

**JOINT REGIONAL PLANNING PANEL
(Hunter and Central Coast)**

SUPPLEMENTARY REPORT

JRPP No	2014HCC026
DA Number	46272
Local Government Area	Gosford City Council
Proposed Development	Residential Flat Building (140 Units) and Demolition of Existing Structures (JRPP)
Street Address	23 Mann Street GOSFORD
Applicant Name	M Eskander
Owner Name	Telstra - Transfield Services Aust
No Public Submissions	16
Capital Investment Value	\$34 Million
Zone	B4 Mixed Use
Recommendation	Approval (subject to conditions)
Report by	R A Eyre

Assessment Report and Recommendation Cover Sheet

SUPPLEMENTARY 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 (JRPP) ON LOT A DP: 88695, LOT: B DP:
88695, 23 MANN STREET GOSFORD, 21 MANN STREET GOSFORD

Directorate: Governance and Planning
Business Unit: Development and Compliance

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

EXECUTIVE SUMMARY

1.1. REASON FOR SUPPLEMENTARY REPORT

This supplementary report is prepared pursuant to the decision of the Hunter & Central Coast Joint Regional Planning Panel (JRPP) meeting on 30 July 2015, to defer determination of the development application to enable an additional report to address a range of matters including;

- SEPP 65 compliance and analysis.
- Response to the comments provided by Council's Architect in relation to SEPP 65.
- Overshadowing impacts, including an analysis of the impacts of the proposed additional height on both the public and private domain and having regard to the objectives of the height standard.
- Clarification on the proposed site coverage.
- A thorough response to each objective of the height standard.
- A thorough analysis of view impacts from all potentially impacted buildings in the locality, having regard to the Land & Environment Court's planning principle on view sharing, particularly focusing on the impact of the additional height and height distribution across the site.
- Consideration of wider public benefits and any proposed works to the public domain.

In response to the above the applicant has submitted the following additional information;

- SEPP 65 Compliance Statement additional comments
(Refer Attachment 1)
- Shadow Diagram – Winter and Summer 9am, 12pm and 3pm for existing, compliant, and proposed development
(Refer Attachment 2)
- Amended Clause 4.6 variation to height development standard
(Refer Attachment 3)
- View Impact Addendum Report
(Refer Attachment 4)

This Supplementary Report addresses the JRPP requirements as follows;

- SEPP 65 Compliance and Analysis/Response by Council's Architect (Section 1.4)
- Overshadowing Impacts on Public and Private Domain (Section 1.5)
- Clarification of Site Coverage (Section 1.6)

- Responses to Objectives to the Height Standard (Section 1.7)
- View Impact Analysis (Section 1.8)
- Public Benefits/Works in the Public Domain (Section 1.9)

1.2. 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

1.3. THE 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.

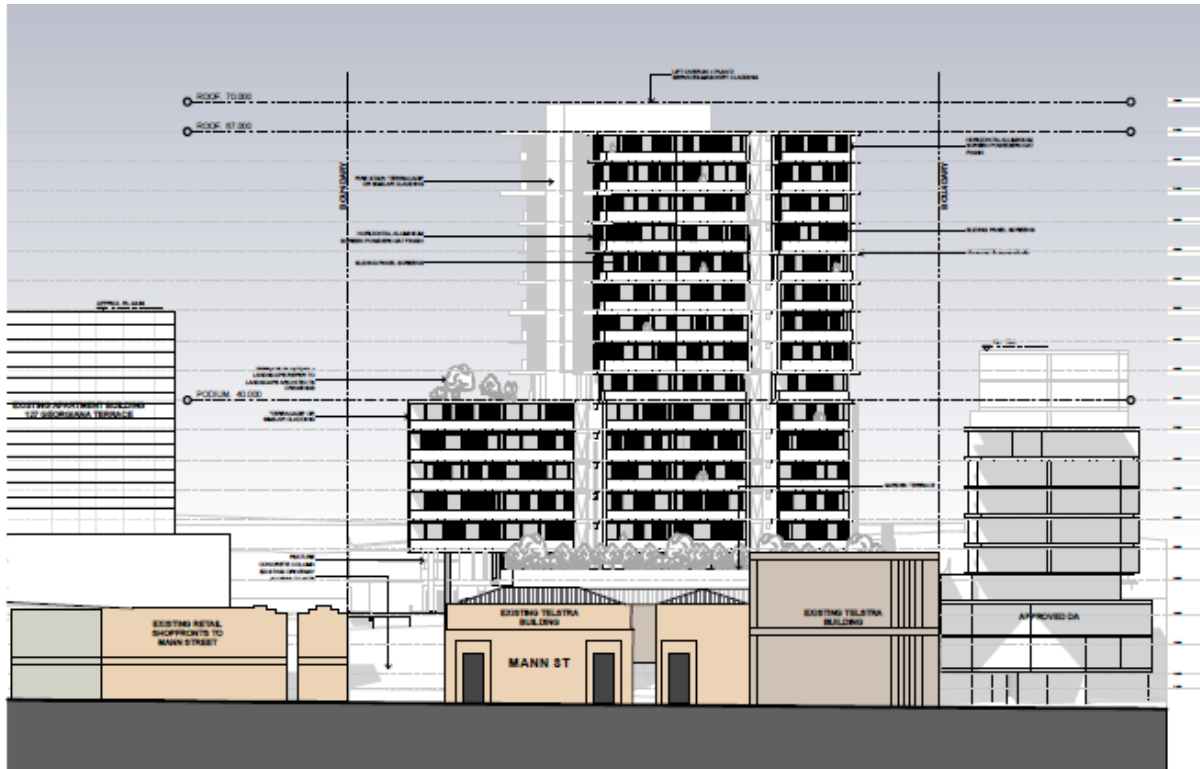
Up to Level 6, the building is setback about:

- 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

1.4. SEPP 65 COMPLIANCE AND ANALYSIS / RESPONSE BY COUNCIL'S ARCHITECT

a) Context and Neighbourhood Character

Council's Architect

"The site is located within the city centre area, close to the waterfront, stadium and commercial core. A multi residential building is appropriate and consistent with the desired future character for the area.

Though the architecture is generally acceptable, surrounding developments are setback from side boundaries to allow for landscaping to screen and soften the buildings. In this application the landscape area is not adequately distributed resulting in no landscaping area on the western boundary and a narrow 1 metre wide strip on the north, both of which compromise the compatibility with the existing and likely future context."

Applicant's Architect

"Deep soil areas feature across the entire site, achieving a minimum of 15% of the site area.

Deep soil zone is made up from 6m wide zone on the southern boundary (no building under). This equates to approximately 10% of the site area.

The remaining 5% is located at north east corner of the site. Part of this area is over the basement car park, however, there is a minimum of 3m soil from ground level to top of car park. Our Landscape Architect has advised that this is sufficient for the growth of large trees."

Planning Comment

This site is located in an area in transition from commercial uses to residential. The site is effectively 100% paved and impervious area.

The development of this proposal will result in a change to predominantly residential use on the site instead of car parking. This is consistent with the objectives of the B4 zone and future nature and character of the zone.

b) Scale

Council's Architect

"The scale is generally acceptable. It is acknowledged that the southern section of the building exceeds the height control by 4 storeys but this is largely compensated by a 4 storey reduction on the northern section of the building. This creates a view corridor for buildings behind and breaks up the visual bulk that could result from a building of uniform height.

The RFDC recommends a 12 metre setback above 9 storeys. The application proposes between 9 and 12 metres on the south. This is considered acceptable as only one unit per floor faces directly south and these comply with the 12 metre setback. It is also acknowledged that the approved application to the south does not comply fully with setback controls.

Though western facing units comply with setback controls, there is concern that at ground level the west elevation faces the adjoining site with a 5 metre high blank carpark wall on the boundary which, though not seen from the street is likely to have an impact on the development potential of the adjoining site."

Applicant's Architect

"Building separation has been provided where possible in line with SEPP No. 65 requirements. The approved development directly south of the subject site has been located within current required setbacks. The proposed development has provided design strategies to maintain privacy for both buildings.

The building separation has been based on the location of the approved DA at 17 Mann Street, which is located at only 3m from the boundary. Where the proposed building falls within this zone, 2 units on 3 levels are 3,800 within the separation requirements. In response to this, windows on the southern face have been angled to face west, and away from the approved DA at 17 Mann Street."

Planning Comment

The wall on the western elevation is located behind the Telstra building and not visible from Mann Street. It also has landscaping on the top of the wall and around the perimeter of the site to reduce the impact.

c) Built Form

Council's Architect

"Subject to addressing the issues under Scale, the built form is acceptable. The stepped profile, deeply recessed and articulated facade and variations in material all contribute to disguising the scale and providing visual interest."

Planning Comment

An amendment to the landscape plan and details of the colour and materials of the car park wall are addressed by Condition 2.14.

d) Density

Council's Architect

"Complies with the FSR controls. There is minor non-compliance (approximately 3%) with built upon area however this is considered acceptable."

e) Resource, Energy and Water Efficiency (Sustainability)

Council's Architect

"BASIX Certificate supplied indicating compliance with sustainability requirements."

f) Landscape

Council's Architect

"There appears to be some discrepancy in the area of deep soil planting however it is acknowledged that the area of planting on the north east, though located over the carpark and therefore not "deep soil" it is of sufficient depth for planting.

The remainder of deep soil planting is located almost entirely along the southern boundary with a 1 metre wide strip on the east.

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."

Applicant's Architect

"Deep soil zone is made up from a 6m wide zone on the southern boundary (no building under). This equates to approximately 10% of the site area.

The remaining 5% is located at north east corner of the site. Part of this area is over the basement car park, however there is a minimum of 3m soil from ground level to top of car park. Our Landscape Architect has advised that this is sufficient for the growth of large trees."

Planning Comment

There are significant areas of landscaping provided around the perimeter of the site, and on levels 1 and 7. Condition 2.14 requires the provision of large trees at the corners of the site as suggested by Council's Architect.

g) Amenity

Council's Architect

"A minimum of 70% of living rooms and private open spaces receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.

A minimum of 60% of apartments are naturally cross ventilated in the first nine stories.

Complies with ceiling height requirements. All habitable rooms have a minimum floor to ceiling height of 2.7 metres.

All units comply with minimum apartment size requirements.

All balconies comply with minimum size and location requirements.

All apartments have individual storage areas within the parking area."

h) Safety and Security

Council's Architect

"Upper level units have windows and balconies overlooking the entry and street to increase surveillance of public areas.

The lift lobby can be clearly seen from the entry.

Pedestrian and vehicle traffic is now separated."

i) Social Dimensions

Council's Architect

"The application provides a mix of 1, 2 and 3 bedroom units and also adaptable units for different needs of occupants.

Suitable communal open space is provided to encourage social interaction among residents."

j) Aesthetics

Council's Architect

"Subject to the issues raised under Context and Scale, the aesthetics are acceptable. The stepped profile, recessed and articulated facade and variations in material and colours all contribute to a well balanced and proportioned building."

1.5. OVERSHADOWING IMPACTS ON PUBLIC & PRIVATE DOMAIN

The objectives of the height standard of Clause 4.3 of the Gosford LEP 2014 are;

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

The applicant has submitted additional shadow diagrams for Summer and Winter at 9am, 12pm and 3pm showing the shadows cast by;

- existing and approved development;
- development complying with the height limit; and
- shadow impact of the proposed development.

These are shown in Plan Sheets 403A – 403F inclusive.

(Refer Attachment 2)

The assessment against the objectives of the height standard, particularly objectives c and f follows;

Applicant's Submission

"(c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight."

"The proposed building height exceedence does not reduce the opportunity for either the proposed development, neighbouring residences or public areas to receive satisfactory exposure to sunlight.

The mid-winter and mid-summer shadow diagrams provided in Annexure C (of Attachment 3) provide a comparative analysis of the shadows cast by the design height and footprint of the proposed development and the shadow cast by the same development if it were limited to the applicable maximum permissible building height development standard of 31.2m. These diagrams show:

- *In mid-winter at 9am the proposed development (in comparison to a complying development) casts an additional length of shadow over the front setback of the Anglican Church, part of the formation of Mann Street and a small section of 'Memorial Park' located on the western side of Mann Street. The existing conditions shadow diagram shows that existing buildings in the vicinity located along the eastern side of Mann Street cast similar shadows along the length of Mann Street.*

The additional shadow cast by the proposed development (compared to a complying development) has a minor transitory impact in the early morning on public areas along Mann Street, including the Memorial Park. However, no overshadowing is caused to important ceremonial parts of the park.

The proposed development will cast shadow over the approved (unconstructed) residential development located at No. 17 Mann Street and over part of the existing medium density residential development located at Nos. 84-86 Henry Parry Drive, both of which are located immediately to the south of the proposed development. However, a complying development has the same shadow impact on these properties as does the proposed development.

- *In mid-winter at Noon the proposed development (in comparison to a complying development) casts an additional length of shadow over the existing residential development located at Nos. 84-86 Henry Parry Drive. It is noted that the approved development at No. 17 Mann Street, when constructed, will also cast a shadow over part of Nos. 84-86 Henry Parry Drive.*

There is no overshadowing of public areas at Noon.

- *In mid-winter at 3pm the proposed development (in comparison to a complying development) will cast an additional length of shadow over residential buildings at Nos. 95, 97 and 99 Henry Parry Drive. However, this overshadowing is not significant given that it is for a transitory period in late afternoon.*

At 3pm there will also be a minor increase in the shadow cast over the Henry Parry Drive road formation in the late afternoon.

- *In mid-summer at 9am the proposed development (in comparison to a complying development) will cast a minor additional shadow over the Mann Street roadway formation, approximately equating the shadow cast by the existing Telstra buildings fronting Mann Street, as shown on the existing conditions diagram.*

- *In mid-summer at Noon the proposed development will not result in any shadow impacts on public areas and will not cast shadow over the approved (unconstructed) residential development located at No. 17 Mann Street, immediately adjacent to the southern property boundary.*
- *In mid-summer at 3pm the proposed development (in comparison to a complying development will cast a minor additional shadow over the roadway formation of Henry Parry Drive. This comparative shadow analysis demonstrates that the proposed development (in comparison to a complying development) does not have unreasonable shadow impacts on either the public domain or existing/proposed residential buildings in the immediate locality."*

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

"Other than for a minor transitory cast of shadow over a small section of Memorial Park at 9am in mid-winter, the proposed development does not overshadow any public open space. This overshadowing is not considered excessive."

Planning Comment

The applicant's submission is agreed with. The additional shadow impact is minor or not unreasonable, taking into consideration existing and approved development on adjoining sites.

1.6. CLARIFICATION OF SITE COVERAGE

The maximum site coverage for a residential development in the B4 Mixed Use zone is 60% and minimum deep soil planting is 15% of the site area (Clause 4.1.2.7 of Chapter 4.1 Gosford DCP 2013).

The aim of the maximum site coverage is to permit adequate deep soil planting and landscaping.

The additional information submitted calculates the site coverage as 63.61%, and deep soil planting at 15.04%.

The variation to site coverage is minor, and adequate deep soil planting and landscaping has been provided.

1.7. RESPONSE TO OBJECTIVES OF THE HEIGHT STANDARD

The following is the response to each of the objectives of the height standard under Clause 4.3(1) of the Gosford LEP 2014.

(Refer Attachment 3)

"(a) to establish maximum height limits for buildings,"

Applicant's Response

"Whilst LEP 2014 provides for a 31.2m maximum permissible building height on the subject land, Clause 4.6 permits the consent authority to exercise flexibility in applying this development standard to a particular development in order to achieve better design outcomes.

The proposed development of a taller, narrower structure on the subject land results in a building of more appropriate proportions, with improved amenity outcomes for neighbours.

The proposed exceedence of the maximum permissible building height is therefore consistent with the objectives of Clause 4.6."

Council Comment

The proposal complies with the maximum FSR permitted. The proposed height increase on one side, and decrease on the other side, is concluded to be a better design outcome than a height-compliant building with the same FSR.

"(b) *to permit building heights that encourage high quality urban form,"*

Applicant's Response

"As explained in the Architectural Design Statement provided in Appendix B of the accompanying Statement of Environmental Effects, the proposed development exhibits high quality urban form."

Council Comment

The proposed exhibits design excellence to justify the variation.

"(c) *to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,"*

Applicant's Response

"The proposed building height exceedence does not reduce the opportunity for either the proposed development, neighbouring residences or public areas to receive satisfactory exposure to sunlight.

The mid-winter and mid-summer shadow diagrams provided in Annexure C provide a comparative analysis of the shadows cast by the design height and footprint of the proposed development and the shadow cast by the same development if it were limited to the applicable maximum permissible building height development standard of 31.2m. These diagrams show:

- In mid-winter at 9am the proposed development (in comparison to a complying development) casts an additional length of shadow over the front setback of the Anglican Church, part of the formation of Mann Street and a small section of 'Memorial Park' located on the western side of Mann Street. The existing conditions shadow diagram shows that existing buildings in the vicinity located along the eastern side of Mann Street cast similar shadows along the length of Mann Street.*

The additional shadow cast by the proposed development (compared to a complying development) has a minor transitory impact in the early morning on public areas along Mann Street, including the Memorial Park. However, no overshadowing is caused to important ceremonial parts of the park.

The proposed development will cast shadow over the approved (unconstructed) residential development located at No. 17 Mann Street and over part of the existing medium density residential development located at Nos. 84-86 Henry Parry Drive, both of which are located immediately to the south of the proposed development. However, a complying development has the same shadow impact on these properties as does the proposed development.

- In mid-winter at Noon the proposed development (in comparison to a complying development) casts an additional length of shadow over the existing residential development located at Nos. 84-86 Henry Parry Drive. It is noted that the approved development at No. 17 Mann Street, when constructed, will also cast a shadow over part of Nos. 84-86 Henry Parry Drive.*

There is no overshadowing of public areas at Noon.

- *In mid-winter at 3pm the proposed development (in comparison to a complying development) will cast an additional length of shadow over residential buildings at Nos. 95, 97 and 99 Henry Parry Drive. However, this overshadowing is not significant given that it is for a transitory period in late afternoon.*

At 3pm there will also be a minor increase in the shadow cast over the the Henry Parry Drive road formation in the late afternoon.

- *In mid-summer at 9am the proposed development (in comparison to a complying development) will cast a minor additional shadow over the Mann Street roadway formation, approximately equating the shadow cast by the existing Telstra buildings fronting Mann Street, as shown on the existing conditions diagram.*
- *In mid-summer at Noon the proposed development will not result in any shadow impacts on public areas and will not cast shadow over the approved (unconstructed) residential development located at No. 17 Mann Street, immediately adjacent to the southern property boundary.*
- *In mid-summer at 3pm the proposed development (in comparison to a complying development will cast a minor additional shadow over the roadway formation of Henry Parry Drive.*

This comparative shadow analysis demonstrates that the proposed development (in comparison to a complying development) does not have unreasonable shadow impacts on either the public domain or existing/proposed residential buildings in the immediate locality."

Council Comment

The Land and Environment Court judgement in Lane Cove Council v Orca Partners Management Pty Ltd (No 2) [2015] NSW LEC 52, rejected an argument that a building which exceeds the height limit must have no additional overshadowing at all. This is a physical impossibility. The applicants assessment is agreed with. The additional shadow impact is over mostly roads, or does not have unreasonable additional shadow impacts.

- "(d) *to nominate heights that will provide an appropriate transition in built form and land use intensity*",

Applicant's Response

"The design height of the proposed development results in development that provides for a gross floor area consistent with the maximum permissible floor space ratio (residential density) applicable to the site."

Council Comment

The proposal complies with the FSR, and provides a variation/transition in height across the site.

- "(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,*"

Applicant's Response

"It is demonstrated in the Visual Impact Assessment provided in Appendix M of the accompanying Statement of Environmental Effects and the View Loss and View Sharing Assessment prepared by Richard Lamb & Associates, dated 3rd June 2015, that the proposed development does not cause significant visual impact; does not adversely impact on view corridors from public spaces; and provides for greater view sharing than would a development fully complying with the applicable maximum permissible building height/floor space ratio development standards.

The summary conclusion of the View Loss and View Sharing Assessment undertaken by Dr. Richard Lamb is as follows:

"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 or 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 regard 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."

Council Comment

The above is agreed with. The proposal promotes view sharing in accordance with the principles outlined in Tenacity Consulting Pty Ltd v Warringah Council [2014] NSW LEC 140.

A building of complying height across the site would have a greater impact than that proposed.

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

Applicant's Response

"Other than for a minor transitory cast of shadow over a small section of Memorial Park at 9am in mid-winter, the proposed development does not overshadow any public open space. This overshadowing is not considered excessive.

In relation to retaining views to natural topographical features, the View Loss and View Sharing Assessment prepared by Dr. Richard Lamb concludes:"

"Despite the potential visibility of the building, its overall height does not appear likely to cause significant negative impacts on the character or 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."

Council Comment

The reduction in height on the northern side of the site, and increase on the southern side of the site is in accordance with this objective and the requirement of the DCP.

The proposal does not result in excessive overshadowing of public parks or open space. Figure 2.14 in Chapter 4.1 of DCP 2013 identifies view corridors to be protected which includes across the northern side of the site.

1.8. VIEW IMPACT ANALYSIS

In Tenacity Consulting Pty Ltd v Warringah Council [2014] NSW LEC 140, the following four step assessment process in relation to view sharing is;

1. *Assessment of views to be affected.*
2. *Consider from what part of the property the views are obtained.*
3. *Assess the extent of the impact.*
4. *Assess the reasonableness of the proposal that is causing the impact.*

In respect of the step (2), an expectation to retain side views and sitting views would be unrealistic.

In respect of the step (3), the extent of the impact should be assessed for the whole of the property, not just for the view that was affected. The third step should be qualitatively measured on a scale from negligible to devastating.

In respect of the step (4), a development that affects views may be unreasonable if it comes about as a result of non-compliance with planning standards.

The applicant has submitted an additional View Impact Report (Attachment 4) which includes view impact assessment from;

- 1/100 John Whiteway Drive
- Units in Broadwater Apartments (127-129 Georgiana Terrace)
- Units in Georgiana Quay (107 Henry Parry Drive)

The report concludes;

“There are two separate but related issues that have been further 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 or scenic quality of views. It has been further demonstrated that the increased height proposed above the current limit would not lead to significant increases in view loss in the public domain.

With regard to view loss to the private domain, any building occupying a reasonable complying envelope will have significant impacts on views from the Broadway Apartments, Georgiana Quay and 100 John Whiteway Drive buildings.

The height of the building proposed above the current height limit does not cause significant increases in view loss from the private domain. View loss is not a reasonable reason for objection to the height proposed for the building.

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 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.

In the light of future information regarding views from the adjacent buildings, I remain of the opinion that the building is successful as regards view sharing by being modelled and located on its site in such a way that it achieves satisfactory and reasonable view sharing.

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

Council Assessment

a 1/100 John Whiteway Drive (Drawing SK-115)

This building is located about 75m to the east of the site. Views from the balcony and living area inside of the unit include part of Brisbane Water, the roofs of other buildings to the west and distant mountain views.

The proposal development will result in a loss of about 50% of water views and mountain views. This is significant. However, this loss would occur with a building of complying height.

Therefore, the view loss is not unreasonable and not as a result of the variation to height.

b Broadwater Apartments (127-129 Georgiana Terrace)

This building is located to the north of, and adjoining the side of the subject site. Views from balconies and inside units on the upper levels in this building include about 90 degree views of Brisbane Water generally to the south across the subject site. The view loss from the balconies is about 50% of the water view, and about 75% from within the building. This is significant. However this view loss would occur with a building of complying height.

As stated in the view sharing principles by the Land and Environment Court, an expectation to retain side views would be unrealistic.

Therefore the view loss is not unreasonable and is not due to the variation in height.

c 107 Henry Parry Drive Apartments 1 and 2

This building is located to the north-east of the subject site on the eastern side of Henry Parry Drive. Balconies from units have views of Brisbane Water to the south of Broadwater Apartments.

The proposal development will result in about a 50% loss of water views. This is significant. However this would occur with a building of complying height. The reduction in height of the proposed building on the northern side, and increase on the southern side, increases the view corridor between the proposed development and Broadwater Apartments, and increases the water view between the buildings by about double that which would be available if the buildings complied with the height limit on the northern side of the site.



d Summary

In summary, the applicant's view impact assessment and conclusions are agreed with. Water views are more prized than mountain views. Existing apartments which have water views from balconies/living areas will lose part of their water views even with a building of compliant height.

Views from Broadwater Apartments are across side boundaries which are unreasonable to expect to be retained.

The decrease in height on the northern side, and increase in height on the southern side, actually increases water views from some apartments beside and behind the proposed development greater than would exist if a complying height was constructed across the site.

Therefore, the proposal is considered to be consistent with view sharing principles and the variation to height is supported.

1.9. PUBLIC BENEFITS/WORKS IN THE PUBLIC DOMAIN

The proposed development is required to carry out road and footpath upgrading works in Mann Street in accordance with Council's 'Streetscape Design Guidelines' for the city centre.

The Section 94 Contribution required is \$340,000.00 which will be used to provide facilities identified in the Civic Improvement Plan (CIP).

In addition, a footpath connection to Henry Parry Drive is required to be provided. This will permit an additional pedestrian connection between Henry Parry Drive and Mann Street and the Gosford waterfront which currently does not exist.

(Refer Condition 2.3)

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 standard 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 sharing.

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 are considered 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.

Gosford City Council supports this proposed development and recommends that the JRPP grant consent to this development application subject to the attached conditions.

Attachments: Attachment 1 – SEPP 65 Compliance Statement
Attachment 2 – Shadow Diagram (Winter and Summer 9am, 12pm and 3pm)
for existing compliant and proposed development
Attachment 3 – Amended Clause 4.6 variation to height development standard
Attachment 4 – View Impact Addendum Report

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

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:
 - a. Site investigation for the preparation of the construction, and/or
 - b. Implementation of environmental protection measures, such as erosion control etc that are required by this consent.
- 2.2. Submit a dilapidation report prepared by a practising structural engineer at no cost to Council or adjoining property owners, detailing the structural adequacy of adjoining properties, including Council's property, and their ability to withstand the proposed excavation. This report must include any measures required to be incorporated to ensure that no damage will occur during the course of works. The report must be submitted to Council and relevant adjoining property owners prior to the issue of any construction certificate.
- 2.3. All 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. Modification of details of the development (s80A(1)(g) of the Act)

The *approved plans* must be amended. Any *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to Clause 139 of the *Regulation*, must detail:

- a) Amendment of the Landscape Plan to provide large indigenous species located at the corners of the site, with mature height greater than 6m.
- b) The 5m blank wall on the western boundary shall be disguised by varying colour and materials and landscaping on top of the wall. Details to be submitted to and approved by Council prior to the issue of a Construction Certificate.

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

2.17. Prior to the issue of any Construction Certificate for building works, a Wind Effects Report be prepared by a suitably qualified person which demonstrates that the building will not create wind impacts to pedestrians around the site greater than 13 metres per second. A copy of the Wind Effects Report is to be provided to Council, and should the report recommend any changes, Council shall formally advise whether a Section 96 application is required prior to the issue of a Construction Certificate.

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 of Landscaping works, prior to the issue of an Occupation Certificate, and maintenance of the landscaping for the life of the development.

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.

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