

JOINT REGIONAL PLANNING PANEL (Hunter and Central Coast)

JRPP No	2014 HCC026																																																																																			
DA Number	46272/2014																																																																																			
Local Government Area	Gosford City Council																																																																																			
Proposed Development	Residential Flat Building (140 Units) and Demolition of Existing Structures (JRPP)																																																																																			
Street Address	21-23 Mann Street GOSFORD																																																																																			
Applicant Name	M Eskander																																																																																			
Owner Name	Telstra - Transfield Services Aust																																																																																			
No Submissions	16																																																																																			
Regional Development Criteria (Schedule 4A of the Act)	Value greater than \$20 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 • SEPP 65 (Design Quality of Residential Flat Buildings) • SEPP (Infrastructure) 2007 • SEPP (BASIX) 																																																																																			
List all documents submitted with this report for the panel's consideration	<p>Plans Architectural Plans by CKDS Architects</p> <table border="1"> <thead> <tr> <th>Drawing</th> <th>Description</th> <th>Sheets</th> <th>Issue</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>A-001</td> <td>Cover Sheet</td> <td>1</td> <td>C</td> <td>28/08/2014</td> </tr> <tr> <td>A-002</td> <td>Project Summary</td> <td>1</td> <td>C</td> <td>28/08/2014</td> </tr> <tr> <td>A-003</td> <td>The Site</td> <td>1</td> <td>C</td> <td>28/08/2014</td> </tr> <tr> <td>A-004</td> <td>Site Analysis</td> <td>1</td> <td>C</td> <td>28/08/2014</td> </tr> <tr> <td>A-005</td> <td>Planning Strategy</td> <td>1</td> <td>C</td> <td>28/08/2014</td> </tr> <tr> <td>A-006</td> <td>Planning Strategy</td> <td>1</td> <td>C</td> <td>29/08/2014</td> </tr> <tr> <td>A-007</td> <td>BASIX</td> <td>1</td> <td>C</td> <td>29/08/2014</td> </tr> <tr> <td>A-008</td> <td>BASIX</td> <td>1</td> <td>C</td> <td>29/08/2014</td> </tr> <tr> <td>A-011</td> <td>Site Plan</td> <td>1</td> <td>C</td> <td>27/08/2014</td> </tr> <tr> <td>A-101</td> <td>Basement Level 3</td> <td></td> <td>C</td> <td>27/08/2014</td> </tr> <tr> <td>A-102</td> <td>Basement Level 2</td> <td>1</td> <td>C</td> <td>27/08/2014</td> </tr> <tr> <td>A-103</td> <td>Basement Level 1</td> <td>1</td> <td>F</td> <td>03/03/2015</td> </tr> <tr> <td>A-111</td> <td>Floor Plan, Level 1 and Ground Floor</td> <td>1</td> <td>C</td> <td>27/08/2014</td> </tr> <tr> <td>A-112</td> <td>Floor Plan Levels 2-6</td> <td>1</td> <td>C</td> <td>27/08/2014</td> </tr> <tr> <td>A-113</td> <td>Floor Plan Level 7</td> <td>1</td> <td>C</td> <td>27/08/2014</td> </tr> </tbody> </table>				Drawing	Description	Sheets	Issue	Date	A-001	Cover Sheet	1	C	28/08/2014	A-002	Project Summary	1	C	28/08/2014	A-003	The Site	1	C	28/08/2014	A-004	Site Analysis	1	C	28/08/2014	A-005	Planning Strategy	1	C	28/08/2014	A-006	Planning Strategy	1	C	29/08/2014	A-007	BASIX	1	C	29/08/2014	A-008	BASIX	1	C	29/08/2014	A-011	Site Plan	1	C	27/08/2014	A-101	Basement Level 3		C	27/08/2014	A-102	Basement Level 2	1	C	27/08/2014	A-103	Basement Level 1	1	F	03/03/2015	A-111	Floor Plan, Level 1 and Ground Floor	1	C	27/08/2014	A-112	Floor Plan Levels 2-6	1	C	27/08/2014	A-113	Floor Plan Level 7	1	C	27/08/2014
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	Podium terrace			
A-114	Floor Plan Levels 8-13	1	C	27/08/2014
A-115	Floor Plan Level 14	1	C	27/08/2014
A-116	Floor Plan Level 15	1	C	27/08/2014
A-117	Floor Plan Roof Plan	1	C	27/08/2014
A-201	North Elevation	1	C	27/08/2014
A-202	South Elevation	1	C	27/08/2014
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A-204	West Elevation	1	C	27/08/2014
A-301	Section A	1	C	27/08/2014
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A-401	Apartment Mix/FSR Diagrams	1	C	28/08/2014
A-402	SEPP 65 Diagrams	1	C	28/08/2014
A-403A	Shadow Diagrams - March	1	C	14/04/2015
A-403B	Shadow Diagrams – June		C	14/04/2015
A-404	View Diagrams	1	C	28/08/2014
A-405	External Finishes Schedule	1	C	28/08/2014

Landscape Plans by Site Image Landscape Architects

Drawing	Description	Sheets	Issue	Date
000	Landscape Cover Sheet	1	A	27/08/2014
101	Landscape Plan Levels 1 and 7	1	A	27/08/2014
501	Landscape Details	1	A	27/08/2014
502	Landscape Details	1	A	27/08/2014
C001	Colour MasterPlan	1	A	27/08/2014

Civil Plans by Taylor Thomson Whitting

Drawing	Description	Sheets	Issue	Date
C01	Notes and Legends Sheet	1	P2	13/11/2014
C02	Siteworks and stormwater Plan Basement Level 1	1	P2	13/11/2014
C03	Stormwater Basement Plan Level 2	1	P2	13/11/2014
C04	Stormwater Basement Level 3	1	P2	13/11/2014
C05	Sediment Erosion Control Plan	1	P2	13/11/2014
C06	Details Sheet 1	1	P2	13/11/2014
C07	Details Sheet 2	1	P2	13/11/2014

Supporting Documents

Author	Document	Title	Date
Doug		Statement of	August

	Sneddon Planning P/L		Environmental Effects	2014
	CKDS Architecture		SEPP 65 Compliance Table	
	Terrence C Chapman	570214M	BASIX Certificate	27/08/2014
	Taylor Thomson Whitting	141509P	Stormwater Report	12/11/2014
	Barker Ryan Stewart	CC140105	Waste Management Plan	November 2014
	Varga Traffic Planning P/L	14478	Traffic and Parking assessment Report	17/11/2014
	Barker Ryan Stewart	CC140105	Crime Prevention Through Environmental Design	August 2014
	Windtech	WC140-01FO2-WS	Pedestrian Wind Environment Statement	26/08/2014
	Barker Ryan Stewart	CC140105	Heritage Impact Assessment	March 2015
	Doug Sneddon Planning P/L		Clause 4.6 Gosford LEP 2014 Submission	August 2014
	Independent Living Centre		DA Access Audit	27/08/2014
	Dr Richard Lamb		View Loss & Sharing Assessment	3 June 2015
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. 46272/2014**
APPLICANT: M ESKANDER
PROPOSED: RESIDENTIAL FLAT BUILDING (140 UNITS) AND DEMOLITION
OF EXISTING STRUCTURES ON LOT A & B DP: 88695 NO 21 & 23 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: Acting Manager Development & Compliance
Chief Executive Officer

Application Received: 29/8/2014 **Date of Amended Plans:** 3/3/2015, 14/4/2015

Synopsis: An application has been received for a Residential Flat Building (140 Units) and Demolition of Existing Structures. 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 under Gosford LEP 2014, but complies with the maximum FSR. The applicant has submitted written justification to vary the height under Clause 4.6 of the Gosford LEP 2014, which is supported.

The proposal generally complies with the requirements of DCP 2013 except for car parking, site coverage, building setbacks and floor plate size. However these variations are not significant, and appropriate for the design on the site.

The proposal is located behind the former Gosford South Post Office which is a local heritage item and is to be subdivided off from the development site.

A number of public submissions raised issues of view loss and shadow impact. The proposal has taken these matters into account in the design of the building.

The proposal is supported for the following reasons:

- The design is an innovative approach to the site;
- It achieves design excellence through a high standard of architectural design featuring articulated facades, variation in external materials and finishes, stepping the building back at higher levels, landscaping at ground level and above;
- The size and scale will strengthen Gosford as the Regional Capital of the Central Coast;
- The unique nature and size of the site in the mixed use zone; and

- The design merits of the proposal and street improvements.

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: Proposed Lot 102 - 3428m²

Topography: Steep Land – Telstra Depot

Public Submissions: 16

Employment Generating: Yes **Value of Work:** \$34,000,000.00

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. SEPP 65 (Design Quality of Residential Flat Buildings)
6. SEPP (Infrastructure) 2007
7. SEPP (BASIX)

Key Issues

1. Gosford Local Environmental Plan 2014
2. Principal Development Standards
3. Gosford City Centre MasterPlan
4. Civic Improvement Plan
5. Environmental and Coastal Considerations
6. View Loss/Visual Assessment
7. Shadow Impact
8. Section 94 Contributions
9. External Referrals
10. Internal Referrals

Recommendation

Approval, subject to conditions

REPORT

The Site

The site is located between and has frontage to both Mann Street and Henry Parry Drive.

The existing site has an area of 6032m².

The Mann Street frontage of the site contains the former Gosford South Post Office and Telstra building/depot. The former Post Office is a local Heritage item.

A 6.0m wide driveway on the northern side provides access from Mann Street to the rear of the site. The eastern side of the site contains sheds and car parking for the Telstra depot. Parlour Lane provides access to the northern boundary of the site from Georgiana Terrace.

The site falls from about RL 25.0m AHD at Henry Parry Drive to about RL 17.0m at the proposed western boundary and about RL 10.0m AHD at Mann Street.

No significant vegetation exists on the site.

The site (Proposed Lot 102) has a 60.5m frontage to Henry Parry Drive, a northern boundary of 56.8m, a western boundary of 59.5m, and a southern boundary of 59.5m.

The existing site generally is about 100% paved and roof areas.



Site Map

Background

DA 36544/2009 granted consent on 11/1/2010 for a boundary realignment and demolition of some buildings on the site, subject to conditions.

This consent has physically commented, however the plan of subdivision has not been registered.

Under this consent, proposed Lot 101 will have frontage to Mann Street, an area of 2,604m² and contain the former Post Office and Telstra building.

Proposed Lot 102 will have frontage to Henry Parry Drive, an area of 3,428m², and contain the car parking area for the Telstra depot.

Access to proposed Lot 102 is via a 6m wide right-of-way over proposed Lot 101, as well as from Parlour Lane.

The proposal subject to this application is on proposed Lot 102. Condition 2.13 requires registration of the plan of subdivision prior to the issue of a Construction Certificate.

Locality

To the north are a number of small shops and offices and a residential flat building. Land to the north on the corner of Mann Street, Georgiana Terrace and Parlour Lane is subject to a separate development application for a 15 storey mixed use development which is currently under assessment. This application will also be determined by the JRPP.

Land to the east varies from single dwellings to high-rise residential flat buildings.

Land to the south (17 Mann Street) is vacant and has consent for a residential flat building. This consent has physically commenced. Further to the south is the Gosford Police Station and a Church.

To the west is the former Gosford Public School site. The school has been demolished and the site cleared. No application has been submitted for the former school site which is part of the Gosford Waterfront.



Locality

Proposal

It is proposed to erect a Residential Flat Building comprising 15 storeys with 140 apartments.

A total of 25 parking spaces will be retained for Telstra parking plus 193 for the proposed development including 20 disabled spaces, in 3 basement levels. Of the 140 apartments there will be:

- 19 x 1 bedroom
- 106 x 2 bedrooms
- 15 x 3 bedrooms

The proposal will have a gross floor area of 13,270m².

Separate accesses will be provided to the Telstra car parking spaces and the proposed development.

Proposed Lot 102 is essentially a square shaped lot. The building has been located on the site with the building angled to the side boundaries to achieve better orientation for views and sunlight. As such the building setbacks to the boundaries of the site vary.

A total of 515.4m² (15% of site area) is proposed for deep soil planting and 464.0m² of landscaped communal open space on the roof terrace of Level 7.

No vehicular access is proposed to Henry Parry Drive.

Waste storage and collection will be carried out in the north-east corner of the site and building to separate it from the residential entry and access to the car parking area.

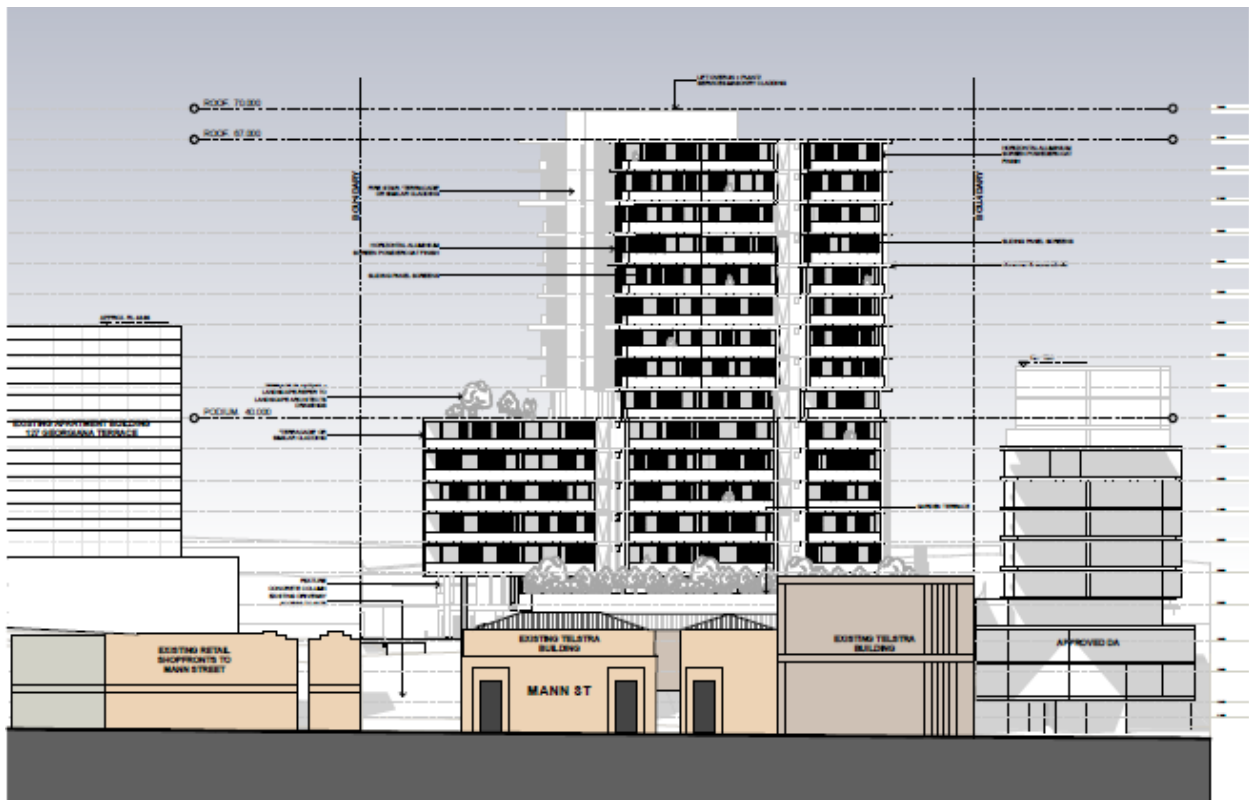
Up to Level 6, the building is setback about:

- 3m to 10m from Henry Parry Drive;
- 6m to 9m from the northern boundary;
- About 6m-9m from the southern boundary; and
- 6m-9m from the proposed western boundary.

For Level 7-15, the building is setback:

- 2m-6m from Henry Parry Drive;
- 16m-24m from the northern boundary;
- 9m from the southern boundary; and
- 11m-13m from the western boundary.

The top of the lift overrun has a height of RL 70.0m AHD.



View from Mann Street

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.

Gosford Local Environmental Plan 2014

The land is zoned B4 Mixed Use under Gosford Local Environmental Plan 2014. The proposal is defined as a residential flat building and is permissible within the zone.

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 residential use to support the Commercial Core Zone and revitalize the Gosford City Centre.

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

(a) Character

The LEP provides for land uses and design reflective of the desired character of the City Centre.

The site is located within the B4 Mixed Use Zone, is permissible in the zone and would contribute positively to the desired future character of the Gosford City Centre.

(b) Development Incentive

The subject site is located within the Development Incentives area of Gosford City Centre. Under Clause 8.9 of the Gosford LEP 2014, a 30% bonus applies to height and FSR for applications lodged on/or before 31 August 2014. The application was lodged on 29 August 2014.

(c) 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 architectural design and materials are appropriate for this location;
- The proposal improves the quality and amenity of the public domain;
- The proposal does not impact view corridors;
- The proposal does not overshadow Kibble Park, Williams Street Plaza, Burns Park or the waterfront; and
- The proposal is generally consistent with the DCP.

Principal Development Standards

(a) Gosford LEP 2014

Item	Required	Proposed	Compliance
Height	31.2m	48.9m	N
FSR	3.9:1	3.87:1	Y

Height

Under Clause 8.9 of GLEP 2014, the maximum height for development on the site is 31.2m.

This is a development standard. The proposal has a height to the top of the plant room of 48.9m. This is a variation of 17.7m or 56% to the development standard.

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; 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);*

- (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.*

Applicant's Submission

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 and there are sufficient environmental grounds to justify contravening the development standard, for the following reasons:

- *The proposed development is in the public interest as it will facilitate the economically viable redevelopment of the subject land in a manner consistent with the strategic planning objectives for the revitalisation of Gosford City Centre;*
- *The proposed development is consistent with objectives for development within the B4 Mixed use zone applying to the subject land under Gosford Local Environmental Plan 2014;*
- *The proposed development is consistent with the objectives of the maximum building height development standard as expressed in Clause 4.3(1) of Gosford Local Environmental Plan 2014;*
- *The particular circumstances relating to the subject land and the proposed development are unique to this application and will not lead to similar development applications which would cumulatively undermine the planning objectives for the locality;*
- *The proposed exceedence in maximum permissible building height does not result in any additional GFA or residential density to that permitted under the maximum permissible floor space ratio applicable to the subject land and the proposed development; enhances view sharing from neighbouring properties; and does not have adverse scenic/visual impacts or amenity (privacy/overshadowing) impacts on either the public domain, or neighbouring residential properties; and*
- *There is no public benefit to be derived, nor planning purpose to be served, in requiring the proposed development to strictly comply with the applicable maximum permissible building height development standard of LEP 2014, having regard to the particular circumstances.*

This request demonstrates that there are sufficient environmental planning grounds for the proposed development to contravene the 31.2m maximum permissible building height development standard applying to the subject land and the proposed development under Clauses 4.3(2) and 8.9 of Gosford Local Environmental Plan 2014. Approval will result in a building of appropriate architectural form and improved amenity outcomes for residential neighbours, without adverse impacts on the public domain.

Council Assessment

The Development Standard being varied is under Clause 8.9 of Gosford LEP 2014.

The maximum height is 31.2m under the incentive provisions of Clause 8.9.

The objectives of the height 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; and*
 - (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 height of buildings. The proposal also complies with the objectives of the B4 Zone and Clause 8.1 to revitalize the Gosford City Centre being;

- (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 promote employment, residential, recreational and tourism opportunities in Gosford City Centre; and*
- (d) *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.*

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

The main shadow impact will be to the south of the site which would occur with a building complying with the height limit.

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 location. The proposed development is in the public interest as it is consistent with the zone and development standard objectives and particularly the objective to revitalize the Gosford City Centre.

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

Council and 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) Chapter 4.1 of Gosford DCP 2013 is relevant to the application.

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 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 site cover, car parking, setbacks, floor plate and deep soil planting, which are addressed below as well as other minor variations

(ii) Maximum Site Coverage

The maximum site coverage for wholly residential development on B4 zoned land is 60%.

The proposal has a site coverage of 63.6%. This is a minor variation and is compensated for by Levels 7 and above having about half the site coverage of that below Level 7 and landscaping on the Level 7 podium.

(iii) Car Parking

A total of 197 car parking spaces are required under DCP 2013. The proposal provides 193 spaces on site.

This is a variation of 4 spaces or 2%. This is minor and not significant.

Car parking is considered to be adequate.

(iv) A total of 15% or 21 adaptable units are required. A total of 14 or 10% adaptable units are provided.

A minimum of 21 can be required as a condition of consent.

(Refer Condition 2.12)

(v) Building Setbacks

Item	Required	Proposed
Setbacks up to 12m:		
Street	6m	3m-10m
Side (non-habitable/habitable)	3m/6m	6m-9m
Rear	6m	8m
Setbacks 12m-24m:		
Street	6m	3m-10m
Side (non-habitable/habitable)	4.5m/9m	6m-9m
Rear (non-habitable/habitable)	6m/9m	8m
Setbacks above 24m:		
Street	8m	2m-6m
Side & Rear	13m	9m-25m

Whilst the street setbacks to Henry Parry Drive do not comply with the minimum setback for part of the building, the average setback is 6m or greater. The positioning of the building at an angle to Henry Parry Drive with landscaping, provides a variety to the streetscape.

Similarly, the angle of the building to the western and southern boundaries and good articulation to the building facade is considered to provide adequate building setbacks.

(vi) Maximum Floor Plate

The maximum floor plate above 16m height is 750m². The proposal has a GFA for Levels 5 and 6 of 1,137m² and for levels 7 and above about 761m². This is considered to meet the objectives of this control to step the building as the height increases.

Environmental and Coastal Considerations

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.

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.

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

Coastal Zone

The provisions of Clause 5.5 Gosford Local Environmental Plan 2014, requires 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 Arts and Entertainment precinct of the MasterPlan.

The overarching principles for this location are:

- to provide residential use to support the City Centre;
- to provide linkages from Henry Parry Drive and along Mann Street to the Waterfront; and
- reinforce the urban nature of Mann Street as the City heart;

The proposal is consistent with the MasterPlan to revitalize 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. 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 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 frontage of the site should be carried out by the applicant in accordance with these guidelines.

(Refer Condition 2.3b)

View Loss/Visual Consideration

The 15 storey building will have a height significantly above that of existing and approved development on surrounding properties.

The proposed building will have a height of 7 storeys above the development approved to the south on 17 Mann Street (adjoining Gosford Police Station), and 6 storeys above Georgiana Terrace to the north.

Diagonally opposite the site on the eastern side of Henry Parry Drive is the residential flat building of 107 Henry Parry Drive. When viewed from Henry Parry Drive, the building will appear as a 13 storey building above road level.

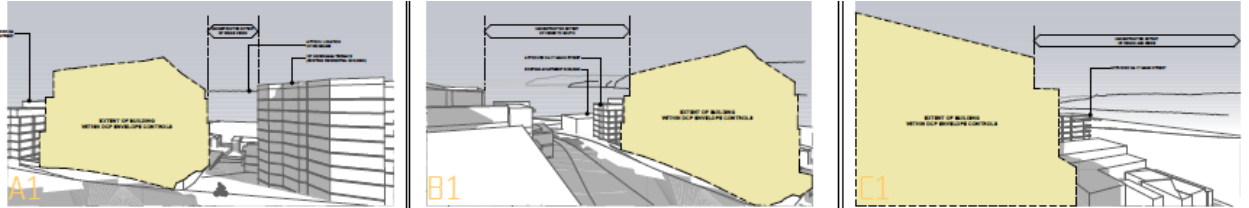
The views from 107 Henry Parry Drive will be reduced by the proposal. A number of submissions were received objecting to view loss as a result of this proposal.

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

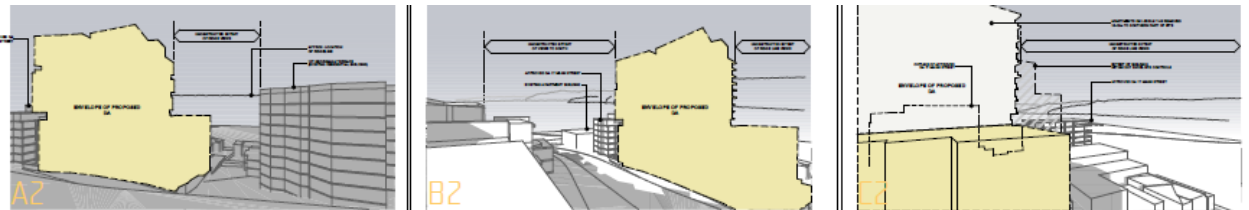
- Views from the balconies/living areas of the upper levels are distant water and mountain views;
- Water views are more prized than mountain views;
- Views from the lower levels at 107 Henry Parry Drive will be lost with any development complying with the height limit on the site;
- Views from the upper levels are extensive ranging from the Georgiana Terrace building to along Henry Parry Drive to the south, ie about 90° views;
- The proposal has been designed to facilitate a view corridor between the proposed building and Georgiana Terraces. This is done by the northern side being about 5 storeys below the height limit and the southern side being about 5 storeys above the height limit.



Existing View



View with Complying Development



View with Proposed Development

A decrease in building width and increase in height results in a greater view sharing being provided between existing and proposed buildings.

Therefore the view loss is not considered unreasonable and in accordance with view sharing principles. The above assessment is supported by a View Loss & View Sharing Assessment carried out by Dr Richard Lamb which concludes;

“There are two separate but related issues that have been addressed in this submission. The first is the overall merits of the proposed height of the building. The second is the extent to which the program for the building fosters view sharing.

Despite the potential visibility of the building, its overall height does not appear likely to cause significant negative impacts on the character of scenic quality of views. In the context of incentives to foster greater building heights, approvals of buildings exceeding the existing height controls in the CBD and of other applications currently before the Council proposing an uplift, the building would appear to be satisfactory and neither out of scale nor incompatible with desired character.

With regard to the visual effects of height, rather than urban design considerations, it has been shown above that increased height proposed above the benchmark height of 24m plus the 30% bonus would not lead to significant increases in view loss in the public domain.

With regards to view loss to the private domain, the building would be on a site which has provided fortuitous views for residents to its east and north as a result of its effectively undeveloped nature. A site of this size with no vertical development in the vicinity of the CBD is almost an anachronism in contemporary Gosford.

Any building occupying a reasonable complying envelope will have significant impacts on views from the residential visual catchment, including the Broadway Apartments and Georgiana Quay buildings. As the site is directly south of Broadway Apartments and in a direction in which scenic views are possible and desirable, it is inevitable that a new building will cause view loss. The same could be said for Georgiana Quay in views south west and west.

The height of the building proposed above the benchmark height does not cause significant increases in view loss from the private domain either. The extra height component would obscure views of sky only. Therefore, view loss is not a reasonable reason for objection to the height proposed for the building. No extra weight should be given to the extent of view loss in Step 4 of Tenacity as a result of non-compliance with the height limit.

The remaining question is therefore whether the program for the building fosters view sharing.

The proposed building provides wider separation between residential towers than required in the DCP and has greater setbacks all round. The slimmer and taller form of the tower component increases view access for neighbours. The wide setback distance between the taller part of the building and the Broadway Apartments assists further.

I have analysed the extent to which the building promotes view sharing, above. In my opinion the building is successful as regards view sharing by being modelled and located on its site in such a way that it achieves satisfactory view sharing to the extent that is reasonable to expect.

In regard to the related issues of building height and view sharing, in my opinion the proposal is reasonable and despite the breach of the height control that is proposed, the application can be supported.”

Shadow Impacts

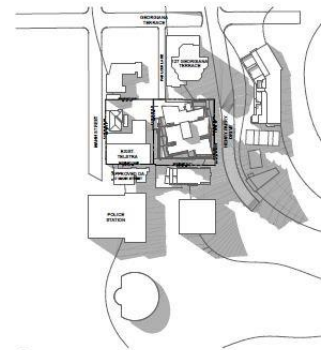
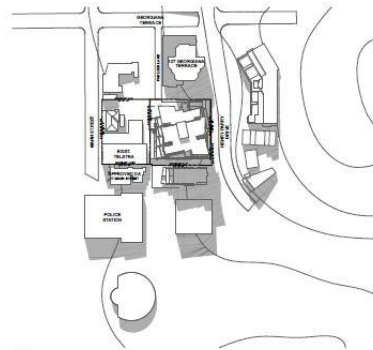
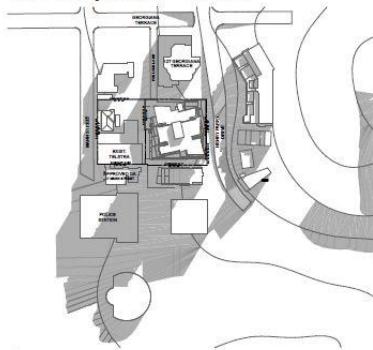
Due to the steep slope and fall of the land from the east to the west, shadow impact from buildings are extensive in the early morning and in the late afternoon, particularly in June.

In the early morning, the site is overshadowed by existing development and higher ground on the high side of Henry Parry Drive. This is unavoidable due to the terrain in this locality. Even in March/September, the approved development on the adjoining southern side will have shadow impacts.

The Land and Environment Court judgement in *Lane Cove Council v Orca Partners Management P/L (No 2) [2015] NSW LEC 52* rejected an argument that a building which exceeds the height standard must have no additional overshadowing at all.

The shadow diagrams submitted show that the additional shadow caused by the height variation is not significantly greater than a building complying with the height limit, as shown below:

As Proposed - June

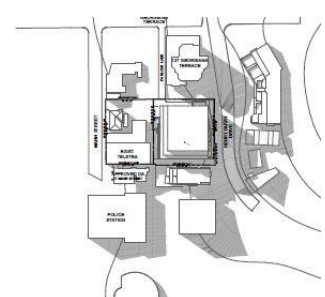
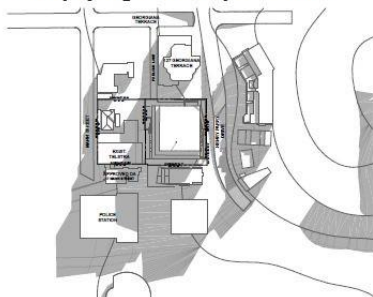


Shading Diagram - As Proposed 8m June

Shading Diagram - As Proposed 12m June

Shading Diagram - As Proposed 30m June

Complying Envelope - June



Shading Diagram - Complying Envelope 8m June

Shading Diagram - Complying Envelope 12m June

Shading Diagram - Complying Envelope 30m June

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 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 \$340,000.00. In accordance with Part B of Council's Resolution, the reimbursement of the CP required by Council is \$1,020,000.00.

(Refer Recommendation D & G and Condition 2.16)

External Referrals

(a) Police

Crime Prevention Through environmental Design Report has been substantiated. No objections.

(Refer Condition 4.4)

(b) Roads & Maritime Services (RMS)

No objections subject to the following condition being imposed:

- *Excavation of the site adjacent to Henry Parry Drive shall be adequately stabilised to the satisfaction of Roads and Maritime. All stabilisation works shall be conducted within the boundaries of the site. No stabilisation shall be permitted within the Henry Parry Drive road reserve. Details of the excavation and stabilisation works shall be submitted to Roads and Maritime for approval prior to the commencement of constructions works to ensure there are no adverse impacts on the classified (State) road network.*

(Refer Condition 2.10 and 3.11)

- *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.*

(Refer Condition 2.11)

- *There is potential for road traffic noise to impact on development on the site. In this regard, the applicant, not Roads and Maritime, 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).*

(Refer Condition 7.7)

The RMS further advise that the site is not affected by any road widening proposal.

Internal Referrals

(a) Building Surveyor

No objections subject to conditions.

(b) Tree Officer

No objections subject to conditions.

(c) Development Engineer

(i) "Drainage"

The Applicant's survey investigations have not been able to determine where the existing stormwater runs through the site and connects to the Mann Street drainage system. The Applicant's hydraulic engineer has proposed to extend the stormwater, however there are two issues with this proposal. Firstly, this will introduce stormwater into a different sub-catchment that in all probability does not have additional capacity, and secondly, there does not appear to be enough grade and cover to enable this

concept to work (since the pit to the north is at a higher elevation). Consequently, I don't support the hydraulic engineer's conceptual proposal. Instead, the piped stormwater system located south of the site should be extended up to the site. Though this run is longer (in the order of 40m or so) the road falls in that direction and the development drains into this sub-catchment. This is required as a condition of consent.

(Refer Condition 2.3)

(ii) Traffic

The Traffic Report prepared by Varga Traffic Planning provided the following information concerning vehicular access:

“Vehicular ingress to both the residential and Telstra car parking facilities is to be provided via Parlour Lane and the Mann Street easement. Vehicular egress for both car parking facilities is to be provided via the Mann Street easement only. A circular pick-up/drop-off area is to be provided outside the main entrance to the building, before the entrance to the car park.

Loading/servicing for the proposed development is expected to be undertaken by a variety of commercial vehicles up to and including Council's 10.0m long rigid garbage truck. The service bay is to be located in the north-eastern corner of the site, at the rear of the circular drop-off/pick-up area. Vehicular ingress to the service bay is to be provided via Parlour Lane from Georgiana Terrace/Mann Street whilst vehicular egress is to be provided directly back out to Mann Street via the existing easement.”

This proposed flow of traffic is a good solution for the occupants of the development. It can be enforced by a “No Entry” sign at the southern end of Parlour Lane. It is not recommended to make Parlour Lane a one-way street as this will require either dedication of the existing access to Mann Street as road reserve or alternatively granting rights of carriageway / accessway to the properties fronting Parlour Lane.

The traffic consultant has analysed the impact of the additional traffic movements on the existing road network using the SIDRA program and has determined that the proposed development will not have unacceptable traffic implications in terms of road network capacity.

(iii) Road Works & Access

As mentioned above vehicular ingress to both the residential and Telstra car parking facilities is to be provided via Parlour Lane and the access from Mann Street. Vehicular egress for both car parking facilities is to be provided via the driveway access to Mann Street only. It is recommended that “No Entry” signage and line-marking be provided on the southern side of the entry into the property from Parlour Lane to prohibit residents of the development from driving north along Parlour Lane.

The vehicle crossing servicing the site's vehicular access needs to Mann Street is to be upgraded to a tapered heavy-duty vehicle crossing suitable for a heavy rigid vehicle. Though there is limited space to easily manoeuvre a Heavy Rigid Vehicle (HRV) at the southern end of Parlour Lane this should not preclude upgrading the vehicle crossing on Mann Street to accommodate a HRV.

The development site currently consists of two adjacent lots fronting Mann Street. The existing footpath is to be upgraded in accordance with the Gosford City Centre “Streetscape Design Guidelines”, dated September 2011 prepared by Oculus.

Pedestrian access will be via a connecting ramp to Henry Parry Drive and Parlour Lane (which acts as a share-way)."

(d) Heritage

The former Gosford South Post Office is a local heritage item identified in Gosford LEP 2014.

The heritage item is located on the Mann Street frontage of the site and wholly contained within proposed Lot 101. It was constructed in 1882.

The Heritage Report submitted identifies that:

- The building has been heavily modified over the years. The site contains a number of buildings erected/added in the past and now houses Telstra equipment and a depot at the rear of the heritage building.
- There is adequate separation of the heritage item from the proposed development and proposed subdivision boundary, provided landscaping and planting of vegetation along the boundary is carried out as shown in the landscape plan.

This will provide a visual separation between the heritage building and the proposed building.

Council's Heritage Advisor raises concern with the height of the retaining wall separating the proposed development from the Heritage building (former Post Office). Options should be looked at such as increased setbacks and landscaping to soften the potential impact.

Planning Comment

The heritage building is located about 25m from the proposed boundary of Lot 101 and 102. The slope of the land will result in a high retaining wall on the boundary. This is disguised by landscaping on top. The proposed building setbacks are appropriate for the site as the building is at an angle to the proposed boundary and average setbacks are greater than that required under the DCP.

(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).

A multi residential building is appropriate on this site.

Only 10.6% of the site allocated to deep soil planting with this located almost entirely along the southern boundary with a 1 metre wide strip on the east. The planting shown on the north east is above the carpark and therefore is not deep soil planting. The GCCDCP requires 15% of the site to be deep soil and the RFDC recommends a minimum of 25%.

All the proposed trees are low growing exotics that are too small to break up the scale of the building. As a minimum there should be some large local indigenous species located at the corners of the site to visually separate this and adjoining sites."

Planning Comment

There are significant areas of landscaping provided on Level 1 and 7 which is greater than 15% of the site area. Condition 2.14 requires the provision of large trees as recommended.

Public Submissions

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

Issue	Submission	Comment
Wind Impact	Wind Tunnel Effect	Measures provided to mitigate impact.
Height	Exceeds height limit	Clause 4.6 submission supports variation.
Setbacks	Non-compliance with DCP	Variations supported.
Visual Impact	Visible from Brisbane Water	Any building above Telstra building will be visible from waterfront.
View Loss	Impacts view from surrounding buildings.	View loss not unreasonable.
Amenity	Noise pollution impact	Not a significant increase.
Bulk and Scale	Not suitable for site	Complies with FSR.
Road Access	Parlour Lane too narrow	Adequate for two-way traffic. Two (2) access driveways to site.
Incentive Bonus	30% is ridiculous	Permitted under LEP to revitalize Gosford City Centre.
Heritage	Located in Heritage Precinct	Heritage Report submitted. Heritage building to be retained.
Parking	Lack of parking	Minor variation – not significant.

Conclusion

The proposal has significant variation to the height development standard. 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 B4 Zone and approval is in the public interest for the following reasons:

- The building will contribute significantly to the revitalization of the City Centre;
- The proposal will strengthen Gosford as the regional capital of the Central Coast;
- The building addresses impacts on views and shadow; 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 height control, the variations are supported due to:

- The unique nature and size of the site;
- The built form and landscape;
- The separation from the heritage item and existing and likely future development;
- 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 building articulation, setbacks, materials, and landscaping; and
- The variation to height to achieve view showing.

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, site cover, floor plate, and building setbacks, which are supported. The variations are considered to not be significant, and appropriate for this site.

The proposal complies with the maximum FSR permitted under the bonus.

The issues raised in public submissions are addressed by conditions of consent or do not justify refusal of the proposal. The proposal is consistent with Council's strategy to increase employment and population in the City centre. This proposal will increase resident population to support the Commercial Core Zone, revitalize Gosford CBD and the waterfront, and to create the Regional Capital of the Central Coast.

The Police and RMS have no objections subject to conditions.

View loss and shadow impact caused by the proposal are not unreasonable for the proposal on this site.

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 No 46272/2014 for the proposed Residential Flat Building (140) Units and Demolition of Existing Structures, 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 be notified of Joint Regional Planning Panel's decision.
- F The Police and Roads & Maritime Services be notified of the Joint Regional Planning Panel decision.
- G Council's S94 Officer be advised the reimbursement required to CP94A is \$1,020,000.00.

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 CKDS Architects

Drawing	Description	Sheets	Issue	Date
A-001	Cover Sheet	1	C	28/08/2014
A-002	Project Summary	1	C	28/08/2014
A-003	The Site	1	C	28/08/2014
A-004	Site Analysis	1	C	28/08/2014
A-005	Planning Strategy	1	C	28/08/2014
A-006	Planning Strategy	1	C	29/08/2014
A-007	BASIX	1	C	29/08/2014
A-008	BASIX	1	C	29/08/2014
A-011	Site Plan	1	C	27/08/2014
A-101	Basement Level 3		C	27/08/2014
A-102	Basement Level 2	1	C	27/08/2014
A-103	Basement Level 1	1	F	03/03/2015
A-111	Floor Plan, Level 1 and Ground Floor	1	C	27/08/2014
A-112	Floor Plan Levels 2-6	1	C	27/08/2014
A-113	Floor Plan Level 7 Podium terrace	1	C	27/08/2014
A-114	Floor Plan Levels 8-13	1	C	27/08/2014
A-115	Floor Plan Level 14	1	C	27/08/2014
A-116	Floor Plan Level 15	1	C	27/08/2014
A-117	Floor Plan Roof Plan	1	C	27/08/2014
A-201	North Elevation	1	C	27/08/2014
A-202	South Elevation	1	C	27/08/2014
A-203	East Elevation	1	C	27/08/2014
A-204	West Elevation	1	C	27/08/2014
A-301	Section A	1	C	27/08/2014
A-302	Section B	1	C	27/08/2014
A-401	Apartment Mix/FSR Diagrams	1	C	28/08/2014
A-402	SEPP 65 Diagrams	1	C	28/08/2014
A-403A	Shadow Diagrams - March	1	C	14/04/2015
A-403B	Shadow Diagrams – June		C	14/04/2015
A-404	View Diagrams	1	C	28/08/2014
A-405	External Finishes Schedule	1	C	28/08/2014

Landscape Plans by Site Image Landscape Architects

Drawing	Description	Sheets	Issue	Date
000	Landscape Cover Sheet	1	A	27/08/2014
101	Landscape Plan Levels 1 and 7	1	A	27/08/2014
501	Landscape Details	1	A	27/08/2014
502	Landscape Details	1	A	27/08/2014

C001	Colour MasterPlan	1	A	27/08/2014
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Civil Plans by Taylor Thomson Whitting

Drawing	Description	Sheets	Issue	Date
C01	Notes and Legends Sheet	1	P2	13/11/2014
C02	Siteworks and stormwater Plan Basement Level 1	1	P2	13/11/2014
C03	Stormwater Basement Plan Level 2	1	P2	13/11/2014
C04	Stormwater Basement Level 3	1	P2	13/11/2014
C05	Sediment Erosion Control Plan	1	P2	13/11/2014
C06	Details Sheet 1	1	P2	13/11/2014
C07	Details Sheet 2	1	P2	13/11/2014

Supporting Documents

Author	Document	Title	Date
Doug Sneddon Planning P/L		Statement of Environmental Effects	August 2014
CKDS Architecture		SEPP 65 Compliance Table	
Terrence C Chapman	570214M	BASIX Certificate	27/08/2014
Taylor Thomson Whitting	141509P	Stormwater Report	12/11/2014
Barker Ryan Stewart	CC140105	Waste Management Plan	November 2014
Varga Traffic Planning P/L	14478	Traffic and Parking assessment Report	17/11/2014
Barker Ryan Stewart	CC140105	Crime Prevention Through Environmental Design	August 2014
Windtech	WC140- 01FO2-WS	Pedestrian Wind Environment Statement	26/08/2014
Barker Ryan Stewart	CC140105	Heritage Impact Assessment	March 2015
Doug Sneddon Planning P/L		Clause 4.6 Gosford LEP 2014 Submission	August 2014
Independent Living Centre		DA Access Audit	27/08/2014
Dr Richard Lamb		View Loss & Sharing Assessment	3 June 2015

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:
- Site investigation for the preparation of the construction, and/or
 - 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 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. Tapered heavy-duty vehicle crossing on Mann Street designed to accommodate the swept path of a Heavy Rigid Vehicle that has a minimum width of 6.5m at the property boundary and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.
- b. Full width reinforced (SL72 steel fabric, 100mm thick) concrete footpath across the full frontage of the site in Mann Street. Footpath treatment shall be in accordance with the Gosford City Centre "Streetscape Design Guidelines", dated September 2011 prepared by Oculus.
- c. A minimum 1.5m wide reinforced concrete pedestrian footpath ramp connecting the development to the existing footpath in Henry Parry Drive. Steps are not permitted. The design of the ramp shall be carried out by a suitably qualified and experienced structural engineer in accordance with relevant Australian Standards. The ramp shall include safety devices such as handrail and barriers to prevent pedestrians falling from the sides of the ramp.
- d. Extension of the piped drainage system to the site from the existing pit located to the south in Mann Street near the Police Station.
- e. The piping of stormwater from within the site to Council's drainage system located in Mann Street.

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

- 2.4. Submit 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. Pay a security deposit of \$100,000 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. Submit engineering details prepared and certified by a practising structural engineer to the Council (Water Authority) for development constructed near or over the sewer main and / or adjacent to Council's water mains. The engineering details must comply with Council's guidelines for "Building Over or Near Council Sewer and Water Mains" and must be approved by Council. A fee for engineering plan assessment must be paid when submitting the engineering details.

Additional fees for the submission of contractor's documentation and sewer inspection fees apply for the adjustment or encasement of Council's sewer main. Subject to approval of the engineering plans, and payment of the prescribed fees, the developer must contact Council's Water and Sewer Quality Inspector on mobile phone 0419 412 725 a minimum of one week prior to commencement of any work involving building over and / or 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. A stormwater detention system must be designed in accordance with Council's DCP 2013 Chapter 6.7 - 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. On-site stormwater retention measures must be designed in accordance with Council's DCP 2013 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.
- d. Nutrient/pollution control measures must be designed in accordance with Council's DCP 2013 Chapter 6.7 - Water Cycle Management. A nutrient/pollution control report including 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 Mann Street.

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

- 2.9. Structures constructed adjacent to a Council stormwater system and/or drainage easement and within the zone of influence must have footings designed in accordance with Council's "Guidelines for Building Adjacent to a Drainage Easement". Details prepared by a practising structural engineer shall form part of any Construction Certificate.
- 2.10. Details of the excavation and stabilisation works shall be submitted to Roads and Maritime for approval prior to the commencement of construction works to ensure there are no adverse impacts on the classified (State) road network. Excavation of the site adjacent to Henry Parry Drive shall be adequately stabilised to the satisfaction of Roads and Maritime. All stabilisation works shall be conducted within the boundaries of the site. No stabilisation shall be permitted within the Henry Parry Drive road reserve.

- 2.11. Prepare a Construction Traffic Management Plan (CTMP) 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.
- 2.12. Provide a minimum twenty-one (21) adaptable units.
- 2.13. Registration of the Subdivision creating Lot 102, prior to the issue of any Construction Certificate.
- 2.14. Amendment of the Landscape Plan to provide large indigenous species located at the corners of the site, with mature height greater than 6m.
- 2.15. Provide a minimum 4.0m vertical height in areas serviced by waste trucks.
- 2.16. The payment to Council of a contribution of \$340,000.00 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

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. Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer.
- 3.6. Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures must be in accordance with the NSW WorkCover publication titled, '*Site Security and Public Access onto Housing Construction Sites*' and installed prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

- 3.7. 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. Excavation of the site adjacent to Henry Parry Drive shall be adequately stabilised to the satisfaction of Roads and Maritime. All stabilisation works shall be conducted within the boundaries of the site. No stabilisation shall be permitted within the Henry Parry Drive road reserve. Details of the excavation and stabilisation works shall be submitted to Roads and Maritime for approval prior to the commencement of constructions works to ensure there are no adverse impacts on the classified (State) road network.

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. 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.
- 4.4. 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.
- 4.5. 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*.
- 4.6. 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.
- 4.7. 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.
- 4.8. 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'.
- 4.9. 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.
- 4.10. The pruning of trees necessary to accommodate the approved building works must be carried in accordance with AS 4373-2007 "Pruning of Amenity Trees", by a qualified Arborist.
- 4.11. Excavation within 3m of the Gum tree located within the northern adjoining property near the boundary is to be supervised by a Consulting Arborist (AQF level 5). Excavation is to be hand dug to a depth no less than 1m from original grade and all care is to be taken not to damage tree roots. If tree roots greater than 50mm are found during works that cannot be avoided and need to be severed, they are to be cut with a saw (not ripped).
- 4.12. The internal road strength used by the waste trucks must be sufficiently strong enough to withstand a truck loading of 22.5 tonnes.
- 4.13. No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.
- 4.14. The waste truck servicing grade is to be 3% or less for the following areas:
 - Within the enclosure

- For bulk bin roll out pads
 - Within the 13m bulk bin and truck service area
- 4.15. Garbage chutes to be constructed in accordance with Appendix F: Garbage Chutes, Chapter 7.2 – Waste Management of Gosford DCP 2013 and all relevant BCA requirements.
- 4.16. Waste storage enclosures/rooms to be constructed in accordance with Appendix D and Appendix G, Chapter 7.2 Waste Management of Gosford DCP 2013 and all relevant BCA requirements.

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. The driveway, vehicle manoeuvring area and car parking spaces as shown on the approved plan must be properly constructed, graded, drained, sealed and line marked including directional arrows with impervious paving material, in accordance with Australian Standard 2890.1-2004 Off Street Parking.
- 5.4. The street number is to be at least 100mm high and be clearly visible from the street frontage.
- 5.5. 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.
- 5.6. The requirements of the BASIX certificate for development and shown on the approved plans must be complied with prior to the issue of any occupation certificate.
- 5.7. Impervious surface areas including pathways and driveways are to be graded and drained to prevent water run-off affecting adjoining properties.
- 5.8. 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'.
- 5.9. 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.
- 5.10. 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.
- 5.11. 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.

5.12. Certification from a consulting engineer shall be submitted to Council stating that all slabs and/or footings within the zone of influence associated with the Council stormwater system and/or drainage easement have been constructed in accordance with any Construction Certificate.

5.13. Completion and maintenance of Landscaping works.

6.. ONGOING OPERATION

- 6.1. No materials, waste matter or products shall be stored outside the building or the approved waste storage area, at any time.
- 6.2. All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.
- 6.3. The operation of all mechanical plant equipment and machinery (i.e. air conditioning unit and/or heat pump) shall not give rise to offensive noise as defined in the Protection of the Environment Operation Act 1997.
- 6.4. Maintenance of the on-site stormwater detention facility in accordance with the operation & maintenance plan.
- 6.5. Maintenance of the nutrient/pollution control facilities in accordance with the operation & maintenance plan.
- 6.6. Compaction of waste is not permitted.

- 6.7. Recyclable waste is not to be disposed of via garbage chutes. All recyclable waste to be placed into the interim recyclable waste storage room on each floor adjacent to the garbage chute/s for manual transfer to the Principal waste storage enclosure.

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 Council's web site www.gosford.nsw.gov.au to download a form from the Water & Sewerage forms index.
- 7.7. There is potential for road traffic noise to impact on development on the site. In this regard, the applicant, not Roads and Maritime, 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).

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

Sixteen (16) 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. The proposal exceeds the maximum height by 16.5m which is at least equal to five-storays. This causes major overshadowing and loss of privacy to the approved development to the south. The proposal should be reduced in height.**

Comment

The proposal exceeds the height limit on the southern side which is compensated for by having a lower height on the northern side of the building. Shadow impact has been assessed as reasonable.

- 2. The proposal does not comply with street frontage height in Henry Parry Drive required under Section 4.1.2.3 of the DCP.**

Comment

There is no street frontage height required in the DCP for Henry Parry Drive frontage.

- 3. The proposal does not comply with boundary setbacks required under 4.1.2.5 of the DCP.**

Comment

The variations to setbacks are justified due to the orientation of the building at an angle to the site boundaries.

- 4. The proposal is visually prominent when viewed from Brisbane Water.**

Comment

The proposal will be visible above the former Gosford South Post Office and visible from the waterfront. This will occur with any development on the site built to the height limit.

- 5. The proposed taller building is no less bulky than a compliance height building.**

Comment

The bulk of the building is offset by increasing the height on one side and decreasing the height on the other side.

- 6. The view corridor and privacy from properties to the north-east opposite side of Henry Parry Drive will be blocked.**

Comment

The proposal does not impact any view corridors identified in Figure 2.14 of Chapter 4.1 of Gosford DCP 2013.

- 7. Greater weight must be given to the approved development on the adjoining site than the current DA. Refer *Land and Environment Court Case 11233 of 2008*. Consent should not be granted that is not compatible with the residential character and amenity of the locality.**

Comment

The above Appeal related to low density dwelling-houses, not high density residential development. The proposal complies with the desired character, and incentives to revitalize Gosford City Centre.

- 8. The increase in noise and pollution from cars and trucks on Henry Parry Drive.**

Comment

The site does not have vehicular access to Henry Parry Drive. All access is to Mann Street/Georgiana Terrace.

- 9. The proposal is out of character, too bulky, and the height, shape and size is not suited to the site.**

Comment

The zoning and bonus incentives are to encourage increased density and increase in population to support the City Centre revitalization. The proposal complies with the FSR required.

- 10. The proposed entry and exit from Parlour Lane (which is one-way) is unsuitable for the traffic generated.**

Comment

The site has access from Parlour Lane as well as a 6m wide right-of-way to Mann Street. The entry and exit are adequate for the traffic generated.

- 11. The proposal will interfere with the flying fox flight path, which fly across the site to the trees at the Memorial Park in Mann Street.**

Comment

Flying foxes and other flying animals will be able to avoid the building and other buildings.

- 12. The building height above Henry Parry Drive will create a wind tunnel effect.**

Comment

A Wind Effect Report has been submitted. The proposal has no significant impact.

- 13. The height of the building at RL 70m AHD is getting close to the ridgeline of John Whiteway Drive at RL 75m-80m. The sightline to the ridgeline will be destroyed.**

Comment

The ridgeline has a height off John Whiteway Drive is RL 80m AHD and the ridgeline of Rumbalara Reserve is up to RL 124m AHD.

- 14. The 30% bonus to height and FSR is ridiculous. It simply provides people getting consents and not completing development. There is no justification for the 30% variation let alone greater variations.**

Comment

The 30% bonus has generated a significant increase in applications. The purpose of the incentives is to generate development to revitalize the City Centre.

- 15. The incentive provisions will generate traffic greater than the road system can cater for.**

Comment

The Traffic Report identifies that the street system can cater for the additional traffic.

- 16. Setbacks do not comply with Council's DCP. This causes loss of sunlight, loss of views and loss of privacy.**

Comment

Setbacks to boundaries vary due to the orientation of the building at an angle to the boundaries. The setbacks are considered appropriate and achieve a better design outcome than strict compliance would achieve.

- 17. The proposal impacts the view corridor and views to ridgeline and bushland identified in the DCP.**

Comment

The site is not identified as a view corridor identified in the DCP.

- 18. The extent of car parking and traffic will impact the amenity of the neighbourhood.**

Comment

The additional traffic generated is not significant and car parking provided is considered satisfactory.

- 19. The proposal is located in a Heritage Precinct and adjoins a Heritage building which will be impacted.**

Comment

A Heritage Report has been submitted. The proposed building is adequately separated from the Heritage building.

- 20. The proposal exceeds the building bulk and depth of 750m² and 24m.**

Comment

The variation is considered minor and not significant.

21. A Geotechnical Report should be provided as the excavation will affect adjoining structures.

Comment

A Dilapidation Report is required as a condition of consent.
(Refer Condition 2.2)

22. The proposal creates pedestrian/traffic conflicts.

Comment

This has been taken into consideration for the design at the entry to the building with separation of Telstra traffic, waste vehicles, and residents' traffic.

23. The proposal will generate wind tunnel effect.

Comment

No evidence has been submitted to substantiate this.

24. Lack of car parking spaces.

Comment

The variation to parking is 4 spaces or 2%. This is negligible. It is considered adequate on-site parking is provided.

25. The design does not meet SEPP 65 Design Quality Principles.

Comment

The applicant has submitted a SEPP 65 Design Verification Statement.

26. The proposal does not comply with the Gosford City Centre MasterPlan.

Comment

The proposal complies with the MasterPlan to increase population in the B4 Zone to support the CBD or commercial core.

27. The proposal will result in an increase in crime.

Comment

No evidence has been submitted to substantiate this contention. An increase in population will increase natural surveillance. Natural surveillance is a deterrent to crime.

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