusive of, its local population and visitors alike.

It is considered the applicant's written submissions have adequately justified that compliance with the development standards of both height and FSR are unreasonable and unnecessary in this instance and there are sufficient environmental planning grounds to justify the development standard.

The development will not have unreasonable impacts on the neighbouring residents or character of the area and is consistent with the objectives of the B3 Commercial Core Zone and the objectives of the development standards.

The SOSI identifies this site is one of a number of sites in the Gosford City Centre which has the ability to achieve much higher heights and floor space to revitalize the City Centre.

Approval of the proposal is in accordance with the State and Regional strategy for Gosford to be the regional capital of the Central Coast. Except for one other site in Gosford, there are unlikely to be similar or cumulative variations.

Therefore the request to utilise Clause 4.6 to vary the maximum height and FSR is considered to be well founded and is recommended for support. The proposed development is in the public interest and is consistent with the objectives of the B3 Zone, the Gosford City Centre MasterPlan, and the objectives to revitalize the Gosford City Centre.

Council and the JRPP may assume the concurrence of the Director-General when considering exceptions to development standards under Clause 4.6.

(b) Gosford DCP 2013

(i) Chapter 4.1 of Gosford DCP 2013 is relevant to the application

The land is located in the Commercial core character area, and the proposal complies with the intended character by providing higher density mixed uses that supports the City Centre and employment and residential strategies.

A detailed assessment against relevant DCP provisions has been undertaken. The proposal is considered to be consistent with relevant DCP requirements, apart from variations to building dimensions / depth, and car parking, which are addressed below as well as other variations.

The proposal does not provide a third pipe alternate water supply as per Chapter 4.1.5.3 of the DCP, which is similar to other recent approvals for development in the City Centre. At its meeting of 9 December 2014 Council resolved that a separate report be brought back to Council for consideration of amendment to Chapter 4.1 of DCP 2013, to delete the requirement for a third pipe system in the Gosford City Centre.

(ii) Car Parking

Clause 4.1.4 of Chapter 4.1 of the Gosford DCP 2013 requires on-site car parking to be accommodated underground or fully integrated into the design of the building. The DCP identifies that a minimum 8m setback should be provided between above ground car parking spaces and the building wall/facade onto a street or public space.

Car parking on Levels 2 and 3 are constructed up to the external walls integrated into the podium level.

Car parking on Level 4 is setback about 6m to Mann Street, 2.68m to Donnison Street and 8.73m from Baker street boundaries. Landscaping is proposed in the setback areas along each street frontage on Level 4.

The proposal provides 476 on site car parking spaces (including 47 disabled spaces) over 4 levels being Basement and Levels 2, 3 and 4.

The applicant has submitted a Traffic and Parking Assessment which identifies:

- The existing development on the site requires a total of 188 car parking spaces, whereas 67 are provided leaving a shortfall of 121 spaces;
- In 2011, a survey of parking usage identified:
 - Baker Street parking station between 6:00am and 8:00pm weekday had at peak 191 vacant spaces out of 705 spaces;
 - Town Centre parking area, 119 spaces vacant out of 583 spaces;
 - Both parking stations tend to be used for long term parking with average stay of 7 hours; and
 - On Thursday 22 May 2014, a survey of the Baker Street car parking station between 10:30am and 2:30pm identified 229 vacant spaces.
- The Baker Street car parking station is open 6:00am to 8:00pm Monday-Friday, 7:30am to 3:00pm Saturdays, and when events are on at Central Coast Stadium.
Extending the opening hours would create additional parking availability if needed, particularly for high-time demand such as a Hotel;
- An additional 321 on-street parking spaces are available in the vicinity with various time restrictions;
- Under Council's DCP, the proposal requires a total of 610 car parking spaces. The Car Parking Report discounts the parking required for the hotel, restaurant, and bar by 50% and for the retail and supermarket by 20% for crossover of uses. This results in a total requirement of 544 car parking spaces;
- This is a deficiency of 66 spaces or 12.1%; and
- The proposal provides excess bicycle and motorcycle parking over that required by Council's DCP.

A pedestrian connection between the proposed development and the Baker Street parking station is proposed to improve access to all available parking spaces between the two sites.

Planning Comment

The applicant's car parking calculations are based on the sum of individual uses with the development including that for restaurant, hotel rooms, Visitor parking etc. as required under the DCP for the City Centre.

However Clause 8.6 of Gosford LEP 2014 states that for the B3 Zone, car parking is to be calculated on 1 space/75m² gross floor area for commercial activities, 1 space/40m² for retail purposes, and 1 space per shop top housing. Under this Clause, commercial activities include office premises, business premises, hotel or motel accommodation (unless strata subdivided) food and drink premises or other like uses, or a combination of such uses.

On the basis of Clause 8.6, the car parking required would be 39 retail spaces, 177 commercial activity spaces, and 276 shop top housing spaces. That is a total of 492 spaces. As 476 spaces are proposed, this is a deficiency of only 16 spaces or 3.2%.

It is considered that adequate on-site parking is provided on the site due to:

- the number of spaces provided and the likelihood that patrons will visit more than one use within the development;
- availability of parking in the vicinity;
- different uses and different peak parking demands within the development; and

- vacant car parking spaces being indicated by electronic lighting to increase efficiency of access to spaces.
(Refer Condition 5.9)

(iii) Car Parking Floor/Ceiling Height

The minimum floor/ceiling height for car parking levels above ground level is 2.8m so that if needed, the floor area can be converted to other use in the future.

Car parking Levels 2 and 3 have floor/ceiling height of 2.6m and car parking Level 4 has a floor/ceiling height of 2.8m.

As the proposal does not have an excess of car parking on site, and Level 4 could be converted to other uses if needed, it is considered that a lower floor/ceiling height of 2.6m on Levels 2 and 3 is reasonable.

(ii) Corner Treatment

Clause 4.1.3.10 of Chapter 4.1 (DCP 2013) identifies the corner of Mann Street and Donnison Street as a “key corner site”. The objective and control of key corner sites are:

Objectives

- To contribute to the legibility of a City;
- To encourage the use of architectural techniques to place emphasis on corner buildings;
- To contribute to a varied and interesting public domain;
- To recognise the high visibility and contribution of particular corner sites to overall city streetscape and ‘gateway’ design; and
- To address heritage buildings on corner sites.

Controls

Buildings are to address corner sites through:

- Architectural emphasis and use of distinguishing architectural features and materials to adjacent buildings;
- An additional storey may be permitted onto the specified street frontage height range; and
- The use of a consistent “short splay” corner treatment on corners designated as ‘Gateway’ sites. A primary entrance door to the building is to be placed at the splayed section of the corner.

Comment

A splayed corner has been provided on the corner of Mann Street and Donnison Street to include shops/commercial premises. As the site has 3 street frontages, the design has achieved the aim of a gateway design. Awning and street planting are proposed as part of the development over the street frontages.

(iii) Maximum Floor Plate

The maximum floor plate above 24m height is 1200m². The proposed towers combined have floor plates of 1889m² at the lower levels (Levels 7 and 9), and 1475m² on levels 9-24. The variation to floor plate above 24m reflects the larger site area and does not result in unreasonable bulk and scale, as the total floor plate above Level 5 is divided into the 2 towers. As each tower has a floor plate less than 1200m², it is considered the proposal complies with this requirement.

(iv) Wind Mitigation

Clause 4.1.5.5 requires the submission of a Wind Effects Report for buildings over 14m. For buildings over 48m in height, the results of a wind tunnel test are to be included in the report.

This requirement in the DCP states that taller buildings (Towers) should:

- set towers back from lower structures at the street frontages;
- ensure towers are well spaced from each other to allow breezes to penetrate; and
- ensure usability of open balconies.

A Wind Effects Report was not submitted with the application. The applicant contends that the proposal complies with the objectives of this clause as:

- the towers are set back from the podium level;
- there is a 24.4m separation between towers which is adequate to mitigate wind impacts; and
- 1/3 of the balconies will include wind baffling screens to mitigate impacts on private open space.

Prior to the issue of a Construction Certificate a Wind Effects Report should be submitted.

(Refer Condition 2.14)

(v) Building Setbacks

The setbacks required for the podium (up to 16m height) are nil to Mann Street, Donnison Street and the northern boundary and 2m to Baker Street.

The proposal generally complies with the street frontage height and setbacks required except for Baker Street which has a setback of 3.3m. A greater setback to Baker Street is supported to enable access/landscaping and facade treatment.

Between 16m-36m building height, the setbacks required are:

Front 6m
Side 4.5m
Rear 6m

Above 36m the setbacks required are:

Front 8m
Side 6m
Rear 6m

The DCP does not specify setbacks for a corner site or 3 street setbacks. The setbacks to Baker Street and the northern boundary are well in excess of that required for side and rear boundaries. The setbacks to Mann Street and Donnison Street result in variations up to 2m-3m mostly above 36m height depending on whether Donnison Street or Mann Street is treated as the front setback. Balconies are permitted to intrude 600mm into street setbacks.

It is considered the setbacks proposed are suitable for the site.

Whilst the Towers could be moved northwards or westward to achieve greater compliance with street setbacks, this would not achieve a better planning outcome.

The setbacks proposed are considered appropriate.

Environmental and Coastal Considerations

(a) Acid Sulfate Soils

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

(b) Flooding

This land has been classified as being under a “flood planning level” and subject to the imposition of a minimum floor level, the development is considered satisfactory in respect to Clause 7.2 of Gosford Local Environmental Plan 2014.

(c) Climate Change and Sea Level Rise

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

Climate change and sea level rise will be felt through:

- increases in intensity and frequency of storms, storm surges and coastal flooding;
- increased salinity of rivers, bays and coastal aquifers resulting from saline intrusion;
- increased coastal erosion;
- inundation of low-lying coastal communities and critical infrastructure;
- loss of important mangroves and other wetlands (the exact response will depend on the balance between sedimentation and sea level change); and
- impacts on marine ecosystems.

Refusal of this application is not warranted.

(d) Coastal Zone

State Environmental Planning Policy No.71 – Coastal Protection does not apply to the land, however the provisions of Clause 5.5 Gosford LEP 2014 require Council to consider matters in relation to the Coastal Zone. These matters have been considered in the assessment of this application and are considered consistent with the stated aims and objectives.

Gosford City Centre Masterplan

The MasterPlan was adopted by Council on 9/3/2010.

The MasterPlan serves as a document for the community and Council to understand the changes needed to help Gosford grow as the Regional Capital.

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

Gosford serves the current regional population of 300,000 which is expected to grow to 400,000 by 2031.

The subject site is located within the City Core precinct of the MasterPlan.

The proposal is consistent with the MasterPlan to revitalize the City Centre.

The overarching principles for the built form in the City Core are:

- locate higher buildings at the City Core and along the main north south axis;
- ensure taller buildings do not overwhelm views of the ridges, and waterfront development retains significant view corridors;
- encourage mixed use buildings within the City Centre, with active edges during day and night, weekday and weekend;
- introduce green/open space in and around buildings;

- reinforce the urban nature of Mann street as the City heart;
- maintain the human scale with setbacks for levels above two to three storeys;
- new waterfront development should be generally four storeys with possible increased heights at the western end of the harbour;
- consolidate similar uses, such as recreation facilities, and encourage multi-use of any new facilities and services;
- distinguish Gosford's retail from other centres with a focus on the streets and public domain, rather than enclosed malls and arcades; and
- include Aboriginal elements in the city's design

Gosford DCP 2013 also identified view corridors which should be maintained including views from Kibble Park to Waterview Park.

The proposed building complies with the principles for the built form and does not obstruct critical view lines.

The City Core was identified to create 4770 jobs which could only be achieved with a development similar to that proposed.

Civic Improvement Plan/Streetscape/Landscape

The CIP (2007) provides a planning context and framework for improvements to the public domain in the Gosford City Centre. One of the aims of the CIP is to integrate the urban form and landscape. The CIP does this in part by identifying Mann Street as the "Civic Spine" and Donnison Street between the Railway Line and Albany Street as an east-west spine, both of which are required to have street tree planting/streetscape improvements.

The CIP also identifies Mann Street, Donnison Street and Baker Street as part of a pedestrian/cycle network through the City.

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

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

(Refer Condition 2.7c)

Whilst a 100% site coverage is permitted in the B3 Zone, the proposal provides landscaping at street level, around Level 4 and the residential levels above including on the top of the 2 towers.



Site Plan/Landscape

Shadow Impact

The applicant has submitted shadow diagrams for March/September, June and December. The diagrams show the shadow difference between a building which complies with the height limit and the proposed height.

Kibble Park is directly to the east of the site, and preservation of sunlight to the Park/public domain is considered essential. Overall the additional shadow impact is not significant and is greater in the PM periods.

In December, the additional shadow impact is not significant. The shadow impact from the proposal will begin to cast a shadow on the western edge and corners only of Kibble Park from 4:00pm (AEST) onwards. At 5.00pm (AEST) about one-eighth of the western corner of the Park is in shadow.

In March/September, the shadow impact occurs from about 3:00pm onwards on the south-western corner of the Park. From about 4:00pm onwards, the southern third of Kibble Park is in shadow, and from about 5:00pm onwards, most of Kibble Park is in shadow.

In June, Kibble Park is not impacted by shadow from the proposed building until after 4:00pm when the park is already in shadow from other features. This is the most critical time of the year to preserve sunlight access to the Park.

Whilst the shadow impact due to the height variation is greater, the additional shadow impact across the year is not significant. Whilst there is a part shadow impact on Kibble Park, it is only late in the day in March/September and December.

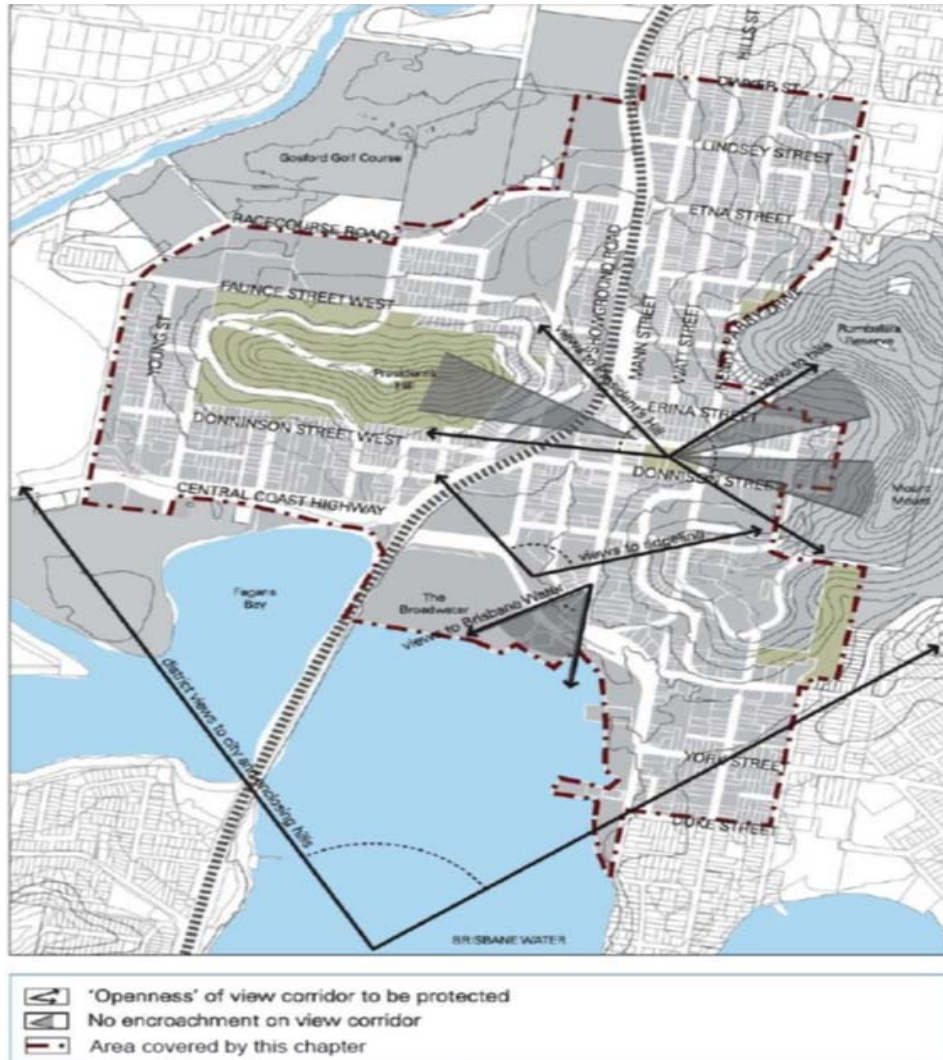
In the wintertime (June), the shadow impact is negligible and shadows from Waterview Park to the west and other buildings will already impact the Park.

It is considered the proposed shadow impact is not significant as it either occurs late in the day or only on a small part of the Park.

Visual Assessment

Both the Gosford City Centre MasterPlan and Chapter 4.1 of DCP 2013 identify view corridors to be retained or protected.

There are no north-south view lines impacted by the proposed development. The critical east-west view line is from Kibble Park to Presidents Hill (Waterview Park). The proposal maintains and does not encroach on the view corridor to Waterview Park.



Due to the building height, the towers will be visible when viewed from various distances to the north and south of the site.

However, the bulk and scale is mitigated by dividing the building above the podium into 2 towers. Whilst the towers present a dominant feature on the skyline, this impact will be reduced when other major development occur in the City Centre.

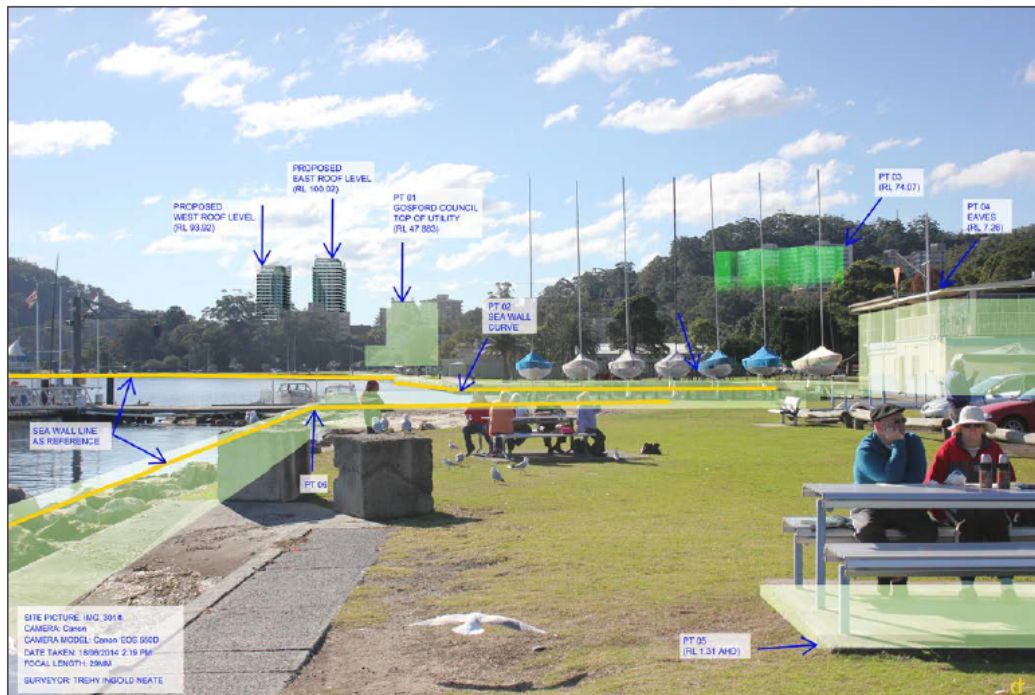
The following photos show the proposed towers when viewed from different locations in the City.



View from Kibble Park



View from northern end of Mann Street



View from Gosford Waterfront south of Gosford Sailing Club



View from Gosford Waterfront

Section 94 Contributions

The land zoned B3 Commercial Core is subject to contribution plan S94A Contribution Plan-Gosford City Centre.

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

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

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

City Centre Incentive Provisions the development contribution is to revert to 4% as contained within the Section 94A Development Contributions Plan – Gosford City Centre.”

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

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

- “A Council permit a reduction in the Section 94A Development Contributions Plan – Gosford City Centre (CIP) contribution from 4% to 2% for all development applications lodged from 1 September 2014 until the 1 January 2015. Upon the expiration of this period the contributions are to revert to the 4% as contained within the adopted plan.*
- B Council request the Chief Executive Officer to track the amount of infrastructure contributions forgone in this incentive and incorporate a means in the Long Term Financial strategy to reimburse the contribution plan over the term of the plan to ensure delivery of the plans objectives and report back to Council.”*

The 1% contribution required is \$1,570,000.00. In accordance with Part B of Council's Resolution, the reimbursement of the CP required by Council is \$4,710,000.00. The purpose of the reduced contribution was to encourage development to be carried out or completed. Therefore if a development is commenced within the 2 year consent period, but not completed within 5 years, the contribution should revert back to 4%.

Council also resolved at its meeting on 22/2/2011, that any consent granted under the incentive provisions would be limited to a period of 2 years and contributions payable prior to the issue of an Occupation Certificate.

(Refer Recommendation F & G and Condition 5.6)

Economic and Social Assessment

Council's Manager Economic Development advises:

“The proposed “four star” 134 room hotel would deliver much needed “upper market” hotel accommodation to the Gosford LGA. Assuming 70% occupancy and a conservative tariff of \$175 per night, indicative accommodation revenue only, would be circa \$6.0 million, with additional revenue sources from dining and bar facilities. The hotel will likely also create over 30 new full and part time jobs.

The hotel size at 134 rooms is considered to be at the lower end of the critical mass of rooms needed, to deliver economies of scale and therefore a profitable entity. It is notably smaller than 4 star counterparts in Sydney, where the norm for 4 star competitors including 4 Points, the Sheraton and Four Seasons, is typically 450 to 650 rooms. Gosford is not considered a suitable market for a 5 star or “niche hotel” product, where very high tariffs \$350+ per night may allow a boutique hotel with less than 134 rooms to exist.

Assuming 1.5 persons per room, the indicative estimates above, suggests annual capacity for circa 50,000 guests. From a tourism perspective, Gosford LGA has a shortage of 3.5 star and better accommodation, as evidenced in very high occupancy rates for the Crown Plaza Terrigal and the limited smaller facilities available. There is consequently a strong possibility for most of this business to be new to the area, rather than taken from competing facilities in the LGA.

The majority (66%) of Gosford's tourists stay with family and friends, with the major impact being a low average tourist spend in the LGA of only \$48 per day. The hotel should particularly stimulate the tourist market, enhancing Gosford's ability to attract particularly international tourists from Sydney. At present Gosford receives circa 740,000 international visitor nights, only circa 1.2% of Sydney's 63.5 million, despite the close proximity.

The ability to attract further tourists to the area and push the average daily spend closer to the Sydney average of \$99 could have a significant economic benefit. For example if 60% of the hotel patrons were tourists, spending \$75 per day, the annual economic benefit to the area could be in the vicinity of circa \$2.25 million.

Gosford's domestic average overnight stay of 2.77 nights is almost identical to Sydney's, however only 3.5% of domestic stayers in Gosford are for business purposes, compared to 26% for Sydney. Trends indicate the traditional business "sales rep" market tends to travel to the next destination for overnight stays, and more affluent executives go on to Sydney, again given the limited 3.5 star plus opportunities in Gosford. The \$350 million and greater Gosford hospital redevelopment will generate demand from health professionals, patients and visitors and should also increase the need for the type of hotel and residential accommodation envisaged.

The hotel will also target the conference, wedding and function markets. Typically the Central Coast has some venues of this type but has limited ability to attract business of this type from outside its own LGA,

The 276 residential apartments will be targeted at the circa \$550,000 to \$650,000 price bracket. If successful they will attract comparatively affluent residential buyers, given Gosford housing prices. Affluent owner would logically deliver higher food and discretionary spends, based within the CBD, if owner occupiers. Assuming an average of two adults per apartment and some families, the domestic grocery and discretionary spends potentially available to the CBD may be within the vicinity of \$3.5m and \$2.75 million respectively. The apartments and to a lesser extent the retail component are also likely to both assist and benefit from the hospital redevelopment.

The proposed ground floor supermarket of circa 1100 sqm, would require a minimum "established turnover" of \$8-\$10 million, to be commercially viable. Existing turnovers for other supermarkets in the CBD are not known, but the regional Erina Shopping Centre delivers combined supermarket turnover in excess of \$120 million. The convenience aspect of this supermarket would be the key to it securing an operator, though potential trade of \$3.5 to \$4 million per annum may emanate from the development, as currently proposed.

An additional benefit of a successful Mann Street supermarket should be the establishment of a small number of "general merchandise" and associated retail uses, improving the retail offer of Mann Street and beginning the re-establishment of certain retail uses over time. Economic benefits of this type cannot yet be estimated."

External Referrals

(a) Police

On 8 September 2014, a Crime Prevention Evaluation of the Development Application was conducted with Police and Gosford Council.

The applicant has submitted a CPTED Report which concludes that the proposal achieves a 'Safety by Design' outcome. The key aspects of which area:

- 1 Retail tenancies, hotel rooms and residential unit living rooms and balconies are oriented to achieve casual surveillance to the public domain;*
- 2 The progression from public to private space is signalled through design elements and reinforced by physical security devices where appropriate;*
- 3 Car parking for residential and hotel/retail premises is separated;*
- 4 Landscape design avoids areas for concealment;*
- 5 Building design avoids areas for concealment;*

- 6 *Basement and upper car parking levels have controlled access, are well lit, have an open design avoiding areas of entrapment or concealment and have generous floor to ceiling heights;*
- 7 *Ground level design avoids materials and structures which would be easy to climb or break into. Materials allow for clean-up of graffiti and landscape is located to help deter breaking and entering. Security devices will be provided to the facades fronting the streets;*
- 8 *Access to lifts is controlled by fob system and intercom;*
- 9 *Lighting of common areas shall be provided; and*
- 10 *A Plan of Management will be provided for licensed premises (at time of fit out DA as operator has yet to be confirmed).*
(Refer Conditions 4.8 & 5.10)

(b) Roads & Maritime Services (RMS)

"Roads and Maritime Services advise they have no objections to the proposed development. It is considered the development will not have any significant impact on the classified (State) road network.

- *Roads and Maritime has no proposal that requires any part of the property.*
- *A Construction Traffic Management Plan (CTMP) should be prepared 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.*
- *Council should ensure that the applicant is aware of the potential for road traffic noise to impact on development on the site.*
(Refer Conditions 3.14 & 7.4)

Internal Referrals

(a) Heritage

Council's Heritage Officer would prefer the heritage building to be conserved but advises:

"If the Development Application is approved the following conditions of consent are recommended:

- *Recommendations at B4: of the Statement of Heritage Impact by Gary Stanley should be included as conditions of consent.*
- *No demolition work involving the Union Hotel building can be carried out unless it immediately precedes construction works. This is to eliminate the site remaining empty for years on end or the unnecessary demolition of the building."*

Planning Comment

The Heritage Report prepared by Garry Stanby Architect/Heritage Advisor concludes that:

"Although the Union Hotel has been identified as a heritage item in the Gosford LEP 2014, there is minimal concern of its demolition and removal from Schedule 5. The building has undergone many changes in its 126 year history so that today its significance is essentially in its use as a hotel and meeting place for local people and visitors. In the proposed development, the hotel will continue this important social role in the Gosford community."

The heritage value has been substantially modified over the years, which has reduced the heritage value.

The economic and social benefits of the proposed development to the City Centre revitalization, far outweighs the value of retaining the heritage item.

This is identified by the vast number of public submissions supporting the proposal.

Council's Heritage Officer's requirements have been imposed as conditions of consent.
(Refer Conditions 3.13 & 5.12-5.14)

(b) Food /Health Officer

Council's Food Officer advises no objections subject to conditions.

(c) Waste

No objections subject to conditions.

(d) Building Surveyor

"The application is supported by a BCA Capability Statement dated 27 August 2014 prepared by AECOM. There are areas that do not specifically comply with the DTS provisions of the BCA which have been noted in a Preliminary BCA Assessment Report for the Applicant.

Notwithstanding the above, those matters are capable of being addressed at the Construction Certificate Stage and the building will include a number of fire engineered alternative solutions. Concurrence is given to findings in the above Statement.

The subject application has been assessed and will generally comply with the BCA.

A Geotechnical Assessment Report Ref: GEOTLCOV25137AA-AC dated 9 July 2014 prepared by Coffey supports the development. Structural Engineering details will be prepared at Construction Certificate Stage in accordance with Part B of the BCA and based upon the recommendations from that document."

(e) Architect/SEPP 65 Assessment

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

The site is shown as a "key corner site" in the Gosford City Centre DCP 2007 (GCCDCP). It is close to the station and the waterfront precinct. A taller mixed use building with higher density is appropriate in this location and is supported in principle.

The ground floor is predominantly occupied by retail uses and the hotel entry and reception area. There are also separate entries for each residential tower. These uses contribute to an active street front and comply with the objectives for mixed use buildings in the GCCDCP. The first floor facing Donnison Street is occupied by the hotel bar, restaurant and function rooms with the Mann Street and Baker Street sides occupied by hotel services.

The application proposes a 4-5 storey podium creating a street front height of approximately 14-16 metres. This is consistent with the GCCDCP and creates a suitably scale to define the street and reduce possible wind impacts at street level.

The hotel and residential units are located within the two tower buildings. These are set back from the street front and adjoining sites to comply with building separation controls.

The vegetated ridgelines are an important element of Gosford's character and should be maintained from important public spaces such as the waterfront.

In other respects the scale is acceptable. The 4-5 level podium is consistent with the GCCDCP. The two towers are relatively slim and use variation in their design to disguise their visual bulk, though they will overlap and appear as a single structure when viewed from much of the city.

There remains concern that levels 2, 3 and 4 are fully occupied by car parking. It is acknowledged that amendments have been made to the materials and design of the parking levels and this has improved this area of the facade."

Planning Comment

The site is located in the centre of Gosford and is one of the key sites which will be a catalyst for achievement of Gosford as the regional capital of the Central Coast.

The main view line is in a north-south direction, not in an east-west direction. In a north-south direction, the separate towers will be obvious. Any view in an east-west direction, such views are likely to be closer to the site rather than from a distance.

The car parking on Levels 2-4 has been integrated into the design of the building by suitable external materials and finishes. On Level 4, the car parking is setback with landscaping around the boundaries to provide greenery and articulation. A condition of consent should require the external materials to be opaque to disguise the car parking.

(Refer Condition 2.15)

(f) Development Engineer

(i) Traffic

In order to assess the traffic impacts of this development and other major developments within the City, an analysis was carried out by Council's Traffic Engineer of the surrounding streets and intersections system for projected traffic from 2015 to 2025.

These results indicate that the existing roundabout at the Baker Street / Donnison Street intersection and the CBD network will operate satisfactorily in 2025 with the additional traffic generated by this development or the proposed Waterside development in Baker Street. This would also be the case if both developments proceeded, but network efficiency could be improved by the provision of additional lanes at the Baker Street / Donnison Street intersection. However, it is difficult to justify the provision of these additional lanes as a condition of consent.

Consequently, for this development there should be no requirement to provide any upgrade to the Baker Street / Donnison Street intersection.

(ii) Flooding

Council's records indicate that the 1% AEP flood level in Baker Street is RL 2.6m AHD (source Waterride program). This flood level is associated with the over land flow study for Gosford CBD and is separate to flooding associated with Brisbane Water.

The basement 1 level of the development, which incorporates the vehicular entry points off Baker Street, indicates a level of RL 2.7m AHD within the internal access and servicing areas prior to grading down to a lower basement area with a proposed level of RL 1.3m AHD. The RL 2.7m AHD area is above the 1% AEP flood level in the street. Council's Waterride program indicates the RL 2.6m AHD flood level in Baker Street to be at minimal depths that in normal circumstances should not cause major inconvenience to the development. As such, it is not recommended that the internal basement entry level be raised to the flood planning level of RL 3.1m AHD as this would result in access grade and transition problems within the entry to the development as well as increasing the height of the development.

In order to safeguard the amenity of the entry point to the basement level car park (RL 1.3m AHD level) without impacting on the proposed levels of the development, it is recommended that the provision of a flood barrier be included on the high side of the ramp down into the car park that can be raised up to the flood planning level of RL 3.1m AHD if needed in times of flooding. (Note 1% AEP for Brisbane Water is RL 1.75m AHD + 0.9m sea level rise = RL 2.65m AHD, which is still below the RL 3.1m AHD rising level for the flood barrier).

(Refer Condition 2.13(d))

(iii) Drainage

The site has a general grade from Mann Street (eastern boundary) to Baker Street (western boundary).

The survey plan submitted with the application indicates a drainage easement with a variable width located within the north eastern corner of the site. Council's records indicate that there is an 825mm diameter stormwater line located within the northern boundary of the site from Mann Street to Baker Street, and a 1500mm diameter pipeline located in the southern boundary of the adjoining property on a similar alignment.

From reference to plans associated with drainage upgrade within the CBD some 10-15 years ago, it appears that upon construction of the 1% AEP culverts under the pavement in Mann Street, these pipes were blocked off and stormwater from Mann Street no longer enters these pipelines but rather enters the trunk drainage system in Mann Street. It is unknown if drainage from the structures on the subject and neighbouring site enter this pipeline. With due consideration to the excavated footprint to the site boundary, it is inevitable that any part of this pipeline within the site would be removed.

It is recommended that if there are drainage lines from adjoining properties to the north of the subject site connecting into this existing pipeline that they be connected to the existing stormwater system in Baker Street. Furthermore, if Council is the beneficiary of the easement to drain water located within the north eastern corner of the site, this easement should no longer be required on the basis that the Council use of this pipeline has been abandoned, and as such this easement should be extinguished prior to the issue of an occupation certificate for the development.

(Refer Condition 2.13(f))

(iv) Water Cycle Management Plan (WCMP)

The WCMP indicates that:

- On-site detention is not proposed as the site is already impervious and not increasing stormwater flows and the proposal is near the lower end of the stormwater catchment;*
- Nutrient/pollution control measures will be provided to capture nutrients & pollutants from the stormwater prior to discharge to Council's street drainage system; and*
- On-site retention will be provided for reuse within the development. The requirement for this site would require a minimum of 225m³. The architectural plans indicate a proposed volume storage of 306m³ which satisfies the DCP requirement.*

(Refer Condition 2.13(g))

(v) Water and Sewer

Council's records indicate that there is a sewer carrier main (300mm diameter) that traverses the site. SMH PA/24 is located in the car park behind the existing hotel building. With due consideration to the location of the existing sewer infrastructure

within the site, the extent of excavation proposed and the proposed footprint of the development, the sewer infrastructure would need to be relocated.

Council's Water and Sewer Section advise:

- *Various sewer mains within the CBD are to be either relocated and / or augmented to accommodate future development under the 2014 GCC LEP. Sewer mains are proposed to be constructed in both Baker Street and Mann Street for the eventual relocation by the developer of the sewer main located within the development site. The sewer main proposed within Baker Street is to be extended by Council to a point at the north western corner of the development site. Council propose to carry out the mains extension in Baker Street in 2015; and*
- *The developer shall be responsible for the full cost of design and relocation of the sewer main within the development site to the newly constructed sewer main within Baker Street.*

(Refer Condition 7.8)

Public Submissions

The following table is a summary of public submissions. Attachment 1 provides a more detailed assessment.

Issue	Submission	Comment
Height	Excess permissible height even with 30% bonus.	A submission under Clause 4.6 of the LEP permits Council to assess the impact of the additional height and approve if considered satisfactory.
FSR	Exceeds permissible FSR even with 30% bonus.	A submission under Clause 4.6 of the LEP permits Council to assess the impact of the additional FSR and approve if considered satisfactory.
Car Parking	Deficiency of car parking by 69 spaces in area of high parking demand.	Proposal is deficient of car parking even with discount for multiple uses. Connection to Baker Street car parking station mitigates the deficiency. The deficiency is not significant for a development of this scale.
Shadow Impact	Shadow impact on adjoining properties is excessive.	The shadow impacts are mitigated by dividing the building into 2 Towers with adequate separation.
Visual Impact	Excessive height results in high visibility from surrounding areas.	The view impact from the surrounding areas including the waterfront, are considered acceptable.
Infrastructure	Overload on existing infrastructure.	Infrastructure is adequate and is being upgraded.
Economic Impact	Impact on existing businesses. Revitalization of Gosford CBD.	Impact on existing businesses/shops is not a relevant consideration or reason to refuse the proposal.
	Revitalization of Gosford CBD.	The proposal will provide additional facilities needed in a Regional Centre. Such a proposal is needed to revitalize the City Centre.

Conclusion

The proposal has significant variations to height and FSR development standards. It is considered the applicant's written request has adequately justified that compliance with the development standards is unreasonable and unnecessary in this instance and there are sufficient environmental planning grounds and public benefits to justify varying the development standard.

In this instance, it is considered that the proposal is consistent with the stated objectives of the B3 Zone, the SOSI and approval is in the public interest for the following reasons:

- The building is an attractive, iconic structure which will contribute significantly to the revitalization of the City Centre;
- The proposal provides a range of uses, including a Hotel and Convention centre;
- The proposal will strengthen Gosford as the regional capital of the Central Coast;
- The proposal provides for tourist and residential accommodation;
- The building minimises impacts on views and shadow impacts by dividing the structure into two towers; and
- The proposal will generate significant economic and employment benefits as well as residential use to support the commercial core.

Notwithstanding the significant numerical non-compliance with the planning controls, the variations are supported due to:

- The unique nature and size of the site;
- The built form and landscape;
- The separation from existing and likely future development;
- The negligible impact of the proposal on the amenity of surrounding land;
- The public benefits and public interest arising from the development, as part of the Gosford City Centre Revitalization Incentives;
- The design merits of the proposal, including the podium level, building articulation, materials, setbacks and separation of the two Towers; and
- The public domain improvements, including street planting and paving improvements.

Therefore, the request for a variation under Clause 4.6 is considered to be well founded and is recommended for support. The JRPP may assume the concurrence of the Director-General when considering exceptions to development standards under Clause 4.6. The proposal complies with the requirements of DCP 2013 except for car parking and building setbacks which are supported.

All relevant matters under Section 79C of the Environment Planning and Assessment Act, Section 89 of the Local Government Act, the objectives of the zone and the principles of ecologically sustainable development have been considered.

The proposal is overwhelming supported by the public submissions received.

Attachments: Attachment 1 – Public Submissions
Attachment 2 – Plans
Attachment 3 – Statement of Strategic Intent

Tabled Items: Nil

RECOMMENDATION

- A The Joint Regional Planning Panel assume the concurrence of the Director-General of the Department of Planning under clause 4.6 of Gosford Local Environmental Plan 2014 for

the variation to the development standards of Clause 8.9 to permit the proposed development

- B The Joint Regional Planning Panel as consent authority grant consent to Development Application No 46256/2014] for the proposed Mixed Use Development and Commercial Ground Floor two (2) Towers LOT: 5 DP: 1015908, Lot: A DP: 161913, LOT: 2 DP: 653312, LOT: 10 DP: 225125, Lots: C & D DP: 162014 No 108 Donnison Street Gosford and No 110, 114, 116, 118, 118A Mann Street Gosford, subject to the conditions attached.
- C The applicant be advised of Joint Regional Planning Panel decision and of their right to appeal in the Land and Environmental Court under Section 97 of the Environmental Planning and Assessment Act 1979 six (6) months after the date on which the applicant receives notice in respect to Council's decision.
- D The objectors be notified of Joint Regional Planning Panel's decision.
- E The External Authorities be notified of the Joint Regional Planning Panel decision.
- F Council's S94 Officer be advised of the S94 Contribution of \$4,710,000.00 required to be reimbursed to CP94A – Gosford City Centre.
- G The consent be limited to **two (2) years**.

CONDITIONS

1.. PARAMETERS OF THIS CONSENT

1.1. Approved Plans and Supporting Documents

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

Architectural Plans by Dickson Rothschild & AECOM

Drawing	Description	Sheets	Issue	Date
DA000	Cover Page	1	A	27/08/2014
DA001	Drawing List	1	A	27/08/2014
DA002	Development Summary	1	C	02/04/2015
DA003	Location Plan	1	A	27/08/2014
DA004	Site Analysis 1 – Wind & Solar	1	A	27/08/2014
DA005	Site Analysis 2 – Topography and Views	1	A	27/08/2014
DA006	Site Plan	1	A	27/08/2014
DA007	Public Domain	1	A	27/08/2014
DA200	Basement 1 Plan	1	B	20/11/2014
DA201	Ground Floor Plan – Hotel Lobby and Retail	1	B	20/11/2014
DA202	Level 1 Plan – Restaurant and Conference	1	A	27/08/2014
DA203	Level 2 Plan – Car Parking	1	A	27/08/2014
DA204	Level 3 Plan – Car Parking	1	A	27/08/2014
DA205	Level 4 Plan – Car Parking	1	A	27/08/2014
DA206	Level 5 Plan – Hotel and Gym	1	A	27/08/2014

DA207	Level 6 Plan 6 – Hotel and Pool/Lounge	1	A	27/08/2014
DA208	Level 7-8 Plan – Typical Hotel	1	A	27/08/2014
DA209	Level 9 Plan – Residential	1	A	27/08/2014
DA210	Level 10-22 Plan – Residential	1	A	27/08/2014
DA211	Level 23-24 Plan – Residential	1	A	27/08/2014
DA212	Level 25 Plan	1	A	27/08/2014
DA213	Level 26 Plan	1	A	27/08/2014
DA214	Level 27 East Plan	1	A	27/08/2014
DA215	Level 28 East Plan	1	A	27/08/2014
DA216	Roof Plan	1	A	27/08/2014
DA218	West Tower – Typical Residential Plan – Level 10-22	1	A	27/08/2014
DA219	West Tower – Typical Residential Level 23-24	1	A	27/08/2014
DA300	Section AA	1	A	27/08/2014
DA301	Section BB – West Tower	1	A	27/08/2014
DA400	North Elevation	1	A	27/08/2014
DA400A	North Elevation	1	A	27/08/2014
DA401	South Elevation	1	B	20/11/2014
DA401A	South Elevation Coloured	1	B	20/11/2014
DA402	East Elevation	1	B	20/11/2014
DA402A	East Elevation Coloured	1	B	20/11/2014
DA403	West Elevation	1	B	20/11/2014
DA403A	West Elevation Coloured	1	B	20/11/2014
DA404	Inner East Elevation	1	A	27/08/2014
DA405	Inner West Elevation	1	A	27/08/2014
DA406	Podium Elevation – South Entrance	1	A	27/08/2014
DA407	Podium Elevation – South Corner	1	A	27/08/2014
DA408	Podium Elevation – East	1	A	27/08/2014
DA409	Podium Elevation – West	1	A	27/08/2014
DA700	Materials and Finishes Schedule A	1	A	27/08/2014
DA701	Materials and Finishes Schedule B	1	A	27/08/2014
DA710	Adaptable Units	1	A	27/08/2014
DA711	Accessible Hotel Rooms	1	A	27/08/2014
DA721	GFA Diagrams Sheet 2	1	C	02/04/2015
DA740	Shadow Diagrams 21 June Sheet 1	1	B	20/11/2014
DA741	Shadow Diagrams 21 June Sheet 2	1	B	20/11/2014
DA742	Shadow Diagrams March/September Sheet 1	1	B	20/11/2014
DA743	Shadow Diagrams March/September Sheet 2	1	B	20/11/2014
DA744	Shadow Diagrams December Sheet 1	1	B	20/11/2014
DA745	Shadow Diagrams December Sheet 2	1	B	20/11/2014
DA750	Cut and Fill Plan	1	A	27/08/2014
DA760	Elevation Detail A	1	A	27/08/2014
DA761	Elevation Detail B	1	A	27/08/2014
DA762	Elevation Detail C	1	A	27/08/2014
DA763	Elevation Detail D	1	A	27/08/2014
DA770	Waste Travel Paths - Basement Level	1	A	20/11/2014
DA771	Waste Travel Paths – Ground Level	1	A	20/11/2014
DA772	Waste Travel Paths – Level 1	1	A	20/11/2014
DA773	Waste Travel Paths – Levels 10-22 (Residential)	1	A	20/11/2014
DA900	Photomontage Sheet 1	1	B	20/11/2014

DA901	Photomontage Sheet 2	1	B	20/11/2014
Project 60327943	Landscape Package	1	A	August 2014
DA00	Content	1	A	26/08/2014
DA01	Site Context	1	A	26/08/2014
DA02	Landscape Plan Ground Floor	1	A	26/08/2014
DA03	Landscape Plan Level 1	1	A	26/08/2014
DA04	Landscape Plan Level 4	1	A	26/08/2014
DA05	Landscape Plan Level 5	1	A	26/08/2014
DA06	Landscape Plan Level 6	1	A	26/08/2014
DA07	Landscape Plan Level 9	1	A	26/08/2014
DA08	Landscape Plan Level 26	1	A	26/08/2014
DA09	Landscape Plan Level 28	1	A	26/08/2014
DA10	Landscape Sections	1	A	26/08/2014
DA11	Landscape Sections	1	A	26/08/2014
DA12	Landscape Sections	1	A	26/08/2014
DA13	Materials and Planting Palette	1	A	26/08/2014
DA14	Materials and Planting Palette	1	A	26/08/2014
DA15	Character Images	1	A	26/08/2014
DA16	Character Images	1	A	26/08/2014

Supporting Documentation

Document	Title	Date
Project 14-022	Statement of Environmental Effects Revision A	27/08/2014
Project 14-022	Clause 4.6 Variation Building Height Revision A	27/08/2014
Project 14-022	Clause 4.6 Variation Floor Space Ratio Revision A	26/08/2014
Project 14-022	Crime Prevention Through Environmental Design Assessment Revision A	25/08/2014
Project 14-022	SEPP 65 Design Verification statement	27/08/2014
Project 14-022	Visual Assessment	27/08/2014
	Visual Assessment Addendum 1	22/10/2014
	Building Code of Australia Capability Statement	27/08/2014
141303	Structural Design Report	21/08/2014
	Heritage Report	August 2014
CC140046R02	Traffic and Parking Impact Assessment	August 2014
CC140046R02A	Addendum to Traffic and Parking Impact Assessment	28/11/2014
CC140046R03	Waste & Loading Bay Management Plan	August 2014
Coffey	Geotechnical Assessment	09/07/2014
Coffey	Phase 1 Contamination report	09/07/2014
60327943	DA Services Report – Mechanical, Electrical, Fire and Hydraulics	25/08/2014
60327943	Standards, Codes, Guides and Legislation for Design Development	25/08/2014
60327943	Concept Design – Vertical Transportation	25/08/2014
60327943	Development Application Acoustic Assessment Report	25/08/2014
	Waste Management Plan and Strategy	17/02/2015
	NATHERS Rating Certificate No 1006791048	26/08/2014
569169M-02	BASIX Certificate	26/08/2014
569185M-02	BASIX Certificate	26/08/2014
563734M-02	BASIX Certificate	26/08/2014
141303	Water Cycle Management Plan	21/11/2014
60327943	Waste Management Plan and Strategy	25/11/2014

1.2. Building Code of Australia

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

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. Submit a dilapidation report prepared by a practising structural engineer at no cost to Council or adjoining property owners, detailing the structural adequacy of adjoining properties, including Council's property, and their ability to withstand the proposed excavation. This report must include any measures required to be incorporated to ensure that no damage will occur during the course of works. The report must be submitted to Council and relevant adjoining property owners prior to the issue of any construction certificate.

- 2.3. All 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

- 2.4. Prepare an Acid Sulfate Soil Management Plan prior to the issue of any Construction Certificate and approval by the Principal Certifying Authority.
- 2.5. The fitout of any 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.
- 2.6. 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 Standards AS1668 Parts 1 & 2 (including exhaust air quantities and discharge location points are to be submitted to and approved by the PCA prior to a Construction Certificate being issued for the subject works.

A certificate being submitted at the completion of the installation from a practising Mechanical Engineer certifying that the construction, installation and operation of the exhaust hood ventilation system meets the requirements as AS1668.1 and/or AS1668.2.

- 2.7. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

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

The required works to be designed are as follows:

- a. Removal of the existing pedestrian crossing in Baker Street, together with removal of associated signage and infrastructure.
- b. Construction of a new raised ("Wombat") pedestrian crossing in Baker Street in the pedestrian crossing location shown on the plan prepared by Dickson Rothschild D.R. Design (NSW) Pty. Ltd., project number 14-022 drawing number DA200 (Revision B, dated 20.11.2014), together with associated infrastructure.
- c. Full width upgrade of the footway across the full frontages of the site in Mann Street, Donnison Street, & Baker Street in accordance with the Gosford City Centre "Streetscape Design Guidelines" prepared by Oculus dated September 2011.
- d. Removal of the redundant vehicle access crossings in Donnison Street & Baker Street and reinstatement with the required footway upgrade.
- e. Removal of redundant vehicle laybacks in Donnison Street & Baker Street & replacement with new kerb and gutter.
- f. Two heavy duty laybacks and vehicle access crossings in Donnison Street associated with the access to the proposed porte cochere that have widths of 12.9m (at the kerb line) splayed to 5.4m (at the boundary) for the western ingress point and 10.8m (at the kerb line) splayed to 5.4m (at the boundary) for the eastern egress point. The proposal for kerb returns and pram ramps in these locations are not supported.
- g. Two heavy duty laybacks and vehicle access crossings in Baker Street associated with the access, parking and servicing areas within the development. The proposal for kerb returns and pram ramps in these locations are not supported.
- h. The piping of stormwater from within the site to Council's piped drainage system located in Baker Street.
- i. Roadside furniture and safety devices including fencing, signage, guide posts, chevrons, directional arrows and guard rail in accordance with RMS and Australian Standards.
- j. Signage and line marking including but not limited to:
 - Alterations to the facilities associated with pedestrian movements.
 - Adjustments as necessary to the direction signage in Donnison Street for the regional road network and the electronic advisory signage for the Gosford City Car Park.
 - Adjustment/amendment to regulatory signage in Donnison Street associated with the removal of the taxi zone and replacement with a "No Stopping" zone.
 - Adjustment to the regulatory signage in Donnison Street associated with the bus zone in Donnison Street. The provision of the public bus zone in Donnison Street is to be maintained.
 - Adjustments to other regulatory signage as required to accommodate civil works within the road reserve.
- k. The signage and line marking plan shall be approved by the Council Traffic Committee.

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

- 2.8. A pavement report for works within a public road reserve shall be prepared by a practising Geotechnical Engineer. This report must be submitted with the engineering plans and approved by Council under the Roads Act, 1993.

The pavement depths must be determined in accordance with Council's specifications and the following traffic loadings:

Name of Street	Traffic Loading (ESAs)
Donnison Street	5x10 ⁶
Baker Street	2x10 ⁶

- 2.9. A dilapidation report must be submitted to Council prior to issue of any Construction Certificate and/or approval of engineering plans under the Roads Act. 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.
- 2.10. 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.
- 2.11. Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000, must be obtained from the Water Authority (Council) prior to the issue of any Construction Certificate. Contributions may be applicable to the Section 307 Certificate.
- 2.12. Development constructed near or over the sewer main and/or adjacent to Council's water main must comply with Council's guidelines for "Building Over or Near Council Sewer and Water Mains". Engineering details prepared and certified by a practising structural engineer must be submitted to the Water Authority (Council) prior to the issue of any Construction Certificate. The submission of contractor's documentation and sewer inspection fees may apply. The applicant is to contact Council's Water and Sewer Quality Inspector a minimum one week prior to commencement of any work involving building over / adjacent to sewer mains.
- 2.13. Design of the following engineering works within private property:
- a. Driveways/ramps and car parking areas must be designed according to the requirements of the current Australian Standard AS2890 for the geometric designs, and industry Standards for pavement designs. Furthermore, the design shall ensure:
 - That all vehicles can enter an exit the site in a forward direction.
 - Appropriate sight distance is to be provided for vehicles entering and exiting the development in accordance with AS2890.
 - Appropriate sight distance is to be provided for pedestrian movements within Baker Street.
 - The operation of the panel lift security door at the vehicular accesses (for both light and service vehicles) to / from the site in Baker Street will not impact on through southbound vehicular movements in Baker Street (due to queued vehicles).
 - b. Nutrient/pollution control measures must be designed in accordance with Council's DCP Chapter 6.7 - Water Cycle Management. A nutrient/pollution control report including an operation and maintenance plan shall accompany the design.
 - c. Piping of all stormwater from impervious areas within the site via a the retention tank & nutrient pollution control measures to Council's drainage system located in Baker Street.
 - d. Provision of flood barriers on the high side of the ramp down into the car park and the service areas that can raise up to the flood planning level of RL 3.1m AHD in times of flooding in Baker Street.
 - e. All building materials used or located below RL 3.1m AHD must be of a type that is able to withstand the effects of immersion.
 - f. Any stormwater drainage pipelines from the adjoining properties to the north of the subject site that connect into the redundant Council pipeline within the northern boundary of the site are to piped and connected to Council's existing stormwater system in Baker Street. (In this case, an interallotment drainage easement would

need to be created if they pipelines from the northern properties encroach within the development site.)

- g. The development shall incorporate a stormwater retention system consisting of either rainwater tanks and/or stormwater tanks (as defined in DCP 2013 Chapter 6.7 - Water Cycle Management) with a minimum total capacity of 225,000 litres (i.e. 225m³) , capturing water from at least 90% of the total roof area. The water collected is to be suitably treated and connected to an external tap, all toilet cisterns and cold washing machine tap(s). Overflow from the retention system is to be directed by a piped drainage line to Council's drainage system in Baker Street.

The design of these details and any associated reports shall be included in any construction certificate.

- 2.14. Prior to the issue of a Construction Certificate for building works, a Wind Effects Report be prepared by a suitably qualified person which demonstrates that the building and Towers will not create significant wind effects on the locality.
- 2.15. The external finishes and materials on Levels 2 and 3, must be sufficiently opaque to disguise the car parking on these levels.

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. Erection of a sign in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:
 - a) The name, address and telephone number of the principal certifying authority for the work; and
 - b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
 - c) That unauthorised entry to the work site is prohibited.

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

- 3.5. Provide temporary closet accommodation 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. Erect a suitable hoarding or fence 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 Structural Engineer's details are to be certified that they have been prepared in accordance with the details and recommendations of the Geotechnical Report No. GEOTLCOV25137AA-AC prepared by Coffey Geotechnics P/L and dated 9 July 2014.
- 3.10. The removal of more than 10 square metres of non-friable asbestos or asbestos containing material must be carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist. Friable asbestos (of any quantity) must only be removed by a licensed removalist with a friable (Class A) asbestos removal licence.

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

Any such contract must indicate whether any non-friable asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the non friable asbestos material or friable asbestos material is to be delivered.

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

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

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

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

- 3.11. Submit an application for approval to discharge liquid trade waste into Council's sewerage system. The application and details of the proposed method of treatment, together with the required fee is to be submitted to Council prior to the commencement of works.

- 3.12. Waste water from the operation of the car wash facility, being collected and treated through a recycled system for future use. Full details of the recycled water treatment system to be submitted with the application, for approval to discharge liquid waste into Council's sewerage system.
- 3.13. (a) No demolition work involving the Union Hotel building can be carried out unless it immediately precedes construction works.
- (b) Prepare a photographic record of the Union Hotel building, with photographs related to architectural plans and submitted to the Gosford City Council Local Studies section of library. This includes original fabric including cast iron balustrade on the filled in balcony facing Donnison Street and double hung windows.
- 3.14. Preparation of and approval by the Principal Certifying Authority of a Construction Management Plan. The Plan shall be prepared with the aim of causing minimal impact on the operation of the road network during construction of the development.
- The Plan shall provide for workers' parking, storage and delivery of materials, hours of work, 24 hour emergency contacts, loading/delivery of materials.
- 3.15. 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.
- 3.16. A Construction Traffic Management Plan (CTMP) shall be prepared including a Vehicle Movement Plan and Traffic Control Plan. The CTMP shall be prepared with the intention of causing minimal impact to the operation of the road network during construction of the development.

4.. DURING WORKS

- 4.1. Clearing of land, excavation, and/or earthworks, building works, and the delivery of building materials shall be carried out between the following hours:
- Mondays to Fridays - 7:00am to 6:00pm
Saturdays - 8:00am to 4:00pm except as noted in Clause 'b'
- a No work is permitted on Sundays and Public Holidays
- b No work is permitted on:
- Saturdays when a public holiday is adjacent to that weekend.
 - Construction industry awarded rostered days off.
 - Construction industry shutdown long weekends.
- Clause b does not apply to works of a domestic residential nature as below:
- i Minor renovation or refurbishments to single dwelling construction.
 - ii Owner occupied renovations or refurbishments to single dwelling construction.
 - iii Owner builder construction of single dwelling construction; and/or
 - iv Any cottage constructions, single dwellings or housing estates consisting of predominantly unoccupied single dwellings.
- 4.2. Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Erosion Sedimentation Control Policy D6.46.
- 4.3. Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.

- 4.4. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made is responsible to notify the neighbour and responsible for the protection and preservation of the adjoining allotment of land.
- 4.5. Buildings are to be demolished in a safe and systematic manner in accordance with the requirements of Australian Standard AS 2601-2001 - *Demolition of Structures*, and disposed of in an approved manner.
- 4.6. All recommendations of the geotechnical report must be implemented during works. This includes, but is not limited to, the carrying out of all inspections as required by the geotechnical engineering report with a view to the geotechnical engineer providing written certification to the Principal Certifying Authority's satisfaction that all works have been carried out on site in accordance with the recommendations contained within the geotechnical engineers report.
- 4.7. Material excavated from the site shall be tested and if acid sulphate soils are encountered, the Acid Sulphate Soil Management Plan shall be implemented.
- 4.8. To minimize the opportunity for crime, the development must incorporate the following:
- a Adequate lighting to AS1158 is to be provided to common areas.
 - b The ceiling of the car park must be painted white.
 - c Landscaping adjacent to mailboxes and footpaths must not provide for the concealment opportunities for criminal activity.
 - d The development must be designed to avoid foot holes or natural ladders so as to minimize unlawful access to the premises.
 - e Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- 4.9. 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:
 - i located outside but controllable only from within the chamber; and
 - ii able to achieve a sound pressure level outside the chamber of 90dB(A) when measures 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.
- 4.10. There shall be no obstructions to the wheel out of the waste bins including grills, speed humps, barrier kerbs etc.
- 4.11. Construction of the waste truck servicing grade at 3% or less for the following areas:
- Within the enclosure
 - For bulk bin roll out pads
 - Within the 13m bulk bin and truck service area
- 4.12. Provide a minimum vertical ceiling height of 4.0m in all areas accessed by waste vehicles.

- 4.13. Construct Garbage chutes in accordance with Appendix F, Chapter 7.2 – Waste Management of Gosford DCP 2013 and BCA requirements.
- 4.14. During demolition of the Union Hotel, if any original fabric is encountered it must be photographically recorded and recycled if possible.
- 4.15. The carwashing area is to be graded and drained to a floor waste connected to an arrestor pit with separator. The separator is to be connected to the sewer in accordance with the requirements of Council's Trade Waste Section.
- 4.16. The works within the road reserve that required approval under the Roads Act shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 4.17. The Engineering works within private property that formed part of any construction certificate shall be constructed in accordance with the plans and details approved with any construction certificate.

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. Erect a warning notice 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.
- 5.4. Fence the swimming pool 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.
- 5.5. Prior to the issue of any Occupation Certificate a geotechnical engineer shall provide written certification to the Principal Certifying Authority's satisfaction that all works have been carried out on site in accordance with the submitted geotechnical report recommendations.
- 5.6. The payment to Council of a Contribution in accordance with the Gosford City Council Section 94A Development Contribution Plan - Gosford City Centre as follows:
 - a If the development is completed and a Final Occupation Certificate issued within five (5) years of the date of this consent, the Contribution shall be **\$1,570,000.00**.
 - b If the development is not completed within five (5) years from the date of this consent, the Contribution is **\$6,280,000.00**.

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 an Occupation Certificate.

An Occupation 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/customer/document_gallery/contribution_plans

- 5.7. 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.
- 5.8. Install vacant car parking space electronic indicators within each car parking level and at the car parking entry to indicate the location of vacant parking spaces within the site.
- 5.9. Consolidate Lot 5 DP 1015908, Lot A DP 161913, Lot 2 DP 653312, Lot 10 DP 225125, Lot C DP 162014 and Lot D DP 162014 into a single allotment under one Certificate of Title prior to the issue of any Occupation Certificate.
- 5.10. Prepare a Security Operation Plan for the public areas within and around the site and for any licensed premises.
- 5.11. Submit an indemnity to Council against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service prior to the issue of any Occupation Certificate together with the creation of a S88B instrument under the Conveyancing Act to this effect and at the applicant's cost.
- 5.12. In naming the new hotel and restaurant, naming shall retain the name 'Union Hotel'.
- 5.13. An interpretive panel documenting the past historic development of the site, preferably in permanent aluminium sheet, be fixed in a prominent location at ground floor level of the new building.
- 5.14. Installation of an additional Gosford City Council heritage trail sign located near the original hotel similar to those existing in Mann Street.
- 5.15. All waste transfer from Commercial/Retail tenancies to be managed wholly within the footprint of the development. Suitable internal access provision to be provided to all Commercial/Retail tenancies. Details to be indicated on Construction Certificate Plans.
- 5.16. Works within the road reserve that required approval under the Roads Act are to be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', and documentary evidence for the acceptance of such works obtained from the Roads Authority prior to the issue of any Occupation Certificate.

Note 1: A maintenance bond shall be paid on completion of the works in accordance with Section 1.07 Maintenance of the 'Civil Construction Specification'.

- 5.17. Any damage not shown in the dilapidation report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works

undertaken and must be rectified at the applicant's expense, prior to release of any Occupation Certificate.

5.18. Prior to the issue of any occupation certificate, the internal engineering works within private property that formed part of any construction certificate shall be completed in accordance with the plans and details approved with any construction certificate.

5.19. Prior to the issue of any Occupation Certificate the Deposited Plan (DP) must be amended 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 shall be defined by bearings and distances shown on the plan.
 - a To create a 'Restriction as to User' over all lots containing a nutrient/pollution facility restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
 - b

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 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.

Registered title documents showing the restrictive and positive covenants must be submitted to and approved by the Principal Certifying Authority prior to the issue of any occupation certificate.

5.20. If Council is the beneficiary of the easement to drain water located within the north eastern corner of the site, then this easement to drain water is to be shall be extinguished prior to the issue of an occupation certificate for the development.

5.21. If the development requires the piping of stormwater from the adjoining properties to the north of the subject development site through the subject development site, then an easement to drain water is to be created over the pipeline in favour of those properties prior to the issue of an Occupation Certificate.

6.. ONGOING OPERATION

6.1. Maintenance of the on-site stormwater detention facility in accordance with the operation & maintenance plan.

6.2. Maintenance of the nutrient/pollution control facilities in accordance with the operation & maintenance plan.

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 *Energy Australia* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
- d *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.
- e *Gosford City Council* in respect to the location of water, sewerage and drainage services.

7.2. Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

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

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

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

- 7.4. There is potential for road traffic noise to impact on development on the site. In this regard, the applicant, not Roads and Maritime nor Council, is responsible for providing noise attenuation measures in accordance with the Office of Environment and Heritage's criteria for new residential developments, *The NSW Road Noise Policy (July 2011)*.

Where the Office of Environment and Heritage external noise criteria would not feasibly nor reasonably be met, internal noise objectives for all habitable rooms under ventilated conditions that comply with the Building Code of Australia shall be implemented.

- 7.5. 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.
- 7.6. The inspection fee for works associated with approvals under the Roads Act is calculated in accordance with Council's current fees and charges policy.
- 7.7. Developers should make early application for a Section 307 Certificate under the Water Management Act 2000 from the Water Authority (Council). For a copy of the application form 'Application for Certificate under Section 305' contact Customer Service on (02) 4325 8200 or visit Council's web site www.gosford.nsw.gov.au to download a form from the Water & Sewerage forms index.
- 7.8. The Gosford City Council (GCC) Sewer Development Services Plan identifies various mains within the CBD to be either relocated and / or augmented to accommodate future development under the 2014 GCC LEP. Sewer mains are proposed to be constructed in both Baker Street and Mann Street for the eventual relocation by the developer of the sewer main located within the development site. The sewer main proposed within Baker Street is to be extended by Council to a point at the north western corner of the development site. Council propose to carry out the mains extension in Baker Street in 2015. The developer shall be responsible for the full cost of design and relocation of the sewer main within the development site to the newly constructed sewer main within Baker Street.

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.. RIGHT OF APPEAL

- 9.1. 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.
- 9.2. To ascertain the date upon which the determination becomes effective refer to Section 83 of the Act.

ATTACHMENT 1 – Public Submissions

Public Submissions

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

A summary of the submission is detailed hereunder.

(a) Objections:

- 1. There is already an oversupply of commercial office space in Gosford of which existing land owners have made major financial contributions to Local and State Government. Council's support to this proposal appears to have reckless disregard for existing taxpayers who may suffer loss.**

Comment

There is a shortage of large areas of A-grade office space in the City Centre. Most existing floor space is in small older buildings needing refurbishment to be able to be adapted to new uses. Council is planning for the economic viability of the CBD.

- 2. The proposal is too high and not in keeping with the character of the area. The height limit is 48m not 97.2m.**

Comment

The height limit is 62.4m with the 30% bonus. The applicant has submitted an application under Clause 4.6 of the LEP to vary the height limit. The variation is supported based on the merits of the proposal and public benefits.

- 3. Replacing the heritage building with huge towers is not the answer to improve Gosford.**

Comment

The proposal is a significant development which should help revitalize the Gosford CBD. It is not possible to retain the heritage building within the proposed development. Conditions have been imposed to record the heritage record as requested by Council's Heritage Advisor.

- 4. The premises on this land are the best tenanted with low vacancy rates. These businesses will be forced to relocate at high expense and no compensation.**

Comment

This is not a relevant consideration under S79C. Tenants can relocate to other premises or to within the proposed building when completed. Revitalisation of the City Centre will attract new businesses and have benefits for the wider community.

- 5. The increased population will add stress on infrastructure such as schools, hospitals and public hospitals, and roads.**

Comment

Gosford CBD and the Gosford LGA is aimed to accommodate additional population under the Gosford MasterPlan and Central Coast Regional Strategy. The road system can cater for the additional traffic. Council is upgrading water and sewer systems for the increased density.

6. **The tall buildings will create a windy and shadowy streetscape and obscure views of bushland.**

Comment

The separation of the building into two towers above podium level reduces the impacts on wind, shadow and views.

7. **The proposal will over-shadow residential units in Baker Street in winter time and increase need for internal heating.**

Comment

The proposal will have a significant shadow impact on buildings along Baker Street in the morning in the winter time. However the buildings will receive adequate sunlight in the afternoon in the winter time as well as other times of the year.

8. **Why is a 30% bonus and reduction in S94 Contributions offered? This is not in the interest of residents.**

Comment

The 30% bonus to height and FSR, and reduction in S94 contributions was to create development in the Gosford City Centre. Due to the number of applications received, the incentive has been successful at this stage.

9. **The bonuses are greatly exceeded on both height and FSR. No justification exists to vary the bonuses. It is important to assess against the zone objectives.**

View corridors must be maintained as well as opportunities to improve the public domain, scenic quality and character of the area.

Comment

Clause 4.6 of the Gosford LEP permits Council to vary the height and FSR if it considers compliance with the development standard is unreasonable or unnecessary and the proposal is in the public interest.

10. **Privacy and overshadowing, car parking and traffic congestion will be a major impact of the proposal. A parking/traffic plan should be prepared.**

Comment

A traffic study has been submitted and considered by the RMS and Council's Traffic Engineers. The road system can cater for the additional traffic.

11. **Even with the discounted car parking for the mix of uses, there is a shortfall of 69 spaces. The discounted rate is incorrect and the use of Gosford Council public car parking station to accommodate the private shortfall of car parking is undesirable from the community perspective.**

Car parking in this location is very much in demand, particularly during events at the Stadium.

Comment

Car parking is numerically deficient, however the extent of deficiency is minor and is not considered to warrant refusal given the size of the development and connection to Baker Street car parking station.

- 12. There is concern of the interface of the building on the Baker Street side. There is very little ground activation along Baker Street, vehicular access and loading is concentrated in Baker Street and car parking is located on Levels 2-4. Providing parking in basement levels would resolve this issue and provide a much improved streetscape to Baker Street.**

Comment

This issue was also raised in the SEPP 65 assessment by Council's Architect. The applicant has submitted amended plans to address/improve the Baker Street facade and car parking levels above ground level.

- 13. Pedestrian and vehicle movements and safety need further investigation.**

Comment

The proposal will generate additional traffic and pedestrian movements which require relocation of the Baker Street pedestrian crossing.

- 14. The cumulative impact on local infrastructure and their capacities should be investigated.**

Comment

The road system can cater for the additional traffic. Council is upgrading/relocating sewer services.

(b) In favour of:

- 15. The proposal will offer a great opportunity to get Gosford moving for both the business community and the community as a whole. It will attract new major employers and businesses and help revitalise the Gosford CBD.**

Comment

This was the purpose of the bonus for height and FSR, and reduced S94 contributions.

- 16. The site is currently underutilised and detracts from the local character and amenity. The uses are suitable and needed by a regional city. The mix of uses will provide social and economic benefits and an economic stimulus.**

Comment

The existing buildings are nearing the end of their economic life and not in keeping with that required in a Regional Capital.

- 17. The site and setting is a unique opportunity for future urban development in Gosford. The existing form lacks cohesion. This development will have community benefit in creating a desirable place to work and live.**

Comment

The consolidated site provides a unique opportunity in the Gosford CBD for redevelopment of the site in keeping with Council's Strategic Intent and revitalization of the City Centre.

[**<<Insert Attachment Link/s Here >>**](#)