JOINT REGIONAL PLANNING PANEL
(Hunter and Central Coast)

JRPP No	2014 HCC 024
DA Number	46238/2014
Local Government Area	Gosford City Council
Proposed Development	Commercial & Residential Development and Demolition of Existing Dwellings
Street Address	Lots: 8, 9 & 14 DP: 18726 No 43 Beane Street & No 2 Keevers Lane GOSFORD
Applicant Name	W H Chai
Owner Name	W H & L K Chai
No Submissions	Seventeen (17)
Regional Development Criteria (Schedule 4A of the Act)	Value greater than $20 million
List of All Relevant s79C(1)(a) Matters	• Environmental Planning & Assessment Act 1979 - Section 79C • Local Government Act 1993 - Section 89 • Gosford Local Environmental Plan 2014 • Gosford Development Control Plan 2013 • SEPP 65 Design Quality of Residential Flat Buildings • SEPP (BASIX) • Section 94A Contribution Plan – Gosford City Centre
List all documents submitted with this report for the panel's consideration	**Plans** **Architectural Plans by Architex and Greenland Design Pty Ltd**

Drawing	Description	Sheets	Issue	Date
-	Cover Sheet	1	A	29/07/2014
DA01	Site Analysis	1	A	13/08/2014
DA02	Basement Level 3	1	A	13/08/2014
DA03	Basement Level 2	1	A	13/08/2014
DA04	Basement Level 1	1	A	13/08/2014
DA05	Site and Ground Floor Level	1	D	14/01/2015
DA06	Level 1	1	C	08/12/2014
DA07	Level 2	1	A	13/08/2014
DA08	Level 3	1	A	13/08/2014
DA09	Level 4	1	A	13/08/2014
DA10	Level 5-7	1	A	13/08/2014
DA11	Level 8	1	A	13/08/2014
DA12	Level 9-13	1	A	13/08/2014
DA13	Level 14-18	1	A	13/08/2014

DA14	Plant Level	1	A	13/08/2014
DA15	Roof Plan	1	A	13/08/2014
DA16	Elevations	1	C	08/12/2014
DA17	Elevations	1	C	08/12/2014
DA18	Elevations	1	C	08/12/2014
DA19	Elevations	1	C	08/12/2014
DA20	Sections	1	A	13/08/2014
DA21	Site details	1	B	09/10/2014
DA22	Site Details	1	B	09/10/2014
DA23	Shadow Diagrams	1	A	13/08/2014
DA24	Shadow Diagrams	1	A	13/08/2014
DA25	Site Details	1	B	09/10/2014
DA26	Basement – Bin Access	1	D	14/01/2015
DA27	Bin Room Access/Site and Ground Floor Level	1	D	14/01/2015
0908.L.01	Landscape Plan Ground Floor	1	A	18/08/2014
0908.L.02	Landscape Plan First Floor	1	A	18/08/2014
0908.L.03	Landscape details and Specification	1	A	18/08/2014

Civil Plans by alw design

Drawing	Description	Sheets	Issue	Date
SW14345	Basement Stormwater Layout	1	B	15/10/2014
SW14345	Concept Site Stormwater Layout	1	B	15/10/2014

Supporting Documents

Document	Title	Date
Think Planners P/L	Statement of Environmental Effects	25/08/2014
Architex	SEPP 65 Designs Verification Statement	16/08/2014
Robert Del Pizzo	Waste Management Plan	08/10/2014
14.15.019 Traffic Solutions P/L	Traffic and Parking Assessment/Supplementary Report	25/08/2014 & 14/10/2014
PSE Access Consulting	Access/Adaptability and Security/Accessibility Separation	18/08/2014
567994M Greater Metro P/L	BASIX Certificate	21/08/2014
alw design	Water Cycle Management Report	22/08/2014

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. 46238/2014**
APPLICANT: W H CHAI
PROPOSED: COMMERCIAL & RESIDENTIAL DEVELOPMENT AND DEMOLITION OF ONE EXISTING DWELLINGS ON LOTS: 8, 9 & 14 DP: 18726 NO 43 & 45 BEANE STREET GOSFORD & NO 2 KEEVERS LANE 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 $25,757,000.00

Assessing Officer: R A Eyre

Reviewing By: Manager Development & Compliance
CEO

Application Received: 27/08/2014 **Date of Amended Plans:** 14/10/2014, 14/1/2015

Synopsis: An application has been received for a Commercial & Residential Development and Demolition of One Existing Dwelling. 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 complies with the maximum height and FSR under the 30% bonus incentives except for a minor variation to part of the lift overrun. The applicant has lodged a submission under Clause 4.6 of the GLEP 2014 in support of this variation. The submission is supported.

The proposal complies with the requirements of DCP 2013, except for building setbacks which are addressed in the report.

The main reasons for public objections to the proposal are:

- height and shadow impact;
- view loss; and
- lack of parking and narrow road in Keevers Lane.

These issues are addressed in the report.

The proposal will not detract from the character or scenic qualities of the area or 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: B4 Mixed Use
Area: 2070.3m^2

Topography: 12% fall across the site from south east to north west

Public Submissions: 17

Employment Generating: Yes **Value of Work:** $25,757,000.00

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. SEPP 65 Design Quality of Residential Flat Buildings
6. SEPP (BASIX)
7. Section 94A Contribution Plan – Gosford City Centre

Key Issues
1. Gosford Local Environmental Plan 2014
2. Principal Development Standards
3. Gosford DCP 2013
4. Visual/View Loss Assessment
5. Gosford City Centre MasterPlan
6. Civic Improvement Plan
7. Environmental and Coastal Considerations
8. Heritage
9. Section 94 Contributions
10. External Referrals
11. Internal Referrals
12. Public Submissions

Recommendation
Approval, subject to conditions

REPORT

The Site
The site is located on the north-west corner of Beane Street and Keevers Lane, Gosford.

The site is irregular in shape and has three (3) street frontages being:

- 30.2m to Beane Street;
- 83.7m on the western side with Keevers Lane; and
- 14.6m on the southern side with Keevers Lane

A dwelling-house exists on one of the lots, and the other 2 lots are vacant, with informal car parking.

The site has a fall of about 6.4m (12%) diagonally from the south-eastern corner to the north-western corner.

Beane Street and Keevers Lane are constructed roads.

Site Map

Background

A Development Application 46259/2014 has been lodged for the adjoining site on the corner of Beane Street and Watt Street (47 Beane Street). This application is for a mixed development containing retail, a 13 room boarding house and 15 unit residential flat building. This development is located on the adjoining site the subject of this report. This application has been approved by Council and consent granted

The following photomontage shows the view from the corner of Beane Street and Watt Street, showing the development proposed under DA 46259/2014, the proposed development subject of this report, and the existing development in Watt Street.

View from Cnr Beane and Watt Streets

Locality
The site is located about 400m from Gosford Railway Station.

The site is located in an area with a mix of older commercial and residential developments in transition to newer residential and commercial uses.

Adjoining the south-east side is a commercial/residential development on the corner of Watt Street and Keevers Lane.

This building has a high blank wall on the western side and was constructed to the boundaries of the site.

Showing the existing multi storey developments adjoining the subject site

To the west is Mann Street, the Railway Line, and further to the west, on the other side of the railway line, and within walking distance, are Gosford Hospital, two (2) High schools and one (1) Primary school.

To the east is Henry Parry Drive and North Gosford Private Hospital.

Locality

Proposal
It is proposed to demolish the existing dwelling-house and construct:

- 149.64m^2 commercial premises
- Basement car parking for 115 spaces and 20 bicycle spaces
- 20 storey shop-top housing on Beane Street frontage (79 units)
- 4 storey residential flat building on Keevers Lane frontage (19 units)

The proposal will contain 98 apartments consisting of:

- 9 x 1 bedroom
- 84 x 2 bedrooms
- 5 x 3 bedrooms
- (including 9 adaptable units)

The proposal will consist of the commercial area on the Beane Street frontage and 3 levels of basement car parking below.

Behind the commercial area will be located plant rooms, storerooms, lobby/lifts, waste bin storage, and 5 car parking spaces.

Access to the basement car parking levels will be off Keevers Lane behind the commercial area.

The shop-top housing will be located above the commercial level and the residential flats located behind the commercial area.

The proposal is essentially divided into 2 main parts with:

- Block A – 20 storeys on the corner of Beane Street/Keevers Lane above the commercial premises with a roof RL 84.30m AHD and 79 units; and
- Block B - 4 storeys off Keevers Lane with a roof RL 36.00m AHD and 19 units.

The proposed commercial premises has a nil setback to Beane Street and the residential units above are setback 5m-6m from Beane Street.

Along the western boundary with Keevers Lane, the proposed development has a setback to corners/edges of balconies, varying from nil to about 3m.

Along the eastern boundary, Block A has a side setback of 6.5m up to and including Level 8. Level 9 and above have a side setback of 11.7m to the eastern boundary.

Along the eastern boundary, Block B has a setback of 3m-5m.

The southern boundary of the site with Keevers Lane has a setback of 3m.

View from Cnr Beane Street and Keevers Lane

Referrals

External Referrals

- Police

Internal Referrals

- Architect
- Engineer
- Building Surveyor
- Environmental Health Officer
- Waste Officer
- Water and Sewer
- Trade Waste

Assessment

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

Gosford Local Environmental Plan 2014

The land is zoned B4 Mixed Use under Gosford Local Environmental Plan 2014. The proposal is defined as a Mixed Use and is permissible within the zone. The mixed use consists of commercial/retail, shop-top housing and residential flat building. Shop-top housing means:

> ***shop top housing*** *means one or more dwellings located above ground floor retail premises or business premises.*

The definition of shop-top housing was clarified in the Court Case of *Hrsto v Canterbury City Council (No 2) (2014) NSW LEC 121*. To meet the definition of shop-top housing, the residential component must be in the same building as the retail/commercial premises and above the retail/commercial premises.

The application complies with this requirement.

(a) The objectives of the zone are:

- *To provide a mixture of compatible land uses;*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling;*
- *To encourage a diverse and compatible range of activities, including commercial and retail development, cultural and entertainment facilities, tourism, leisure and recreation facilities, social, education and health services and higher density residential development;*
- *To allow development in Point Frederick to take advantage of and retain view corridors while avoiding a continuous built edge along the waterfront;*
- *To create opportunities to improve the public domain and pedestrian links of Gosford City Centre;*
- *To enliven the Gosford waterfront by allowing a wide range of commercial, retail and residential activities immediately adjacent to it and increase opportunities for more interaction between public and private domains; and*
- *To protect and enhance the scenic qualities and character of Gosford City Centre.*

In this instance, it is considered that the proposal is consistent with the stated objectives for the following reasons:

- The proposal provides a mix of uses;
- The proposal provides increased residential development to support the City Centre revitalisation; and
- The proposal is located near public transport, medical and educational facilities.

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

(b) Character
The site is located within the B4 Mixed Use Zone of the Gosford City Centre.

This Zone complements the City Centre Zone but also allows for residential units.

The required character of the zone is:

- Taller buildings to take advantage for view opportunities to encourage investment; and
- Denser residential development to take advantage of the proximity to Gosford Hospital, Railway Station and the Commercial Core.

(c) Development Incentive
The subject land is located within the development Incentives area of Gosford City Centre.

Under Clause 8.9 of Gosford LEP 2014, a 30% bonus applies to height and FSR for applications lodged on/prior to 31 August 2014.

As a result, the maximum height is 62.4m and maximum FSR is 6.175:1.

(d) Design Excellence
The requirements for design excellence in Clause 8.5 of Gosford LEP 2014 have been considered in the assessment of the application.

The proposal is considered to be consistent with the requirements for the following reasons:

- The architectural design and materials are appropriate for this location;
- The proposal does not impact view corridors;
- The proposal improves the quality and amenity of the public domain; and
- The proposal has had regard to adjoining development and site constraints.

Principal Development Standards

(a) Gosford LEP 2014

Item	Required	Proposed	Compliance
Height	62.4m	64.6m	N
FSR	6.175:1	3.97:1	Y

The proposed height to the top of part of the lift overrun is 64.6m. This is a variation of up to 2.2m or 3.5% to the development standard over an area of about 70m^2

Clause 4.6 of GLEP 2014 states:

(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; and
(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.

<u>Applicant's Submission</u>
The applicant has submitted a written request to vary the height development standard of Clause 8.9 of the GLEP 2014. The submission contends that adherence to the development standard is unreasonable and unnecessary in the circumstances and there are sufficient environmental grounds to justify exceeding the development standard, for the following reasons:

- *"The proposal will provide a high quality urban form that relates well to the context of the site in terms of the natural topography and adjoining development;*

- *The extent of non-compliance does not contain habitable floor space and is limited to the lift overrun and service areas and sprinkler tanks;*

- *The extent of variation does not discernibly increase the extent of amenity impacts in terms of loss of sunlight;*

- *The proposal present a suitable scale of development relative to surrounding development and future development within the locality given the provisions of the Gosford LEP 2014;*

- *Due to the minor nature of the variation, it will not have any adverse amenity impacts. In this regard it is noted:*
    - *The variation will be visually unnoticeable and will have no adverse impact on the physical bulk, height or scale of the development;*
    - *The variation will not lead to a reduction in solar penetration on site or to adjoining properties nor will it lead to sunlight loss or overshadowing;*

- *The proposed variation will not lead to view loss or interrupt on views to and from the site; and*
- *The proposed variation will not lead to a reduction in privacy afforded to existing residents or future residents of the proposal.*

- *The proposed development will permit the site to develop to its full zoning potential whilst complementing the future vision envisioned for the site by providing a residential flat building that provides good address to the street frontage, clearly identifiable entrances and complying with key planning controls applying to the proposal; and*

- *The development proposal has been designed to comply with key planning requirements, whilst providing an attractive building that addresses the context, streetscape and sets the tone and scale for future high density development in the locality. The development provides a residential flat building that will contribute towards increasing housing stock within the Gosford LGA, especially within Gosford itself."*

<u>Planning Comment</u>
The Development Standard being varied is under Clause 8.9 of Gosford LEP 2014.

The objectives of the development standard under Clause 4.3 of Gosford LEP 2014 are:

(1) The objectives of this clause are as follows:
- *(a) to establish maximum height limits for buildings,*
- *(b) to permit building heights that encourage high quality urban form,*
- *(c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,*
- *(d) to nominate heights that will provide an appropriate transition in built form and land use intensity,*
- *(e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,*
- *(f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.*

Whilst the proposed height exceeds that identified under Clause 8.9 of GLEP 2014, the proposal complies with the objectives for the B4 zone and for the height of buildings.

The proposal also complies with the objectives of the B4 Zone and Clauses 8.1 and 8.9 of the GLEP 2014 to revitalise the Gosford City Centre as the Regional Capital of the Central Coast, including:

(a) to promote the economic and social revitalisation 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, recreational 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.

The design/urban form is appropriate for the site and provides a built form and density in the B4 Zone which does not impact view corridors or excessive overlooking of public open space.

The variation is minor due to the slope of the land, and only over part of the lift overrun tower. This does not significantly increase shadow or visual impacts and is mainly due to the slope of the land.

The applicant's written request has adequately justified that compliance with the development standard is unreasonable and unnecessary in this instance and there are sufficient environmental planning grounds to justify varying the development standard. The proposed variation is a response to the topography of the site and the proposal otherwise complies with the allowed FSR.

The proposed design is one which relates to the size and shape of the site and likely future development in this locality. The proposed development is in the public interest as it is consistent with the zone and development standard objectives and particularly the objective to revitalise the Gosford City Centre.

The development will not have unreasonable impacts on adjoining properties and is consistent with the desired character of the B4 Zone.

The JRPP may assume the concurrence of the Director-General to vary the development standard under Clause 4.6 of the Gosford LEP 2014 in this case.

Gosford DCP 2013

The proposal is consistent with the requirements of the DCP except for the following matters.

(i) <u>Chapter 4.1 of Gosford DCP 2013 is relevant to the application</u>
The land is located in the Mixed Use character area, and the proposal complies with the intended character by providing higher density housing that supports the city centre.

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 setbacks, deep soil planting and dwelling mix, which are addressed below. Other minor variations have been addressed in the assessment of the proposal.

(ii) <u>Street Setbacks</u>
The street setback required to Beane Street is:

- Up to 12m building height is nil;
- Above 12m height, the street setback required is 6m; and
- Above 24m height, the setback required is 8m.

The proposal has a nil setback to Beane Street for the commercial level which increases to 5m to edge of decks and 6m to walls for the residential units above the commercial level.

Balconies/decks are permitted to intrude 0.6m into the street setback.

Therefore the street setback to Beane Street is considered satisfactory as it provides a greater setback at the lower levels to compensate for the lesser setback required at the higher levels.

There is no street setback specified for the Keevers Lane frontages. Due to the narrow width of the site along the Keevers Lane frontage, it is considered the nil setback proposed is satisfactory and provides the best design solution for the irregular shaped site. To locate the building further back from Keevers Lane would push the buildings up against the adjoining development to the east. It should be noted that the two adjoining buildings on the corners of Watt Street and Keevers Lane are essentially built to boundaries of the site.

The 3m setback to the southern side of the site provides reasonable sight distance at the intersection of Keevers Lane and Keevers Lane.

(iii) Side Setbacks

Under the DCP, up to 12m building height, the side setback required to habitable rooms is 6m and 3m to non-habitable rooms.

The side setbacks required for a building 12m-24m height are 4.5m to non-habitable rooms and 9m to habitable rooms.

Above 24m height, the side setback required is 13m.

The eastern boundary of the site is considered to be a side boundary for blocks A and B.

The proposed setbacks are 3m-5m to Block B and 6.5m-11.7m to Block A.

The layout of the units in each block is orientated to the north, south or west so as to not impact the existing building to the east and to take advantage of distant views to the west.

Therefore the setbacks proposed to the eastern and southern boundaries are considered to be satisfactory.

(iv) Deep Soil Planting

The minimum deep soil planting required is 15% of the site area.

The proposal provides 8.6% deep soil planting.

Due to the irregular shop of the site and basement car parking covering the whole site, the opportunity for deep soil planting is restricted.

The main area of deep soil planting is on the eastern side adjoining Block A.

The landscape plan provides for extensive planting on structures which compensates for the reduced deep soil planting.

This is considered acceptable given the constraints of shape of the site and design to achieve a reasonable outcome.

(v) Dwelling Mix

The DCP specifies that 1 x bedroom units should be 10-25% of total units, and no more than 75% should be 2 bedroom units.

The 1 x bedroom units are 9% and 2 x bedroom units are 85%.

It is considered the mix is adequate in this location as 5% is provided as 3 x bedroom units.

A minimum of 15% or 15 units should be adaptable units. Ten (10) adaptable units are provided. This can be addressed as a condition of consent.
(Refer Condition 2.11)

(vi) 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.

Prior to the issue of a Construction Certificate a Wind Effects Report should be submitted.
(Refer Condition 2.13)

(vii) Car Parking
The proposal provides 115 car parking spaces in three (3) basement levels, plus 20 bicycle spaces (including 11 disabled spaces).

Under Clause 8.6(1)(a) of the LEP, the proposal requires the provision of 2 spaces for the commercial premises.

Under the provisions of Chapter 4.1 of the Gosford DCP2013, the proposal requires;
- 79 spaces for the shop-top housing, and
- 26 spaces for the 19 residential flat units.

That is, a total of 107 spaces whereas 115 spaces are provided. That is, there is an excess of eight (8) car parking spaces.

Some of the excess spaces should be utilised for motorcycle parking.
(Refer Condition 2.15)

Visual/View Loss Assessment
The 20 storey building on the corner of Beane Street and Keevers Lane will have a height significantly above the surrounding buildings.

A number of submissions were received expressing concern over view loss, particularly from the building to the east.

In accordance with the principles of view sharing and principles outlined in *Tenacity Consulting P/L v Warringah Council [2014] NSW LEC 140*, the following view loss assessment is made.

The existing building to the east has balconies/living areas orientated to the north and west. Views from this development over the subject site are mainly distant views to hills which whilst desirable views, are not iconic views.

The erection of the 20 storey building to the north-west of the adjoining building, will result in a minor loss overall of views to distant hills.

The extent of view loss is minor and not significant as views to the west over the 4 storey part of the development will mostly remain. The 4 storey part of the building is well below the height limit.

Whilst the 20 storey building will be significantly higher than existing surrounding buildings, it essentially complies with the height limit envisaged under the bonus provisions.

The 4 storey Residential Flat Building in Keevers Lane has been designed to screen the blank wall on the building to the east without significant loss of views over the building.

Gosford City Centre Masterplan
The MasterPlan was adopted by Council on 9/3/2010 and serves as a document for the community and Council to understand the changes needed to help Gosford grow as the Regional Capital.

The NSW Government Regional Cities Strategy designated Gosford as the Regional Capital for the Central Coast.

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

The proposal is consistent with the MasterPlan.

The proposal will provide additional population to support the Commercial Core Zone and residential accommodation close to schools, the hospital and railway station. The proposal is consistent with the MasterPlan to revitalise the City Centre.

Civic Improvement Plan/Streetscape/Landscape
The CIP (2007) provides a planning context and framework for improvements to the public domain in the Gosford City Centre. One of the aims of the CIP is to integrate the urban form and landscape.

In 2011, Council prepared “Streetscape Design Guidelines” for the Gosford City Centre (Oculus Landscape Architects).

Streetscape/tree planting and footpath improvement works over the Beane Street frontage of the site should be carried out by the applicant in accordance with these guidelines.
(Refer Condition 2.3)

Environmental and Coastal Considerations

(i) <u>Acid Sulfate Soils</u>
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. (No conditions of consent are required).

(ii) <u>Climate Change and Sea Level Rise</u>
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.

In the absence of any detailed information at the present however, refusal of this application is not warranted.

(iii) Coastal Zone
The provisions of Clause 5.5 Gosford Local Environmental Plan 2014 require Council to consider matters in relation to the Coastal Zone. These matters have been considered in the assessment of this application and the proposal is considered consistent with the stated aims and objectives.

Heritage
The subject site does not contain any heritage items. The former "Mitre 10" store located to the north-west on the corner of Mann Street and Beane Street is a heritage item of local significance under Gosford LEP 2014.

The proposed development will not have any significant item on the heritage site as it is located to the south-east and will not have any shadow impacts and is adequately separated from the heritage building.

Section 94 Contributions
The land zoned B4 Mixed Use 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 foregone 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 $257,570.00 prior to the issue of the Construction Certificate. In accordance with Part B of Council's Resolution, the reimbursement of the CP required by Council is $772,710.00.
(Refer Recommendation D & G and Condition 2.14)

External Referrals

(a) Police
Gosford Police have no objections to the proposal.

Internal Referrals

(a) Building Surveyor
"The application has been assessed against the requirements of BCA 2014.

Egress from the basement carpark levels, and parts of the ground floor level do not fully comply with the DTS provisions of the BCA. Furthermore, shared zones for accessible parking are not to have columns. However, these matters can be addressed at the construction certificate stage by complying with the DTS Provisions or meeting the Performance Requirements through an Alternative Solution and will not affect the proposed development.

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

The site is not located in a Landslip area and therefore Chapter 6.4 of DCP 2013 does not apply. However, a Review of Geotechnical Aspects of the proposed development should be prepared by a Geotechnical Engineer to support the application."

(b) Waste Management
No objections subject to conditions.

(c) Development Engineer

(i) Drainage
There is no piped stormwater system in the vicinity to directly connect to and therefore, stormwater is being discharged directly to the kerb and gutter in two locations. The peak discharge to the kerb in the two locations will be restricted to 30 l/s (maximum) in accordance with Council's GCC Design Specification requirements. In addition, on-site stormwater detention, stormwater retention and nutrient control provisions will be provided.

(ii) Road Works & Access
Vehicular access to the development will be from an access constructed from Keevers Lane. This entry will also provide access for garbage and service vehicles.

The steps and structures located within a triangular area with boundary lengths of 4m at the intersection between Beane Street and Keevers Lane are to deleted / moved out of this area to provide sight lines.

The awning located at the corner of the intersection of Beane Street and Keevers Lane is to be deleted. No part of the building is to encroach into the road reserve.

(iii) Water & Sewer

The water mains in the area are proposed to be augmented as part of the Gosford City DSP works. Water and sewer is available.

(d) Architect/SEPP 65 Assessment

"The site is located close to the station but not on the main shopping street. A residential development with a commercial component at street level is considered appropriate in this context.

The scale is generally acceptable. It largely complies with height and setback controls and there is articulation and some variation in the design as the building rises, though the east is largely flat and should be amended to disguise the visual bulk.

The option of using some alternative materials on the lower levels to define the base should be considered as well as an alternative to the uniform use of painted masonry to assist in disguising the bulk should also be considered.

The amended drawings have addressed the majority of architectural and SEPP 65 issues.

Planning Comment

Keevers Lane is essentially a rear access lane servicing a number of properties fronting Mann Street and Watt Street.

As such, the existing streetscape presents as access to car parking areas and waste collection areas with little or no landscaping.

The design of the 4 storey Residential Flat Building facing Keevers Lane, with balconies up to the boundary at some points is considered an appropriate design for this site in this location. The blank wall on the eastern side of Block A can be improved by the addition of windows and the like.
(Refer Condition 2.12)

As stated by Council's architect, the amended plans address the majority of architectural and SEPP 65 issues raised above.

(e) Health Officer

No objections subject to conditions.

Public Submissions

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

Issue	Submission	Comment
Height and view loss	Exceeds height permit.	Submission under Clause 4.6 justifies variation. View loss not significant or unreasonable.
Shadow Impact	Excessive.	Reasonable for development. Will mainly be along Keevers Lane and rear car parking areas of other sites.
Narrow road	Impacts waste, parking, traffic.	Meets traffic and waste requirements.
FSR	Exceeds maximum.	Complies with FSR under Bonus Incentive
Construction Impacts	Excessive noise. Parking.	Construction Management Plan required. **(Refer Condition 2.11)**
Parking	Lack of parking.	Complies with Council's requirements

Conclusion

The proposal complies with the maximum height and FSR permitted under the incentive bonus except for a minor variation over part of the lift overrun on Block A.

The applicant has lodged a submission under Clause 4.6 of Gosford LEP 2014 which justifies that adherence to the standard is unreasonable and unnecessary.

The JRPP may assume the concurrence of the Director of Planning for the use of Clause 4.6 to permit the development.

The proposal complies with Gosford DCP 2013 except for building setbacks, deep soil planting, and dwelling mix.

The irregular slope of the land and tower development to the east justifies the variations to setbacks and orientation of units away from the east side. This results in a development orientated to Beane Street and Keevers Lane to preserve privacy between units.

The variation to deep soil planting and dwelling mix are considered reasonable for this site given the constraints of the site.

The issues raised in public submissions are addressed by conditions of consent, or do not justify refusal of the proposal.

All relevant matters under Section 79C of the Environment Planning and Assessment Act, Section 89 of the Local Government Act, the objectives of the zone and the principles of ecologically sustainable development have been considered and no objection is raised to the proposal subject to compliance with the conditions contained within the recommendation.

Attachments: Attachment 1 - Public submissions
Attachment 2 – Plans
Attachment 3 – Applicant's Clause 4.6 submission

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 46238/2014 for the proposed Commercial & Residential Development and Demolition of Existing Dwelling on LOTS: 8, 9 & 14 DP: 18726 No 43 & 45 Beane Street GOSFORD and No 2 Keevers Lane 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 consent be limited to **two (2) years**.

E The objectors are notified of Joint Regional Planning Panel's decision.

F The External Authorities be notified of the Joint Regional Planning Panel decision.

G Council's Section 94 Officer be advised the reimbursement to CP94A required is $772,710.00

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 Architex and Greenland Design Pty Ltd

Drawing	Description	Sheets	Issue	Date
-	Cover Sheet	1	A	29/07/2014
DA01	Site Analysis	1	A	13/08/2014
DA02	Basement Level 3	1	A	13/08/2014
DA03	Basement Level 2	1	A	13/08/2014
DA04	Basement Level 1	1	A	13/08/2014
DA05	Site and Ground Floor Level	1	D	14/01/2015
DA06	Level 1	1	C	08/12/2014
DA07	Level 2	1	A	13/08/2014
DA08	Level 3	1	A	13/08/2014
DA09	Level 4	1	A	13/08/2014
DA10	Level 5-7	1	A	13/08/2014
DA11	Level 8	1	A	13/08/2014
DA12	Level 9-13	1	A	13/08/2014
DA13	Level 14-18	1	A	13/08/2014
DA14	Plant Level	1	A	13/08/2014
DA15	Roof Plan	1	A	13/08/2014
DA16	Elevations	1	C	08/12/2014
DA17	Elevations	1	C	08/12/2014
DA18	Elevations	1	C	08/12/2014
DA19	Elevations	1	C	08/12/2014
DA20	Sections	1	A	13/08/2014
DA21	Site details	1	B	09/10/2014
DA22	Site Details	1	B	09/10/2014
DA23	Shadow Diagrams	1	A	13/08/2014
DA24	Shadow Diagrams	1	A	13/08/2014
DA25	Site Details	1	B	09/10/2014
DA26	Basement – Bin Access	1	D	14/01/2015
DA27	Bin Room Access/Site and Ground Floor Level	1	D	14/01/2015
0908.L.01	Landscape Plan Ground Floor	1	A	18/08/2014
0908.L.02	Landscape Plan First Floor	1	A	18/08/2014
0908.L.03	Landscape details and Specification	1	A	18/08/2014

Civil Plans by alw design

Drawing	Description	Sheets	Issue	Date

SW14345	Basement Stormwater Layout	1	B	15/10/2014
SW14345	Concept Site Stormwater Layout	1	B	15/10/2014

Supporting Documentation

Document	Title	Date
Think Planners P/L	Statement of Environmental Effects	25/08/2014
Architex	SEPP 65 Design Verification Statement	16/08/2014
Robert Del Pizzo	Waste Management Plan	08/10/2014
14.15.019 Traffic Solutions P/L	Traffic and Parking Assessment/Supplementary Report	25/08/2014 & 14/10/2014
PSE Access Consulting	Access/Adaptability and Security/Accessibility Separation	18/08/2014
567994M Greater Metro P/L	BASIX Certificate	21/08/2014
alw design	Water Cycle Management Report	22/08/2014

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

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

Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional, in accordance with Council's "Civil Construction Specification", "GCC 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. Footway formation graded at +2% from the top of kerb to the property boundary, across the full frontage of the site in Beane Street. Works shall be in accordance with Streetscape Design Guidelines prepared by Oculus Landscape Architects for Gosford City Council dated September 2011.
b. 1.2m wide reinforced (SL72 steel fabric, 100mm thick) concrete footpath in an approved location across the full frontage of the site in Beane Street.

c. Reinforced (SL72 steel fabric, 100mm thick) concrete footpath from the top of kerb to the property boundary across the full frontage of the site in Keevers Lane.
d. Tie-in works at the ends of the proposed footway formation.
e. Heavy-duty gutter crossing that has a thickness (in cross-section profile) of 200mm at the front, rear and gutter invert constructed with reinforced concrete with 1 layer of SL72 steel fabric top and bottom. The minimum length at the rear of the heavy-duty gutter crossing shall be 11.5m.
f. All redundant dish crossings and/or damaged kerb and gutter are to be removed and replaced with new kerb and gutter.
g. All redundant vehicular crossings to be removed and footway formation reinstated.
h. The piping of stormwater from within the site to Council's drainage system located in Keevers Lane.

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

2.4. 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.

2.5. A security deposit of $100,000 must be paid into Council's trust fund prior to the issue of any Construction Certificate. The payment of the security deposit is required to cover the cost of repairing damage to Council's assets that may be caused as a result of the development. The security deposit will be refunded upon the completion of the project if no damage was caused to Council's assets as a result of the development.

2.6. 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.

2.7. 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.

2.8. 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.
b. Stormwater detention systems must be designed in accordance with Council's DCP165 - Water Cycle Management and Council's 'GCC Design Specification for Survey, Road and Drainage Works'. The stormwater detention system shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1%AEP storm event. A runoff routing method is to be used. An on-site stormwater detention report including an operation and maintenance plan shall accompany the design. On-site stormwater

detention is not permitted within private courtyards, drainage easements, and/or secondary flowpaths.

c. Nutrient/pollution control measures must be designed in accordance with Council's DCP Chapter 6.7 - Water Cycle Management. A nutrient/pollution control report including an operation and maintenance plan shall accompany the design.

d. On-site stormwater retention measures must be designed in accordance with Council's DCP Chapter 6.7 - Water Cycle Management. A report detailing the method of stormwater harvesting, sizing of retention tanks for re-use on the site and an operation and maintenance plan shall accompany the design.

e. Piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system located in Keevers Lane.

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

2.9. 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

2.10. Provide a minimum of fifteen (15) adaptable units.

2.11. Prepare a Construction Management Plan (CMP) to be approved by the Principal Certifying Authority. The CMP to provide for delivery and storage of materials, workers' parking, hours of work, and emergency solutions.

2.12. Prepare amended plans to provide additional windows and external wall treatment on the lower levels to define the base of the building, prior to the issue of a Construction Certificate, to reduce the impact of the blank wall on the eastern elevation of Block A.

2.13. Prior to the issue of any Construction Certificate for building works, a Wind Effects Rport be prepared by a suitably qualified person which demonstrates that the building (Block A) will not create significant wind effects on the locality.

2.14. The payment to Council of a contribution of $257,570.00 in accordance with the Gosford City Council Section 94A Development Contribution Plan - Gosford City Centre.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Gosford City Council Section 94A Development Contribution Plan – Gosford city Council. The basis of the calculation and the total amount is to be indexed quarterly in accordance with the Consumer Price Index (All Groups index) for Sydney issued by the Australian Statistician as outlined in the contribution plan.

The contribution is to be paid prior to the issue of any Construction Certificate.

A Construction Certificate is not to be issued by a certifying authority until the developer has provided the certifying authority with a copy of a receipt issued by Council that verifies that the Section 94 contributions have been paid in accordance with the wording of this condition. A copy of this receipt is to accompany the documents required to be submitted by the certifying authority to Council under Clause 104 of the Environmental Planning and Assessment Regulation 2000.

A copy of the Contributions Plan may be inspected at the office of Gosford City Council, 49 Mann Street or on Council's website.
www.gosford.nsw.gov.au/building-and-development/planning-guidelines-and-forms/contributions-plan

2.15. Provide a minimum of two (2) motorcycle parking spaces in the car parking 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. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:

a. The name, address and telephone number of the principal certifying authority for the work; and
b. The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
c. That unauthorised entry to the work site is prohibited.

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

3.5. Provide a 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 removal of more than 10 square metres of non-friable asbestos or asbestos containing material must be carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist. Friable asbestos (of any quantity) must only be removed by a licensed removalist with a friable (Class A) asbestos removal licence.

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

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

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

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

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

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

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

3.11. Submission of 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. Submit a report prepared by a registered Surveyor to the Principal Certifying Authority at each floor level of construction of the building (prior to the pouring of concrete) indicating that the finished floor level is in accordance with the approved plans.

3.14. 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.. 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. This development is subject to DCP 2013 Chapter 7.2 – Waste Management. The Waste Management Plan submitted as supporting documentation with this development consent is required to be implemented during all stages of demolition and construction.

4.6. 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.

4.7. 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'.

4.8. 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.

4.9. The internal road strength used by the waste trucks must be sufficiently strong enough to withstand a truck loading of 22.5 tonnes.

4.10. No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.

4.11. The driveway design and loading area layout is to be designed in accordance with AS 2890.2-2002 Parking Facilities - Off Street Commercial Vehicle Facilities.

4.12. The waste truck servicing grade is to be 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

4.13. A minimum vertical ceiling height of 4.0m must be provided in all areas accessed by waste trucks.

4.14. The waste storage enclosures to be constructed in accordance with Chapter 7.2 – Waste Management of Gosford DCP 2013 BCA requirements.

4.15. Erect a 1.8 metre high fence along the length of the side and rear boundaries behind the building line.

4.16. The street number is to be at least 100mm high and be clearly visible from the street frontage.

4.17. Mail receptacles shall be provided and appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.

5.. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

5.1. Consolidate Lots 8, 9 & 14 DP 18726 into a single allotment under one Certificate of Title prior to the issue of any Occupation Certificate.

5.2. Application for any Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.

5.3. The premises not being occupied until any occupation certificate has been issued.

5.4. Impervious surface areas including pathways and driveways are to be graded and drained to prevent water run-off affecting adjoining properties.

5.5. 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'.

5.6. 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.

5.7. Fencing, Structures, or landscaping with a mature height greater than 300mm shall not be located within a 4m x 4m splay corner located at the intersection between Beane Street and Keevers Lane.

5.8. 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 an on-site stormwater detention system and/or a nutrient/pollution facility restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.

And,

- Include an instrument under the Conveyancing Act 1919 for the following positive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Contact Council for wording of the covenant(s).
  a. To ensure on any lot containing on-site stormwater detention system and/or a nutrient/pollution facility that:
     (i) The facility will remain in place and fully operational.
     (ii) The facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner
     (iii) Council's officers are permitted to enter the land to inspect and repair the facility at the owners cost.
     (iv) Council is indemnified against all claims of compensation caused by the facility.

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.

5.9. Fencing, Structures, or landscaping with a mature height greater than 300mm shall not be located within a 3m x 3m splay corner located at the intersection between Keevers Lane (north to south) and Keevers Lane (east to west leg).

5.10. Council will require an indemnity against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service prior to the issue of any Occupation Certificate together with the creation of a S88B instrument under the Conveyancing Act to this effect and at the applicant's cost.

5.11. Provision must be made for illumination of the common areas in the front of the site, throughout the hours of darkness.

5.12. All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.

5.13. All loading and unloading of goods are to be conducted wholly within the site. Loading facilities, internal docks or goods handling areas are to be maintained free of obstruction for the sole use of delivery vehicles.

5.14. Visitor car parking spaces are to be physically identified on site, and maintained free of obstruction. Under no circumstances are these spaces to be used for the storage of goods or waste products.

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.

6.3. The car washing area is to be graded and drained connected to silt arrestor pit. The Silt arrestor is to be connected to the sewer in accordance with the requirements of Council's Trade Waste Section.

6.4. A dry basket arrestor is to be installed within any food preparation area.

6.5. Sink strainers are to be installed within any kitchen sink waste outlet.

6.6. A commercial grease arrestor is to be installed in association with any food premises.

7.. ADVICE

7.1. The public authorities may have separate requirements and should be consulted in the following aspects:

a. *Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
b. *Jemena Asset Management* for any change or alteration to the gas line infrastructure;
c. *Ausgrid* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
d. *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.
e. *Gosford City Council* in respect to the location of water, sewerage and drainage services.

7.2. 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. 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.

7.5. The inspection fee for works associated with approvals under the Roads Act is calculated in accordance with Council's current fees and charges policy.

7.6. 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 Councils web site www.gosford.nsw.gov.au to download a form from the Water & Sewerage forms index.

8.. PENALTIES

Failure to comply with this development consent and any condition of this consent may be a ***criminal offence***. Failure to comply with other environmental laws may also be a ***criminal offence***.
Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to $1.1 Million and/or custodial sentences for serious offences.

9.. REVIEW OF DETERMINATION

9.1. Subject to provisions of Section 82A of the Act the applicant may make an application seeking a review of this determination, providing it is made in time for Council to determine the review within six (6) months of this determination.

10.. RIGHT OF APPEAL

10.1. Section 97 of the Act, confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court within six (6) months, from the date of determination.

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

ATTACHMENT 1

Public Submissions
Seventeen (17) 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.

1. **Loss of views from adjoining development.**

   Comment

   The 4 storey residential building (Block B) on Keevers Lane does not obstruct views across the site. The 20 storey building of Block A is relatively narrow and will not significantly affect views from adjoining sites.

2. **Excessive height. Should be 2-3 floors.**

   Comment

   This would be an under-development of the site and would not be consistent with the aims and objectives to increase employment and residential population to support the City Centre.

3. **Keevers Lane is too narrow. Increased traffic will affect traffic and pedestrian safety.**

   Comment

   Keevers Lane can cater for the additional traffic. Waste collection and pick-up areas have been provided off Keevers Lane for other developments.

4. **Keevers Lane is not designed for large waste trucks. Garbage from collection should be from Beane Street.**

   Comment

   Garbage trucks currently travel down Keevers Lane in a southerly direction. The truck will diagonally reverse onto the site which is the similar method for other development along Keevers Lane.

5. **Shadow impact on adjoining dwellings will be huge and there will be no sun in the winter time.**

   Comment

   The shadow impacts are greatest in the winter time. The shadow impacts mainly affect the rear car parking areas of other sites along Keevers Lane.

6. **Reduction in adjoining privacy by overlooking.**

   Comment

There is adequate separation with the adjoining building and decks/living areas are orientated to the north, west and south that is, away from the adjoining development.

7. **Noise impact and disruption during construction.**

   Comment

   This will be mitigated by a Construction Management Plan required under conditions of consent.
   (Refer Condition 2.11)

8. **There is no economic demand due to vacant buildings.**

   Comment

   There is a demand for new office/retail space and residential units close to public transport, schools and the hospital.

9. **The proposal is out of character.**

   Comment

   The proposal reflects the planning controls and is consistent with the desired character for this area.

10. **The resultant increase in crime.**

    Comment

    There is no evidence to justify this claim. Increased population and surveillance can lead to a decrease in crime.

11. **Residents in Watt Street will face a blank wall instead of distant views.**

    Comment

    The residents of the existing building in Watt Street will not face a blank wall. Units in Keevers Lane (Block B) will have a blank wall to their east. The units in Block B are orientated towards the west and Keevers Lane. Additional windows to the east wall of Block A should be provided on Levels 1-7 to reduce the appearance of a blank wall.
    (Refer Condition 2.12)

12. **Lack of infrastructure.**

    Comment

    Roads and services are adequate. Water and sewer is being upgraded in the City Centre for expected future demand.

13. **The proposal exceeds the FSR permitted.**

    Comment

    The proposal has an FSR less than the maximum permitted.

<<Insert Attachment Link/s Here >>