

**GOSFORD CITY COUNCIL**  
**HUNTER AND CENTRAL COAST**  
**JOINT REGIONAL PLANNING PANEL**  
**SUPPLEMENTARY REPORT**

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<b>JRPP Reference No.</b>	2014HCC025
<b>Development Application No.</b>	46274/2014
<b>Proposed Development</b>	Retail & Shop Top Housing (180 Units)
<b>Property Description</b>	Lot 1 DP 550047 No 124 Erina Street, Gosford Lots 2-5 DP 19484 No 138 - 142 Henry Parry Drive and No 122 Erina Street, Gosford
<b>Applicant &amp; Owner</b>	AO Gosford Pty Ltd Betaco Pty Ltd
<b>Capital Investment Value</b>	\$36.6 million
<b>Cost of Works</b>	B3 Commercial Core Zone
<b>Recommendation</b>	Approval (subject to conditions)



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## **1. EXECUTIVE SUMMARY**

### **1.1 Reasons for the report**

This supplementary report is prepared pursuant to the decision at the Hunter and Central Coast Joint Regional Planning Panel (JRPP) meeting on 30 April 2015, to defer the determination of DA46274/2014 and to;

- a) Receive a revised Clause 4.6 variation submission providing further justification regarding the non compliance of height and zone objectives;
- b) Review the condition of deferred commencement; and
- c) Receive advice on Section 94 Contributions.

### **1.2 The proposal**

It is proposed to demolish the existing buildings on the site and develop a retail and shop top housing development.

The proposal will include:

- Retail shop of 152m<sup>2</sup> on the corner of Erina Street and Henry Parry Drive;
- Driveway access from both Erina Street and Henry Parry Drive;
- Three (3) basement car parking levels containing 184 spaces;
- 2 x residential towers above the retail shop and car parking levels;
- Tower 1 (the southern tower) will contain 83 residential units in 15 storeys (52 x 1 bedroom and 31 x 2 bedrooms). The roof level of tower 1 is RL 65.8m AHD (not including lift over run & mechanical plant);
- Tower 2 (the northern tower) will contain 97 residential units within 12 storeys (45 x 1 bedroom and 52 x 2 bedrooms). The roof level of tower 2 is RL 59.4m AHD (not including lift over run & mechanical plant);
- A total of 180 residential units (97 x 1 bedroom and 83 x 2 bedrooms); and
- Landscaping on Levels 1, 2 and 5, which includes courtyard areas, street setbacks to Henry Parry Drive and roof terrace areas.

### **1.3 The site**

The site is located on the north-west corner of Henry Parry Drive and Erina Street Gosford.

The site has a frontage of 31.1m to Erina Street and a frontage of 87.2m to Henry Parry Drive. The site is an 'L' shape and consists of 5 separate lots.

The northern part of the site contains metal and brick industrial buildings and a number of trees. The southern part of the site is vacant.

The land rises in elevation from about RL 11.20m AHD in the south-west corner to about RL 14.28m AHD at the south-east corner to about RL 15 in the north-west corner, to about RL 23m AHD at the north-east corner.

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**1.4 The issues subject to this supplementary report**

**a) Supplementary Clause 4.6 Variation – Height of Building**

As required by the JRPP, the applicant has submitted a Supplementary Report on Clause 4.6 Variation – height of building. The supplementary submission concludes;

*“This submission satisfies the provisions of clause 4.6 of the LEP as it has been demonstrated that:*

- *Compliance with the building height development standard is both unnecessary and unreasonable in the circumstances of this particular case;*
- *There are sufficient environmental planning grounds to justify contravening the development standard; and,*
- *The proposed development, with the varied building height, will be in the public interest because;*
  - *It is consistent with the objectives of the particular standard – both clauses 8.9 and clause 4.3 of the LEP;*
  - *It is consistent with the B3 Commercial Core objectives;*
  - *It is consistent with the Part 8 Gosford City Centre objectives; and*
  - *It is consistent with the objectives of Clause 4.6. of the LEP. In particular, it will support the provision of superior amenity and will achieve better outcomes that otherwise would not be achieved by a compliant building.”*

Refer Attachment 1 for a full copy of the applicant's submission.

The application has been assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act (EP&A Act).

The proposed development is considered to be an appropriate form of development and an efficient use of land as reflected in the B3 Commercial Core zoning of the site.

The variation to the height development standard justified through the revised Clause 4.6 written statement is well founded and the proposal will continue to achieve the objectives of the zone as well as the objectives of the development standard and objectives to revitalise the Gosford City Centre.

The proposal is a significant project for Gosford, representing a high quality design development. The proposed development is considered an appropriate form of development for the site with a number of measures which would mitigate the impacts identified during the assessment process.

It is considered that the proposed development is considered to be satisfactory for those reasons outlined within the report considered by the JRPP on 30 April 2015 and discussed within this report. Further, the Clause 4.6 written request to vary the maximum height development standard is supported on merit, and is not a broad approach to vary heights across the whole city or local government area. Therefore, the subject application is recommended for approval.

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**b) Deferred Commencement Consent**

The time in which to comply with the Condition of deferred commencement conflicts with the two (2) year period Council resolved to limit consents issued addressing the bonus provisions.

It is recommended that the condition of deferred commencement be deleted and the condition required to be complied with prior to issue of a Construction Certificate.

**c) Section 94 Contributions**

Clause 25k of the Environmental Planning and Assessment Regulation 2000 specifies a maximum percentage Council may levy in a Section 94 Plan. Council may therefore levy a lesser percentage.

However, under Part 4 of the Civic Improvement Plan (CIP), Council must require the contribution to be paid prior to the Construction Certificate. It cannot defer the payment to be prior to issue of an Occupation Certificate without amending the CIP itself, therefore Condition 5.5 must be deleted and a new condition inserted to require payment of the contribution prior to issue of a Construction Certificate.

## **2. RECOMMENDATION**

Gosford City Council supports this proposed development and recommends that the JRPP grants approval to this development application subject to the recommended conditions of consent provided with the original report, with the following amendments;

**(i) Deletion of condition A1 of deferred commencement and the addition of new condition 2.16 to read;**

2.16. Submit to the Principal Certifying Authority a Site Audit Statement and Site Audit Summary Report by a NSW Office of Environment and Heritage (former Environment Protection Agency) Accredited Site Auditor stating the land is suitable for its intended use prior to the issue of any Construction Certificate.

**(ii) The deletion of condition 5.5 and the addition of a new condition 2.17 to read;**

2.17 The payment of Council of a contribution of \$366,671.00 in accordance with the Gosford City Council Section 94A Development Control 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.

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

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

**3. ATTACHMENTS**

1. Supplementary Clause 4.6 Submission to Vary Height Development Standard