

**ATTACHMENT B - PREVIOUS ASSESSMENT REPORT  
CONSIDERED BY THE PANEL**

(IR 21727162)

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

JRPP No	2015 HCC 002				
DA Number	47046/2015				
Local Government Area	Gosford City Council				
Proposed Development	Mixed Use Development including Commercial, Residential (Shop Top Housing), Cinema, Hotel and Tavern				
Street Address	50-70 Mann Street and 114 Georgiana Terrace GOSFORD				
Applicant Name	New Hong Kong Macau Australian Pty Ltd				
Owner Name	New Hongkong Macau Australian Pty Ltd				
No Submissions	27 (13 in support and 14 objections)				
Regional Development Criteria (Schedule 4A of the Act)	Value greater than \$20 million (\$234.3 million)				
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"><li>• Environmental Planning &amp; Assessment Act 1979 - Section 79C</li><li>• Local Government Act 1993 - Section 89</li><li>• Gosford Local Environmental Plan 2014</li><li>• Gosford Development Control Plan 2013</li><li>• SEPP 65 Design Quality of Residential Flat Buildings</li><li>• SEPP (BASIX)</li><li>• SEPP (Infrastructure) 2007</li></ul>				
List all documents submitted with this report for the panel's consideration	<b>Architectural Plans by CKDS Architecture</b>				
	<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
	A-001	Cover Sheet	1	-	24/7/15
	A-002	Project Outline	1	F	14/8/2015
	A-003	Planning Strategy	1	F	14/8/2015
	A-011	Site Plan	1	F	14/8/2015
	A-101	Car Park Level 09/10	1	G	14/8/2015
	A-102	Car Park Level 07/08	1	G	14/8/2015
	A-103	Baker St Car Park Level 05/06	1	H	14/8/2015
	A-110	Car Park 03/04	1	G	14/8/2015
	A-111	Mann St Car Park 02	1	G	14/8/2015
	A-112	Commercial Car Park 01	1	G	14/8/2015
	A-113	Hotel/Commercial 05	1	G	14/8/2015
	A-114	Typical Tower Low Rise	1	G	14/8/2015
	A-115	Typical Tower Mid Rise	1	G	14/8/2015
	A-116	Typical Tower High Rise	1	G	14/8/2015
	A-121	Apartment Plans - Mann Street Tower -8 Unit	1	D	14/8/2015
	A-122	Apartment Plans - Mann	1	G	14/8/2015

		Street Tower - 6 Unit			
	A-123	Apartment Plans - Mann Street Tower - Penthouses	1	D	14/8/2015
	A-124	Apartment Plans - Baker Street Tower – 8 Unit	1	B	14/8/2015
	A-125	Apartment Plans - Baker Street Tower – 6 Units	1	B	14/8/2015
	A-126	Apartment Plans - Baker Street Tower – Penthouses	1	B	14/8/2015
	A-127	Apartment Plans - Georgiana Terrace Tower	1	G	14/8/2015
	A-128	Apartment Plans - Georgiana Terrace Tower - Penthouses	1	C	14/8/2015
	A-131	Roof Plan	1	D	14/8/2015
	A-201	North Elevation	1	F	14/8/2015
	A-202	East Elevation (Mann St)	1	F	14/8/2015
	A-203	South Elevation (Georgiana Tce)	1	F	14/8/2015
	A-204	West Elevation (Baker St)	1	F	14/8/2015
	A-301	Section A	1	F	14/8/2015
	A-302	Section B	1	F	14/8/2015
	A-303	Section C	1	F	14/8/2015
	A-401	Apartment Schedule/FSR	1	F	14/8/2015
	A-402	SEPP 65 Compliance June 21	1	F	14/8/2015
	A-403	SEPP 65 Compliance Equinox	1	F	14/8/2015
	A-404	External Finishes Schedule	1	D	24/7/2015
	A-421	View Study Locations	1	C	14/8/2015
	A-422	View Study	1	C	14/8/2015
	A-423	View Study	1	C	14/8/2015
	A-424	View Study	1	C	14/8/2015
	A-425	View Study	1	C	14/8/2015
	A-426	View Study	1	C	14/8/2015
	A-431A	Shadow Analysis March EDST	1	D	26/8/2015
	A-431B	Shadow Analysis March EDST	1	D	26/8/2015
	A-432A	Shadow Analysis June AEST	1	D	26/8/2015
	A-432B	Shadow Analysis June AEST	1	D	26/8/2015
	A-432C	Shadow Analysis June AEST	1	D	26/8/2015
	A-432D	Shadow Analysis June AEST	1	D	26/8/2015
	A-433A	Shadow Analysis December EDST	1	D	26/8/2015
	A-433B	Shadow Analysis December EDST	1	D	26/8/2015
	A-434	Shadow Diagrams	1	F	14/8/2015
	A-435	Shadow Diagrams Compliant Height	1	F	14/8/2015
	<b>Landscape Plan by Xeriscapes</b>				
	<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
	104	Landscape Plan Mann Street	1	C	22/08/2015

	<b>Supporting Documentation</b>		
	<b>Author</b>	<b>Title</b>	<b>Date</b>
	ADW Johnson Pty Ltd	Statement of Environmental Effects	July 2015
	Barker Ryan Stewart	Traffic & Parking Impact Assessment Report	July 2015
	Richard Lamb & Associates	Visual Impact Assessment	17/7/2015
	Windtech	Pedestrian Wind Environment Study	24/7/2015
	Douglas Partners	Stage 1 Environmental Site Assessment	March 2004
	Douglas Partners	Stage 2 Environmental Site Assessment	September 2004
	Cardno	Concept Watercycle Management Report	29/1/2015
	Chapman Environmental Services Pty Ltd	Basic Certificate 603836M	28/1/2015
	CKDS Architecture	SEPP 65 Compliance Statement	-
	Philip Chun	BCA and Disability Assessment	29/1/2015
	James Marshall & Co	Community Benefits Report	-
	Barker Ryan Stewart	Waste Management Plan	August 2015
	Barker Ryan Stewart	Waste & Loading Dock Management Plan	August 2015
	Barker Ryan Stewart	Heritage Impact Assessment	August 2015
Recommendation	Approval		
Report by	R A Eyre		

## Assessment Report and Recommendation Cover Sheet

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## REPORT TO HUNTER & CENTRAL COAST JOINT REGIONAL PLANNING PANEL

**TITLE**            **DEVELOPMENT APPLICATION NO. 47046/2015**  
**APPLICANT: NEW HONG KONG MACAU AUSTRALIAN PTY LTD**  
**PROPOSED: MIXED USE DEVELOPMENT INCLUDING COMMERCIAL, RESIDENTIAL, CINEMA, HOTEL AND TAVERN ON LOT: 1 DP: 433839, LOT: 1 DP: 511513, LOT: 1 DP: 219637, LOT: 3 DP: 219637, 50 MANN STREET GOSFORD, 70 MANN STREET GOSFORD, 114 GEORGIANA TERRACE GOSFORD**  
**Directorate:**       Governance and Planning  
**Business Unit:**    Development

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*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 (\$234.3 million)

**Assessing Officer:** R A Eyre

**Reviewing By:** Acting Manager Development and Compliance  
CEO

**Application Received:** 29/01/2015            **Date of Amended Plans:** 17/7/2015, 24/7/2015, 14/8/2015, 22/8/2015 & 26/8/2015

**Synopsis:** An application has been received for a Mixed Use Development including Commercial Premises, Shop-top Housing, Cinema, Hotel and Tavern. The application has been assessed against the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979.

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

The proposal generally complies with the requirements of DCP 2013 except for car parking, maximum floor plate, building separation, deep soil planting, dwelling-mix and building setbacks. The variations however are not significant and are supported.

The proposal is supported for the following reasons:

- The design is an innovative approach to the site with three (3) street frontages;
- It achieves design excellence through a high standard of architectural design featuring active street fronts, articulated facades, variation in external materials and finishes, stepping the building back at higher levels, landscaping at street level and above;
- The 4-5 storey podium provides a pedestrian scale at street level;
- The economic and social benefits of providing a much needed tourist facility to revitalise the Gosford City Centre;

- The visual interest and possible iconic structure to identify the Gosford City Centre;
- The variety of uses will strengthen the viability of the proposal;
- The size and scale will strengthen Gosford as the Regional Capital of the Central Coast;
- The proposal includes a cinema which is lacking in the City Centre;
- The proposal is in accordance with Council's adopted "Statement of Strategic Intent" (SOSI);
- The unique nature and size of the site in the mixed use zone; and
- The design merits of the proposal and street improvements.

A total of 27 public submissions were received with 48% supporting the proposal. The main reasons for **support** are the economic and social benefits and the development's role in the revitalization of Gosford City Centre.

The main reasons for **objection** are the height and visual impact of the proposal.

The proposal will not detract from the character or scenic qualities of the area 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:** 8564m<sup>2</sup>

**Topography:** Variable

**Public Submissions:** 27 (13 in support, 14 objections)

**Employment Generating:** Yes    **Value of Work:** \$234,300,000.00

**Political Donations:** None declared.

#### **Relevant Statutory Provisions**

1. Environmental Planning & Assessment Act 1979 - Section 79C
2. Local Government Act 1993 - Section 89
3. Gosford Local Environmental Plan 2014
4. Gosford Development Control Plan 2013
5. SEPP 65 Design Quality of Residential Flat Buildings
6. SEPP (BASIX)
7. SEPP (Infrastructure) 2007

#### **Key Issues**

1. Gosford Local Environmental Plan 2014
2. Statement of Strategic Intent (SOSI)
3. Principal Development Standards
4. Environmental and Coastal Considerations
5. Gosford City Centre MasterPlan
6. Civic Improvement Plan/Streetscape/Landscape
7. Shadow Impacts
8. Visual / View Loss Considerations
9. Economic & Social Considerations
10. Section 94 Contributions

11. Heritage Assessment
12. External Referrals
13. Internal Referrals
14. Public Notification
15. Public Submissions

## Recommendation

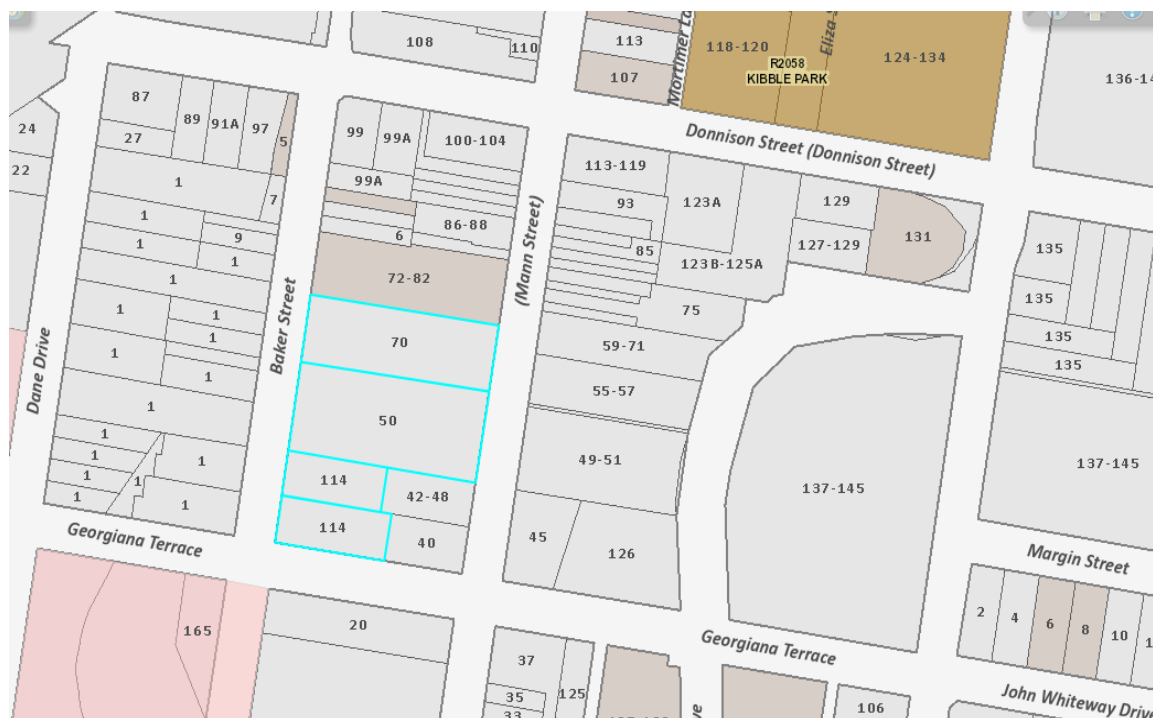
Approval, subject to conditions

## REPORT

## The Site

The site is bounded by Mann Street, Baker Street and Georgiana Terrace. The site contains the former Brisbane Water County Council building, and former “Froggys” skating building.

The site falls from about RL 10m AHD at Mann Street, to about RL 2m AHD at Baker Street. The site has a frontage of about 70m to Mann Street, 110m to Baker Street, and 53m to Georgiana Terrace.



## Site Map

## Background

The site was previously known as the “Spurbest” site.

- 1 Consent was granted by the Minister for Planning on 25 July 2005 for the Spurbest development. The site is 50-70 Mann Street and 114-116 Georgiana Terrace, Gosford. The site was declared state significant at that time.

The proposal included:

- Partial demolition and reuse of the existing building at 50 Mann Street (ie the former County Council building). Total demolition of other buildings.

- A mixed use development 3 to 16 storeys high comprising 3,088 sqm of retail/commercial/cafe/health club, 206 apartments ranging in size from studio to 4 bedrooms.
- 296 basement car parking spaces.
- Height varied up to RL 53m AHD on Mann Street frontage.

The consent was modified by the Department of Planning on 15/7/2010 to stage the development. Stage 1 Demolition, Stage 2 Balance of Development. A CC for Stage 1 was issued by a Private Certifier on 16/7/2010 and Council was notified that work commenced on 17/7/2010. Therefore the consent has not lapsed and is still current. This consent does not include the 30% bonus which did not exist at that time.

- 2 The current zoning is B4 Mixed Use under Gosford LEP 2014. For that part of the site fronting Mann Street, the maximum height is 48m and FSR is 4.75:1. With the 30% bonus permitted under Clause 8.9 of the LEP, the height increases to 62.4m and FSR to 6.175:1.

For that part of the site fronting Baker and Georgiana Terrace, the maximum height is 24m and FSR is 4:1. With the 30% bonus, the height is 31.2m and FSR is 5.2:1.

### Locality

To the north is an existing 7 storey commercial and retail flat building. To the east is the Gosford City Council Administration Building. To the south is the former Gosford Public School (now vacant) and Leagues Club field.

To the west is the Central Coast Leagues Club, and further to the west is the Gosford Stadium with 20,000 seating capacity.



Locality



**Referrals**

The application was referred to the following:

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

**Proposal**

The proposed development comprises the following:

- Demolition of all structures on site, apart from the façade, clock tower, and staircase of the Heritage listed former Brisbane Waters County Council building;
- Bulk earthworks;
- Construction of three (3) towers (Mann Street Tower – “Tower 1”, the Baker Street Tower – “Tower 2”, and the Georgiana Terrace Tower – “Tower 3”);
- Tower 1 (Mann St) includes:
  - Ground floor: Two (2) retail units; four (4) commercial units; café/restaurant; and a residential foyer;
  - Ground Floor (behind the heritage facade): two (2) cinemas and amenities;
  - Levels 1 and 2: Commercial floors;
  - Levels 3 – 16 (14 tower levels): 84 x 3 bedroom apartments;
  - Levels 17 – 31 (15 tower levels): 120 x 2 bedroom apartments;
  - Level 32 (top tower level): 4 x 4 bedroom apartments.
- Tower 2 (Baker St) includes:
  - Ground Floor: Residential/hotel foyer; Hotel kitchen and administration; servicing facilities;
  - Level 1: Car park;
  - Level 2: Commercial floor space & car park;
  - Level 3: Car park
  - Levels 4 to 7 (4 tower levels): 80 hotel rooms;
  - Levels 8 to 16 (9 tower levels): 54 x 3 bedroom apartments;
  - Levels 17 to 29 (13 tower levels): 104 x 2 bedroom apartments;
  - Level 30 (top tower level): 4 x 4 bedroom apartments.
- Tower 3 (Georgiana Tce) includes:
  - Ground floor: Two (2) retail units; three (3) commercial units; residential foyer; servicing facilities;
  - Level 1: Retail floor space (inc. café/restaurant & bar/tavern);
  - Level 2: Commercial floor space;
  - Levels 3 to 23 (21 tower levels): 126x 2 bedroom apartments;
  - Level 24 (top tower level): 4 x 4 bedroom apartments.

- Total apartments: 350 x 2 bedroom apartments; 138 x 3 bedroom apartments, and 12 x 4 bedroom apartments = 500 apartments;
- Ten (10) split levels of car parking accommodating 628 car spaces as well as 64 motorcycle and 307 bicycle storage; and plant and servicing equipment;
- Mann Street Tower includes 33 storeys/102.7 metres (Top fin RL 117.03m);
- Baker Street Tower includes 31 storeys/96.8 metres (Top fin RL 105.15m);
- Georgiana Terrace Tower includes 25 storeys/81.2 metres (Top fin RL 88.6m);
- The proposal has a total retail / commercial floor area of 9340m<sup>2</sup> and residential floor area of 56,374m<sup>2</sup>.

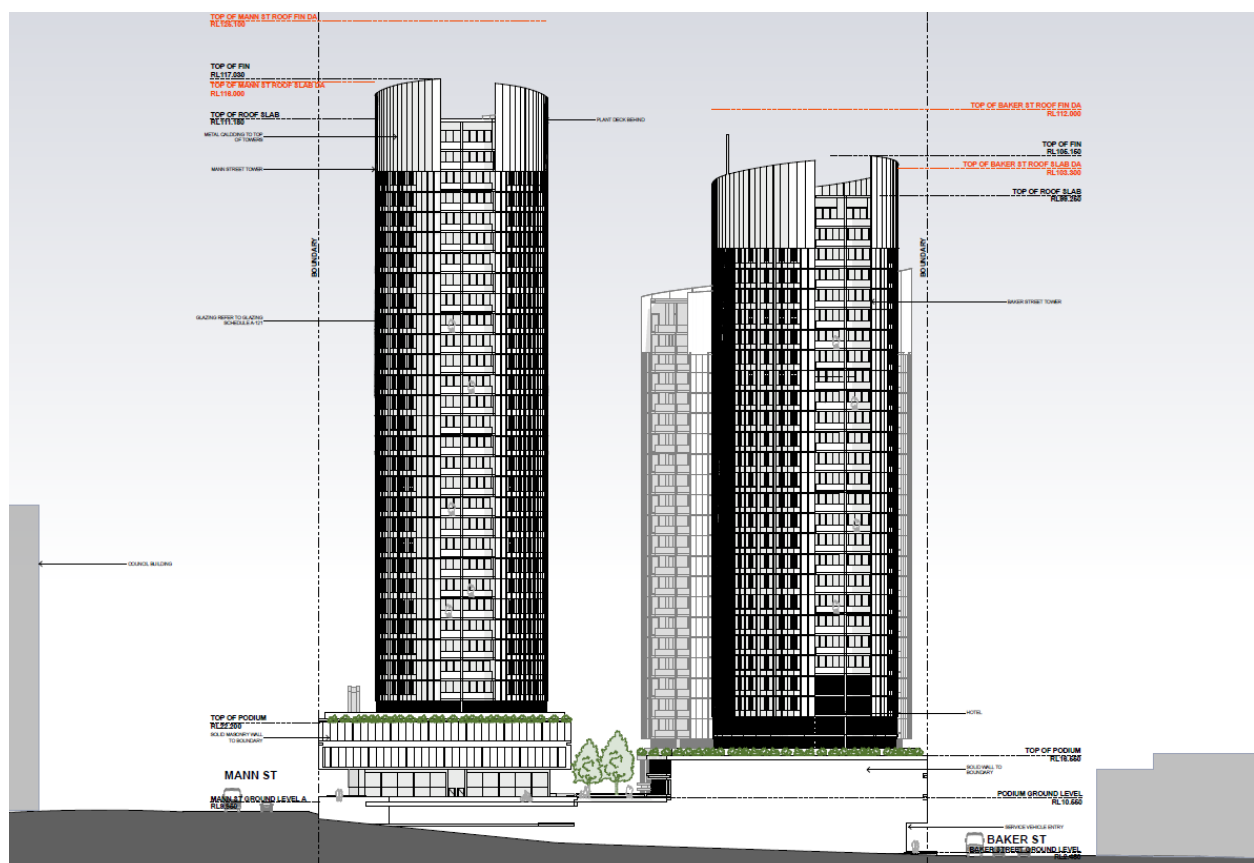
The proposed development and towers are setback;

- Mann Street - Nil for commercial and podium, 8m to tower above RL 21.65m
- Baker Street – 2m to podium and 6.49m to tower 2 above RL 17.38m
- Georgiana Terrace – Nil for podium and 3.35m to tower 3 above RL 17.38

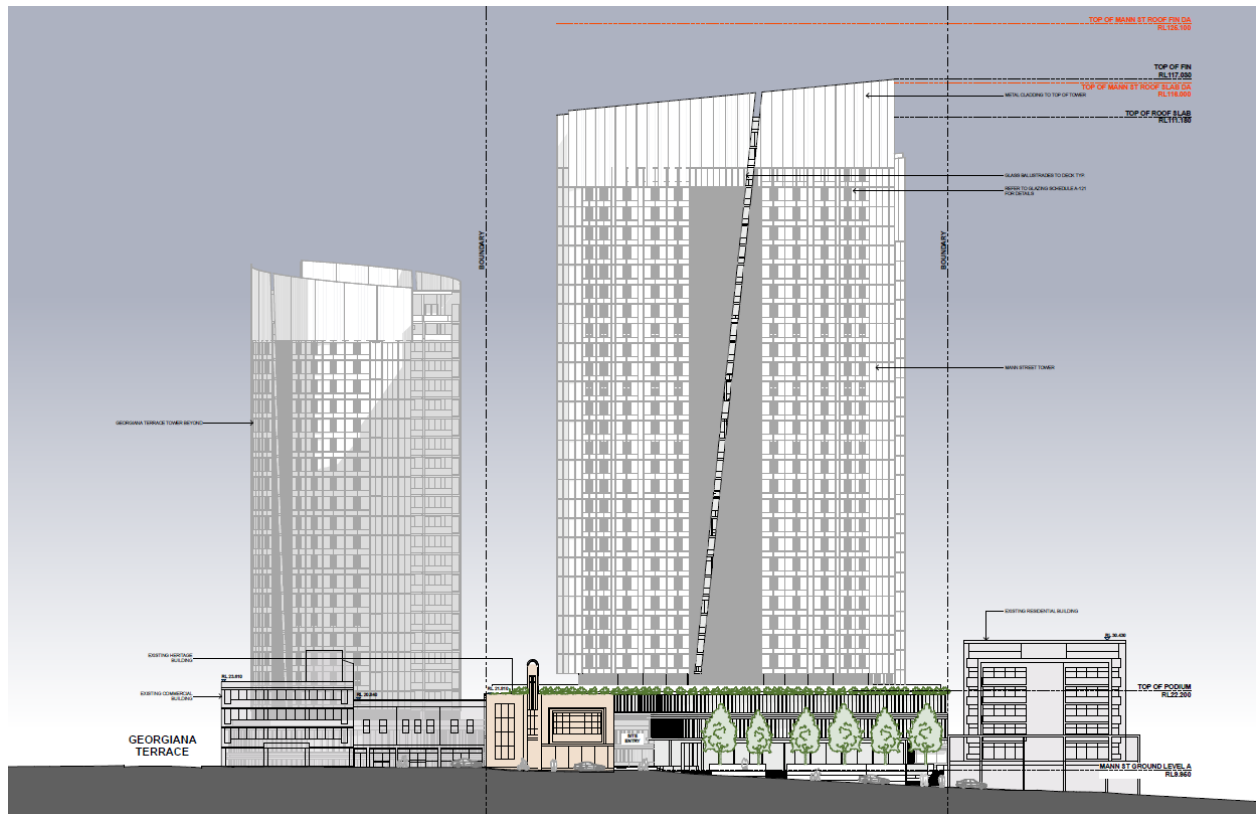
Two (2) combined entry/exit driveways will provide vehicular access to the site. One from Baker Street at the northern end of the site, and one from Georgiana Terrace, on the eastern site of the site.

A drop off/taxi zone bay will be provided in Baker Street recessed partly into the site.

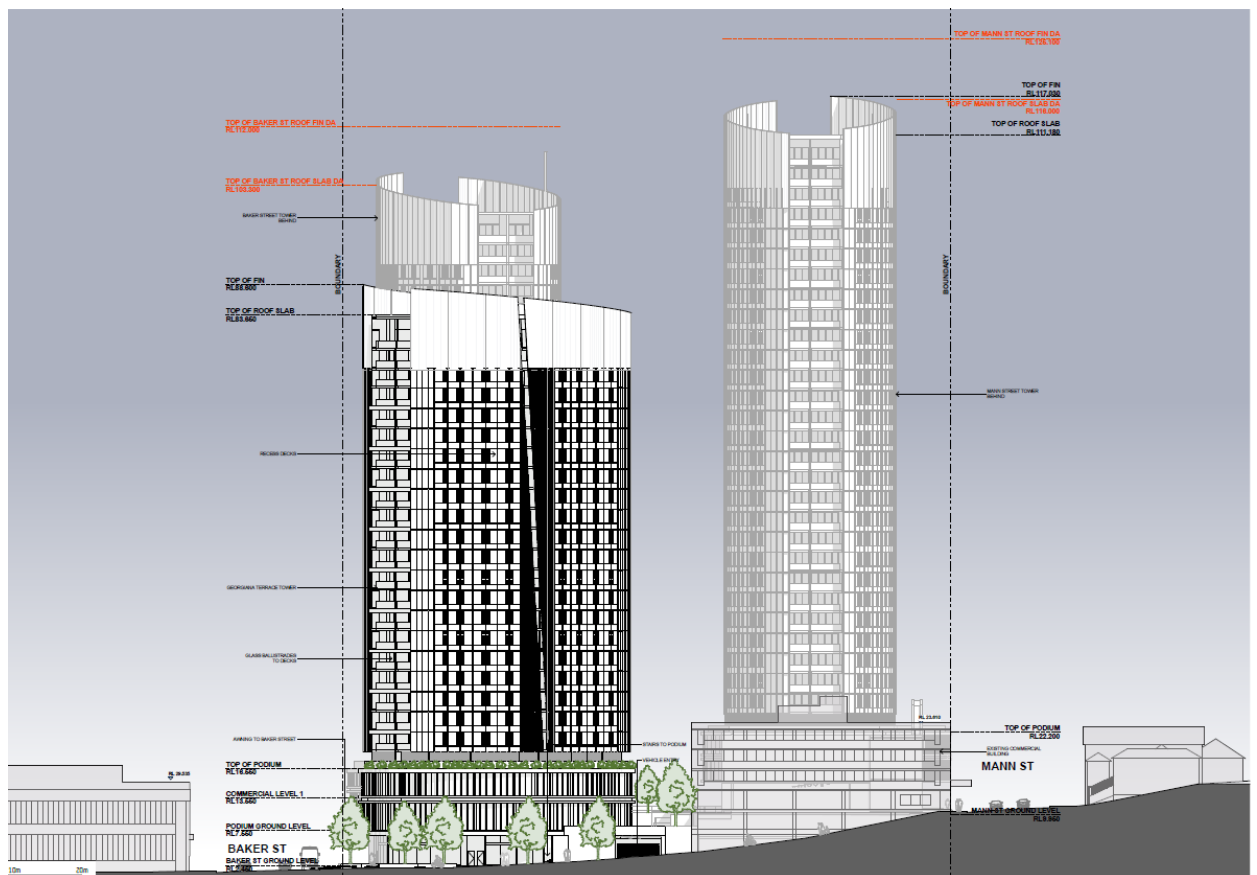
Waste storage and collection will be provided within the basement car parking.



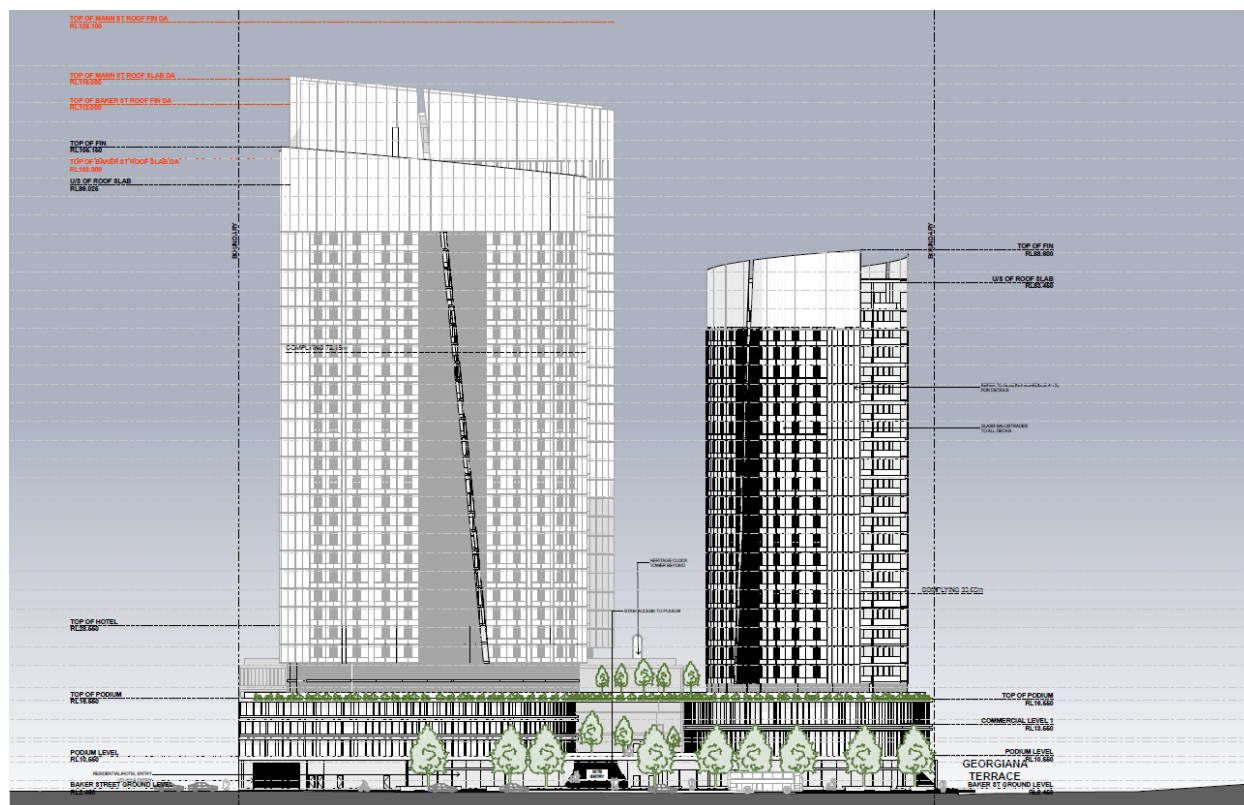
North Elevation



East Elevation (Mann Street)



South Elevation (Georgiana Terrace)



*West Elevation (Baker 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 the Panel's information.

## Gosford Local Environmental Plan 2014

(a) Permissibility

The land is zoned B4 Mixed Use under Gosford Local Environmental Plan 2014. The proposal is defined as “Mixed Use” and is permissible within the zone.

A “mixed use development” means a building or place comprising two (2) or more different land uses. The following uses are permissible with consent on B4 Zoned land and included in the proposal:

- Commercial premises means:
  - *(a) business premises;*
  - *(b) office premises; and*
  - *(c) retail premises)*
- Entertainment facility means:
  - *a theatre, cinema, music hall, dance hall and the like, but does not include a pub or registered club.*
- Food & drink premises means:
  - *premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:*

- (a) *a restaurant or cafe,*
- (b) *take away food and drink premises,*
- (c) *a pub,*
- (d) *a small bar.*

**Note.** Food and drink premises are a type of **retail premises**

- Hotel or Motel accommodation means:
  - *a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that:*
    - (a) *comprises rooms or self-contained suites; and*
    - (b) *may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.*
- Shop Top Housing means:
  - *one or more dwellings located above ground floor retail premises or business premises. Residential accommodation (except for shop-top housing) is prohibited on B3 zoned land. In the recent case of Hrsto v Canterbury City Council (No 2) [2014] NSW LEC 121, the definition of shop-top housing was clarified. To comply with the definition of shop-top housing, the residential component must be in the same building and above the commercial/retail premises. This is the case in this application.*

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

(b) Objectives of the 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 proposed scale contributes to the economic revitalisation of the City Centre by including retail, hotel accommodation, cinemas, restaurants and residential use;
- The site is located 5 minutes walk from Gosford Railway station and is on a bus route;
- The size of the proposal and the mix of uses will strengthen Gosford as the Regional capital of the Central Coast, as identified in the Regional Strategy;
- The proposal provides for tourist accommodation as well as permanent residential use;
- The tourism uses are highly compatible with and complement the adjoining nearby stadium;
- The proposal offers significant improvements to the public domain by providing a podium which creates a human scale and landscaping and street improvements.
- The treatment of the three street frontages contributes positively to pedestrian amenity and pedestrian links;
- View corridors are retained as identified in Figure 2.14 of Chapter 4.1 of DCP 2013;
- Views from Kibble Park or the waterfront to adjoining hills are not significantly impacted. The design of the Towers provides visual interest and will be a focal point when viewed from the waterfront and other parts of the City;
- The proposal includes landscape elements to provide a softer green appearance.

(c) Character

The site is located within the mixed use zone of the City. The B4 Zone emphasis is employment generation and economic development and residential to support the commercial core.

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

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

(d) Development Incentives

The site is located within the Development Incentives area of the City. Under Clause 8.9 of the Gosford LEP 2014, a 30% bonus to height and FSR applies to applications lodged on/or before 2 April 2016.

As the application was lodged on 29 January 2015, the 30% bonus applies to this site.

(e) Design Excellence

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

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

### **Statement of Strategic Intent**

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

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

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

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

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

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

- *Provide Council with a roadmap for revitalisation of the city centre;*
- *Ensure the future direction for planning controls for the Gosford City Centre is flexible and aligns with Council's strategic directions and current market conditions;*

- *With a focus on the city core, review the appropriateness of building heights, floor space ratios and building forms with a view to reframing the development capacity of the city;*
- *Provide a basis for Council to commence the preparation of a planning proposal; and*
- *Allow current development applications within the city centre to be assessed within the context of Council's renewed strategic direction for the city centre*

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

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

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

*The Statement of Strategic Intent is the first step in preparing a planning proposal that provides clarity and consistency to the planning framework. Council has had discussion with the NSW Department of Planning and Environment regarding the form of a planning proposal. The approaches available are:*

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

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



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

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

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

**(Refer Attachment 4)**

Council at its meeting on 25 August 2015 resolved to prepare a Planning Proposal to proceed with the Statement of Strategic Intent and rezone the land from B4 Mixed Use to B3 Commercial Core.

The planning proposal proposes to;

- Have a bonus of 150,000m<sup>2</sup> floor space across the B3 zone on sites which have 40m or greater frontage, and an area of 2800m<sup>2</sup> or greater.
- Restrict heights to RL 99m AHD.

It is also proposed to amend the DCP controls for the City Centre to reflect new design excellence provisions.

The current application was lodged prior to Council resolving to proceed with this planning proposal. The current application is consistent with the aims of the planning proposal except for the height of towers 1 and 2 which exceed RL 99m AHD. However the site is well in excess of the minimum 2800m<sup>2</sup> required, and the stepping down of towers 2 and 3 from Mann Street is consistent with aims of the planning proposal.

## **Principal Development Standards**

### **(a) Gosford LEP 2014**

<b>Item</b>	<b>Required</b>	<b>Proposed</b>	<b>Compliance</b>
Height*	Mann Street: 62.4m Baker Street: 31.2m	102.7m 81.2m to 96.8m	N N
FSR*	Mann Street: 6.175:1 Baker Street: 5.2:1	9.11:1 8.95:1	N N

*\*including 30% bonus and excluding architectural roof feature permitted under Clause 5.6*

Clause 4.6 of Gosford LEP 2014 states:

#### **4.6 Exceptions to development standards**

*(1) The objectives of this clause are as follows:*

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

i. Height

Under Clause 8.9 the maximum height for Tower 1 on Mann Street is 62.4m. Tower 1 has a height of 102.7m. This is a variation of the development standard of 40.3m or 64.5%.

The maximum height for Towers 2 and 3 on Baker St / Georgiana Tce is 31.2m. Tower 2 has a height of 96.8m and tower 3 has a height of 81.2m. These are variations to the development standard of 65.6 m ( or 210.2%) and 50m (or 160.2%).

The above heights do not include the architectural roof feature permitted under Clause 5.6 of GLEP 2014. Clause 5.6 states;

5.6 *Architectural roof features*

- (1) *The objectives of this clause are as follows:*
  - (a) *to permit variations to maximum building height standards for roof features of visual interest,*
  - (b) *to ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard.*
- (2) *Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.*

(3) *Development consent must not be granted to any such development unless the consent authority is satisfied that:*

(a) *the architectural roof feature:*

- (i) *comprises a decorative element on the uppermost portion of a building, and*
- (ii) *is not an advertising structure, and*
- (iii) *does not include floor space area and is not reasonably capable of modification to include floor space area, and*
- (iv) *will cause minimal overshadowing, and*

(b) *any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.*

ii. Floor Space Ratio (FSR)

Under Clause 8.9, the maximum FSR for the Mann Street side of the site is 6.175:1. The proposal has a FSR on this part of the site of 9.11:1. This is a variation to the development standard of 2.935:1 or 47.5%.

The Baker Street / Georgiana Terrace part of the site has a maximum FSR of 5.2:1. Clause 8.6 of the Gosford LEP 2014 states that car parking at, or above ground level, is to be included in the buildings gross floor area. The proposal has a FSR of 6.88:1 excluding above ground car parking, or 8.95:1 including above ground car parking. This is a variation to the development standard of 3.75:1 or 72%.

iii. Applicants Clause 4.6 Submission

*"It is considered that sufficient planning grounds exist to support the proposed height and FSR variations. In terms of building height, this assertion is based on the arguments outlined above, which demonstrate that the aims of the standard will still be achieved; these being to avoid overshadowing to public open space areas; ensure adequate solar access to adjoining sites; and to ensure building heights are appropriate to the site and do not impact on significant views.*

*In terms of FSR, it is clear that the aims of the standard, being to control building bulk; minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain; maintain an appropriate visual relationship between existing areas; and to facilitate design excellence, are comprehensively achieved through the proposed built form.*

*Other matters to be noted in this context include:*

- *The proposal more concisely achieves with the objectives of the zone and the Gosford City Centre objectives of Part 8, than would a development of compliant building height and FSR.*
- *The proposal remains consistent with the objectives of the height and FSR standards (Clause 8.9, 4.3 and 4.4), despite its non-compliance.*
- *Non-compliance with the standards do not contribute to adverse environmental, social or economic impacts but rather fosters a superior design attributed predominantly to the large central public open space provided.*
- *The scale and form of the slim tower development is in line Council's Statement of Strategic Intent.*
- *The development promotes the Act's objective of the orderly and economic development by ensuring that the project is commercially viable and will actually proceed.*

- *The additional height and FSR facilitates the delivery of a standard of development consistent with Council's vision for the city centre.*
- *The proposed hotel, cinema, retail and commercial development will have a positive effect on the local economy and assist in supporting trade and tourism in Gosford.*

*For reasons outlined in the preceding sections of this submission, the variation to the height and FSR limit is well founded as compliance with these standards is unreasonable or unnecessary as the development does not contravene the objects specified within 5(a)(i) and (ii) of the Act, the objectives of the B4 Mixed Use Zone, the objectives of the Gosford City Centre provisions within Part 8 and the objectives surrounding the building height and FSR standards themselves.*

*The variation to the building height and FSR facilitates the delivery of a superior design located at a prominent gateway location – a location which demands a development of the highest quality in terms of design, finishes, and amenity but above all the public domain. The variation to the building height enables the delivery of these imperative urban outcomes in a manner that does not result in adverse impacts.*

*The proponent's vision for the site is one in which the site will be a major catalyst for the revitalisation of the City Centre through the provision of a wide range of complementary uses accessed via a public thoroughfare which will enable a link between the city centre and the waterfront.*

*This vision is consistent with Council's recently adopted "Statement of Strategic Intent". This document highlights the moving trend and benefits towards taller slender built forms which allow for buildings of a greater height and FSR, but which still satisfy the overall objectives of the zones and the various controls relating to issues such as solar access, overshadowing, and bulk and scale.*

*As is discussed throughout this request, the provision of the public access through the site is one of the primary drivers of design. In providing this access, it is necessary to push the parking below ground into basement levels – this in turn increases cost. In order to make this a realistic aim, a greater yield is required. The building design chosen has come about through the need to achieve the required yields whilst minimising the impacts of the development.*

*Taking the above into consideration, strict compliance with the building height and FSR standards would be unreasonable and unnecessary in the circumstances of the case as it would hinder the viability and delivery of the better outcomes for the development and for the public in general.*

*As stated previously, Clause 4.6(4)(a)(ii) requires that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that 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. An assessment against the zone objectives and the objectives of the development standards has been thoroughly explored above.*

*In summary, the proposal represents an opportunity to create an iconic gateway development which also provides invaluable links between the city and the waterfront. Currently, the subject site is a dilapidated wasteland with no street appeal; no pedestrian amenity or linkage opportunities. The proposal will serve to*

*activate the southern end of the city, and will be a real driver in the revitalisation of the Gosford City Centre, providing a critical mass of people (residents and workers), who will drive further demand for goods and services, creating a City Centre economy the likes of which has not existed in Gosford for decades, if at all."*

**(Refer Attachment 3)**

iv. Council's Assessment

a) Height

The objectives of Clause 4.3 Height of Buildings clause in Gosford LEP 2014 are;

- (a) *to establish maximum height limits for buildings,*

Council Comment

It is recognised that the proposal significantly exceeds the height limit specified in Council's current LEP. However the numerical variations are not an end or means by themselves and must be considered in the context of the other objectives for the zone and standard.

In addition, the height of the Mann Street Tower is only marginally more than Council's most recent resolution (99m) and the Mann and Baker Street Towers are lower than this height.

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

Council Comment

It is considered the building heights incorporated into three (3) towers result in a high quality urban form.

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

Council Comment

The separation, orientation, and design of the three (3) towers results in other buildings and public places receiving adequate exposure to the sky and sunlight.

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

Council Comment

The variation in the heights of the proposed three (3) towers, and that approved for the two (2) towers on the "Union Hotel" site, provides for a transition in built form and intensity. The higher tower 1 is located on Mann Street, and the lower towers 2 and 3 on Baker Street. This provides a transition across the site as well as along Baker Street.

- (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,*

Council Comment

Due to the change in levels from Mann Street to Baker Street, and the Baker Street being one of the lowest parts of the city centre, the taller buildings on this site are appropriately located.

The site is not identified in figure 2.14 of Chapter 4.1 of DCP 2013 as having any view corridors across the site which are required to be protected.

Therefore the natural topography and view corridors support taller buildings on this site.

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

Council Comment

The overshadowing due to the height variation does not result in excessive overshadowing of public open space or restriction on views to natural features such as the surrounding hills and Gosford waterfront.

While there is some shadow impact on the Central Coast Leagues Club, Leagues Club field and the former Gosford Public School site, the increased shadow impacts in the winter time only a short time of the day as the shadow moves across the adjoining sites.

The separation of the towers and the height variation will not result in significant view loss from other parts of the city centre, to the waterfront or adjoining hills.

b) FSR

The objectives of Clause 4.4 of Gosford LEP 2014 are;

- (a) *to establish standards for the maximum development density and intensity of land use,*

Council Comment

It is recognised that the proposal significantly exceeds the FSR for the site. However numerical variations are not an end or means by themselves and must be considered in the context of the other objectives for the standard and zone.

- (b) *to control building density and bulk in relation to site area in order to achieve the desired future character for different locations,*

Council Comment

The site is one of the largest in the city centre and has the ability to achieve a higher FSR to reflect the bulk and scale which can be provided on such a site.

- (c) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*

Council Comment

The proposal has no adverse environmental impacts on the use or enjoyment of adjoining properties or the public domain. The proposal

provides additional public benefit of a pedestrian link between Mann Street and Baker Street, (which leads to Gosford waterfront) and activation of the street frontage and street improvements.

- (d) *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*

Council Comment

It is recognised the proposed has significantly higher density and scale than existing surrounding development. However the proposal to rezone this site and adjoining sites from B4 to B3, results in the commercial core moving southward of Donnison Street. Therefore other sites in this location are likely to undergo a substantial transformation in the future, as indicated in the Statement of Strategic Intent and Planning Proposal Council is now proceeding with.

- (e) *to provide an appropriate correlation between the size of a site and the extent of any development on that site,*

Council Comment

The site has an area of 8,564m<sup>2</sup>. The proposed height and FSR reflects an appropriate correlation between the size and shape of the site in this strategic location between Kibble Park and the Gosford waterfront.

- (f) *to facilitate design excellence by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design,*

Council Comment

The proposal exhibits design excellence and provides generous floor space for employment related uses as well as residential above to support the city centre.

The modulation and articulation is considered appropriate for the site.

- (g) *to ensure that the floor space ratio of buildings on land in Zone R1 General Residential reflects Council's desired building envelope,*

Council Comment

This objective does not apply to B4 zoned land.

- (h) *to encourage lot amalgamation and new development forms in Zone R1 General Residential with car parking below ground level.*

Council Comment

This objective does not apply to B4 zoned land.

- c) Conclusion

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

Whilst the proposal does rely on significant variations to the development standards of height and FSR, the following should be taken into consideration:

- Gosford City Centre has had four planning schemes since 2004. Each scheme has changed or increased the potential height and floor space;
- Despite numerous attempts to revitalise the City, very little development has actually occurred in the commercial core and mixed use zone;
- The preparation of a Planning Proposal is a lengthy time process and development opportunities may be lost by the time changes are made;
- The increased applications received and value of around \$3/4 billion indicates the height and FSR bonus incentives have been effective and created a situation of confidence to enable development to occur;
- Approval of the application at this time will integrate with the redevelopment of Gosford Hospital and a new Australian Tax Office in Gosford to open in 2017;
- The economic and social benefits outweigh the impacts of the additional height and FSR. Council has identified a strategic need for additional height and FSR for the site through the "SOSI" adopted in December 2014.  
**(Refer Attachment 4)**
- The proposal complies with the objectives of Clause 8.1 and 8.9 of the GLEP to give incentive bonuses to revitalise the City Centre particularly;
  - a) *To promote the economic and social revitalisation of Gosford City Centre;*
  - b) *To strengthen the regional position of Gosford City Centre as a multi-functional and innovative centre for commerce, education, health care, culture and the arts, while creating a highly liveable urban space with design excellence in all elements of its built and natural environments;*
  - c) *To protect and enhance the vitality, identity and diversity of Gosford City Centre;*
  - d) *To promote employment, residential, recreation and tourism opportunities in Gosford City Centre;*
  - e) *To encourage responsible management, development and conservation of natural and man-made resources and to ensure that Gosford City Centre achieves sustainable social, economic and environmental outcomes;*
  - f) *To protect and enhance the environmentally sensitive areas and natural and cultural heritage of Gosford City Centre for the benefit of present and future generations; and*
  - g) *To help create a mixed use place, with activity during the day and throughout the evening, so that Gosford City Council is safe, attractive and efficient for, and inclusive of, its local population and visitors alike.*

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

The development will not have unreasonable impacts on the neighbouring residents or character of the area and is consistent with the objectives of the B4 Mixed Use Zone and the objectives of the development standards.

The SOSI identifies the site as one of a number of sites in the Gosford City Centre which has the ability to achieve much higher heights and floor space to revitalise the City Centre. This is achieved by the consolidation of a number of allotments which may not result for smaller developments.



Approval of the proposal is in accordance with the State and Regional strategy for Gosford to be the regional capital of the Central Coast.

Therefore, the request to utilise Clause 4.6 to vary the maximum height and FSR is considered to be well founded and is recommended for support. The proposed development is in the public interest and is consistent with the objectives of the B4 Zone, the Gosford City Centre MasterPlan, and the objectives to revitalise the Gosford City Centre.

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

**(b) Gosford DCP 2013**

Item	Required	Proposed	Compliance
Car Parking: Motorcycle Bicycle	628	638 75 278	Y
Street Frontage Height: Baker St & Mann St Georgiana Terrace	10.5m-16m 12m-16m	12-14m 15m	Y Y
Maximum Floor Plate above 16m	750m <sup>2</sup>	642m – 797m	N
Building Setbacks Commercial uses up to 16m: Street: Baker Street Mann Street Georgiana Terrace	2m 0m existing 0m	2m 0m and 4.5m 0m	Y Y Y
Side	0m	0m-3m	Y
Rear	6m	N/A	
Residential Up to 24m: Street Side (non-habitable/habitable rooms) Rear	6m 4.5m/9m 6m/9m	4m-6m 8m N/A	N N
Above 24m: Street Side Rear	8m 13m 13m	3.35m – 8m 8m N/A	N N
Min Building Separation	36m	12-34m	N
Max Site Coverage	75%	60%	Y
Min Deep Soil Planting	15%	Variable	Adequate landscaping throughout site
Dwelling Mix: Studio/one bedroom 2 bedroom 3/4 bedroom	10%-25% Max 75% N/A	Nil 70% 30%	N Y Y

(i) Chapter 4.1 Gosford City Centre

The land is located in the B4 Mixed Use character area, and the proposal complies with the intended character by providing higher density mixed uses that support the City Centre and employment and residential strategies.

A detailed assessment against relevant DCP provisions has been undertaken. The proposal is considered to be consistent with relevant DCP requirements, apart from variations to building setbacks, maximum floor plate, building separation, and dwelling mix, which are addressed below as well as other variations.

(ii) Maximum Floor Plate

The maximum floor plate above 16m is 750m<sup>2</sup>. The proposed three towers have floor plates varying from 642m<sup>2</sup> to 797m<sup>2</sup>. This is a variation from nil to 47m<sup>2</sup> (6%). The variation is minor and over a site area of 8564m<sup>2</sup>, which is negligible.

The variation is supported.

(iii) Building Setbacks

The proposal generally complies with building setbacks required for the commercial and podium levels. For the residential levels above 12m in height, there is a 2.5m variation to the street setback and a 1.5m variation to the side setback for tower 3 for habitable rooms.

For residential levels above 24m height, there are variations to the street and site setbacks for towers 2 and 3 from 4.5m to 5.5m. These variations are due to the building retaining the same floor plate from base to top for the residential towers, with units located around a central lift and service core.

To set the buildings back further from the street and side boundaries would result in locating the towers closer together which is undesirable.

It is considered the proposed setbacks are appropriate for the site, having regard to existing and adjoining development. The curved shape of the towers also results in a varying setback which improve streetscape and provides visual articulation and interest.

(iv) Building Separation

The desired building separation between towers is 36m. The separation of tower 2 to the adjoining development is about 12m, and the separation between towers 1, 2 and 3 varies from about 22m to 24m.

The separation distances are considered satisfactory as the orientation, shape and internal layout of each tower have been developed having regard to the amenity and privacy impacts on adjoining development.

(v) Deep Soil Planting

A minimum of 15% of the site area is required as deep soil planting. The proposal has landscaping/tree planting provided in the surrounding streets and throughout the site. Additional tree planting is required to provide wind mitigation at ground level.

An amended landscape plan should be required to address street tree planting required under the wind effect report, Council's street tree planting, and deep soil planting on the site.

**(Refer Condition 2.8)**

(vi) Dwelling Mix

DCP 2013 requires a mix of dwelling size, with 10% - 25% of all proposed dwelling/apartments to be studio or one bedroom units. No studio or one bedroom apartments are proposed.

A minimum of 50 apartments should be studio/one bedroom to provide for single persons and students. This will be desirable in the revitalisation of the City Centre to provide a range of accommodation type. Family sizes are generally decreasing.

**(Refer Condition 2.8)**

(vii) Car Parking

The proposed development requires 628 car parking spaces under the LEP & DCP; This includes 128 spaces required for retail/commercial use. These spaces must be marked for such use, and retained as common property in any future strata subdivision.

**(Refer Condition 5.9)**

(viii) Wind Mitigation

Clause 4.1.5.5 of DCP2013 requires the submission of a Wind/Effects Report, including wind tunnel tests, for buildings over 48m in height. To ensure public safety and comfort the following maximum wind criteria are to be met for new buildings:

- 10 m/sec in retail areas
- 13m/sec major pedestrian streets, parks and public places
- 16m/sec in all city streets.

A Pedestrian Wind Environment Study, which included wind tunnel testing, has been submitted. The report concludes that treatments are required for certain locations to achieve the desired wind speed criteria for comfort and safety.

The treatments include the inclusion of densely foliating trees along the street frontages (at least 3m high and 2m canopy) throughout the site, and the erection of 1.8m high Impermeable screens in certain locations.

**(Refer Conditions 2.5 & 2.8)**

In addition, the report recommends that the use of light-weight materials or furniture (such as BBQ lids, sheets etc) is not recommended on high-rise outdoor terraces.

**(Refer Condition 6.10)**

## **Environmental and Coastal Considerations**

(a) Acid Sulfate Soils

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

**(Refer Condition 2.9)**

(b) Flooding

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

**(Refer Condition 2.16)**

(c) Climate Change and Sea Level Rise

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

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

(d) Coastal Zone

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

**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 proposal is consistent with the MasterPlan to revitalise the City Centre.

The overarching principles for the built form in this precinct are:

- locate higher buildings at along the main north south axis;
- ensure taller buildings do not overwhelm views of the ridges, and waterfront development retains significant view corridors;
- encourage mixed use buildings within the City Centre, with active edges during day and night, weekday and weekend;
- introduce green/open space in and around buildings;
- provide pedestrian boulevard along Baker Street and connection between Mann Street to Leagues Club field and the waterfront; and
- reinforce the urban nature of Mann street as the City heart;

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

**Civic Improvement Plan/Streetscape/Landscape**

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

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

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

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

**(Refer Conditions 2.8 & 2.11)**

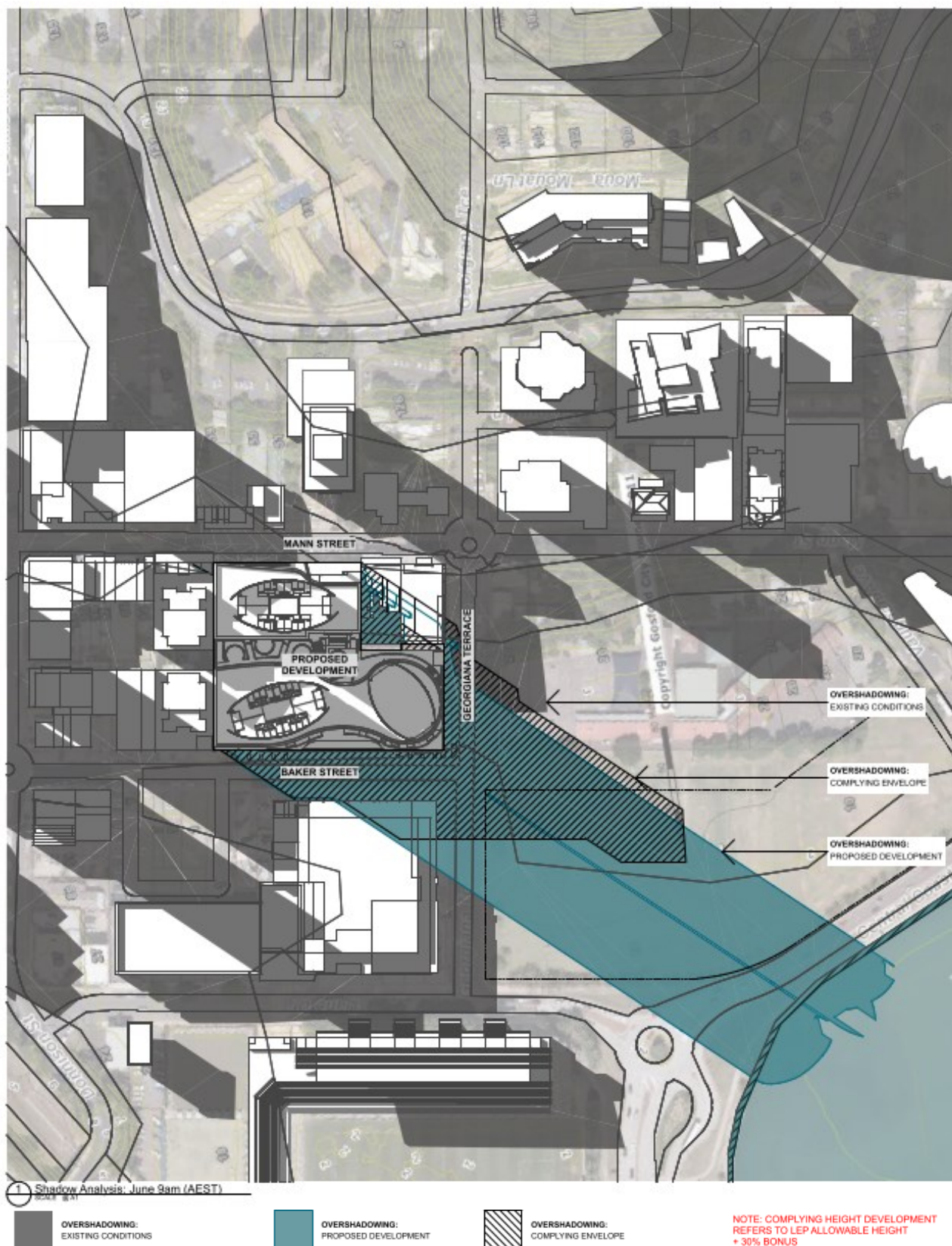
### **Shadow Impacts**

In March/September the proposed development will overshadow Baker Street and the Central Coast Leagues Club in the early morning. There will be no significant shadow impact on Leagues Club field or the former Gosford Public School Site.

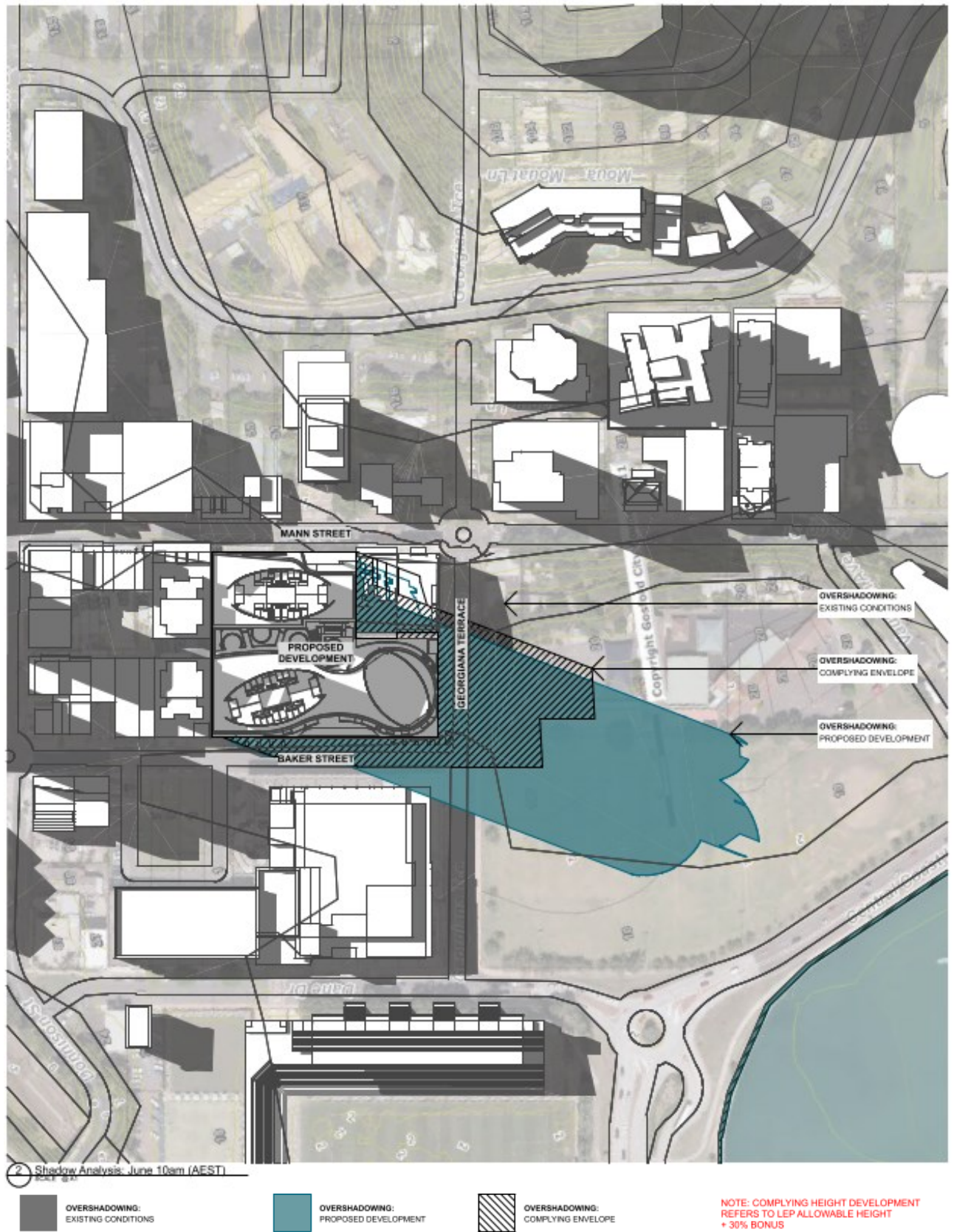
In June, there will be a significant shadow impact on Leagues Club field in the early morning. A development of complying height would shadow about  $\frac{1}{4}$  of Leagues Club field. The height of the proposed development will result in about  $\frac{1}{2}$  of Leagues Club field in shadow in the early morning. However, the shadow impact will move throughout the morning and be completely off the field by 11:00am.

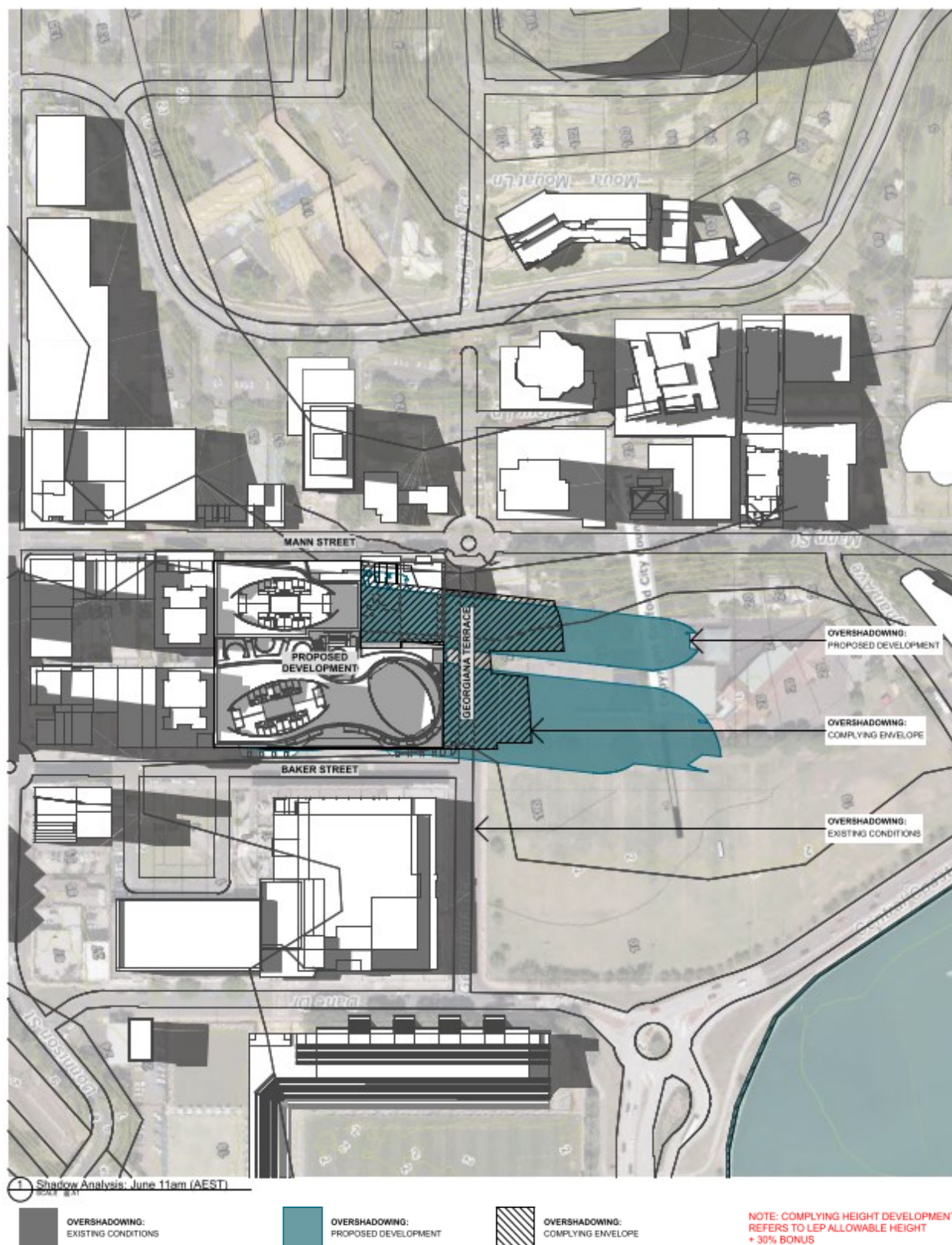
The former Gosford Public School site to the south (now vacant), will have some shadow impact through the whole day in June, with the worst being between 11am and 2pm. The additional shadow impact is about 2-3 times greater over the site than the shadow from a building of complying height would cast. However through the day the impact is mitigated around midday by sunlight between the towers.

It is considered the shadow impact is not unreasonable, given the extent of foreshore land available, and the economic and social benefits of the proposal.

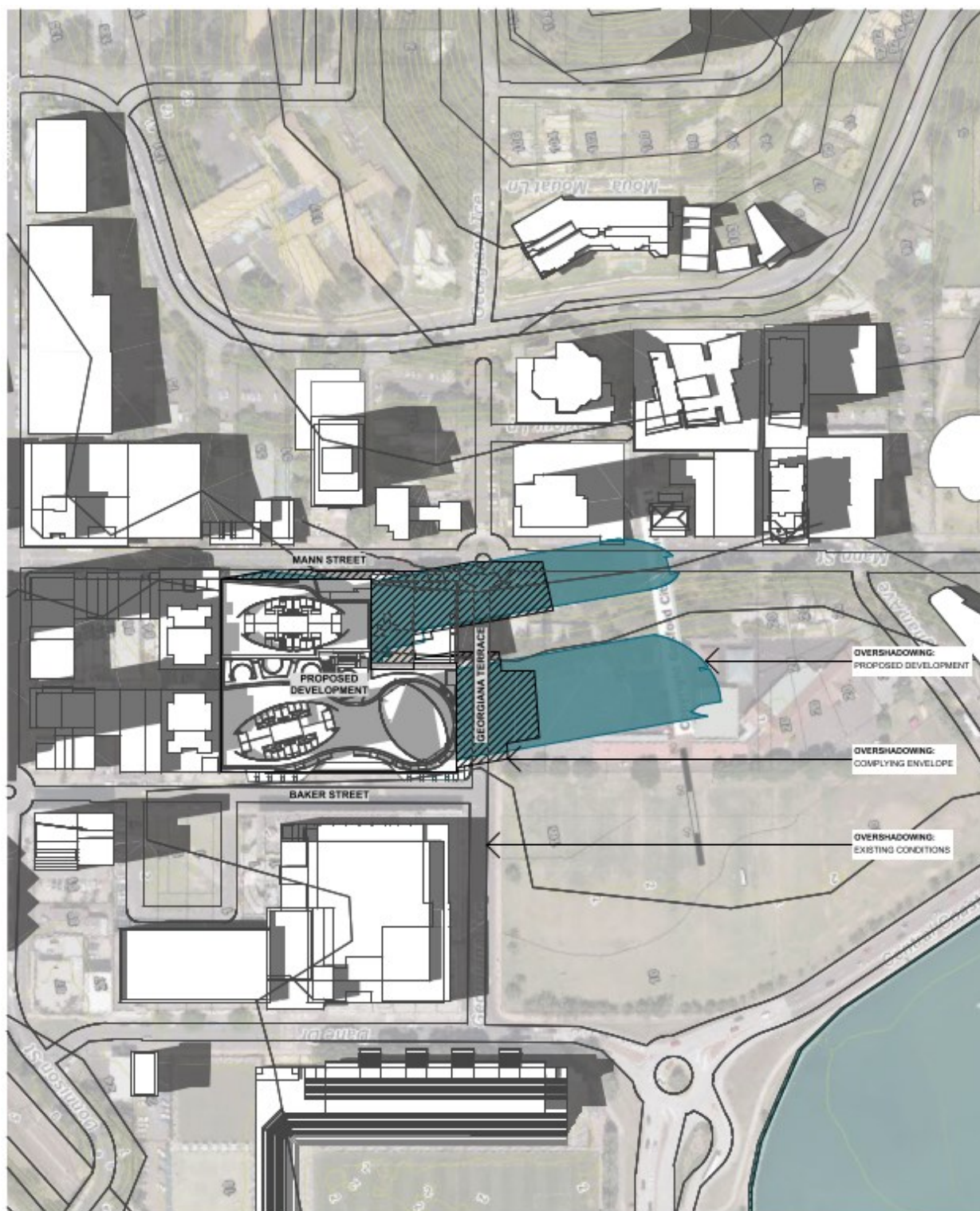












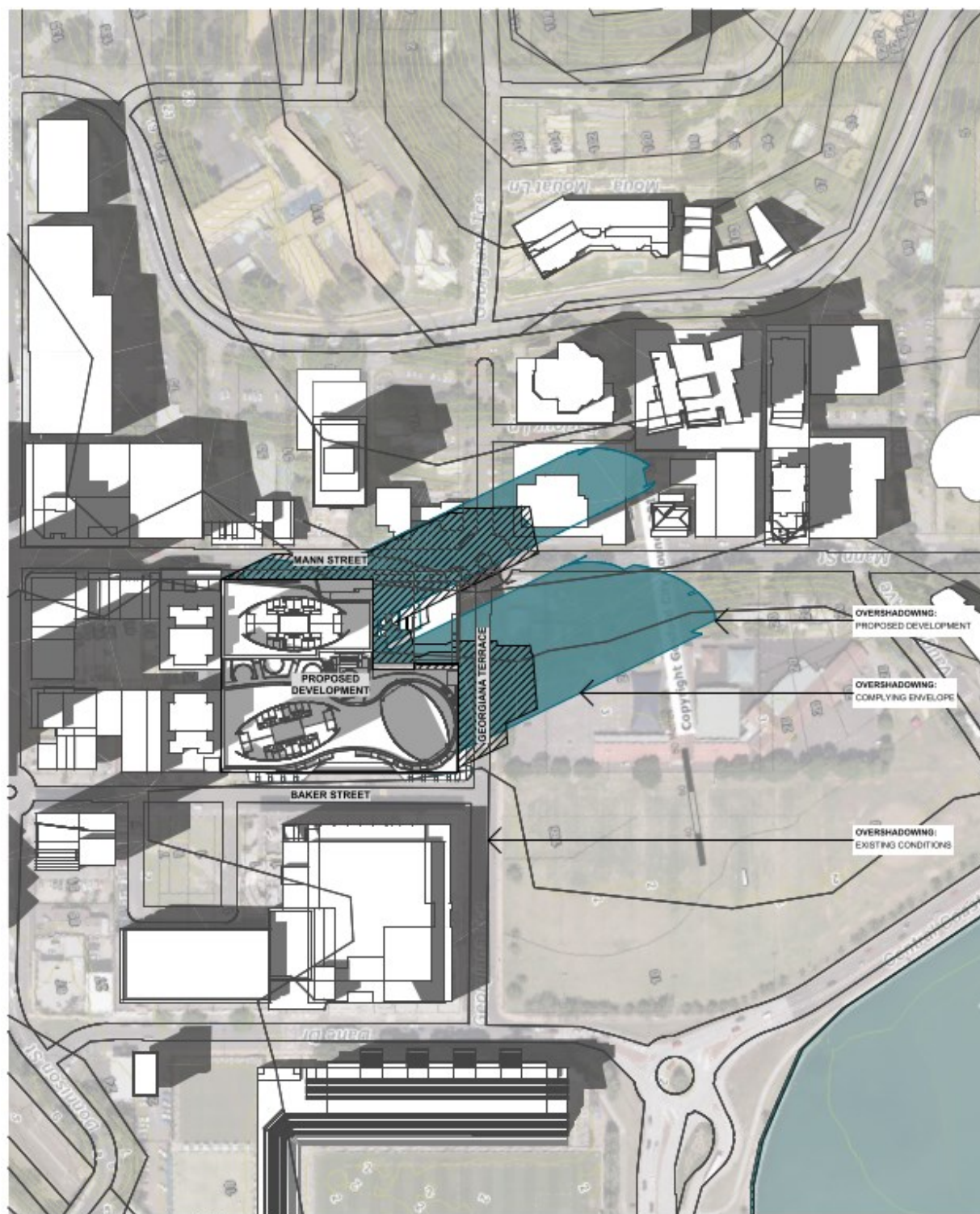
2 Shadow Analysis: June 12pm (AEST)

OVERSHADOWING:  
EXISTING CONDITIONS

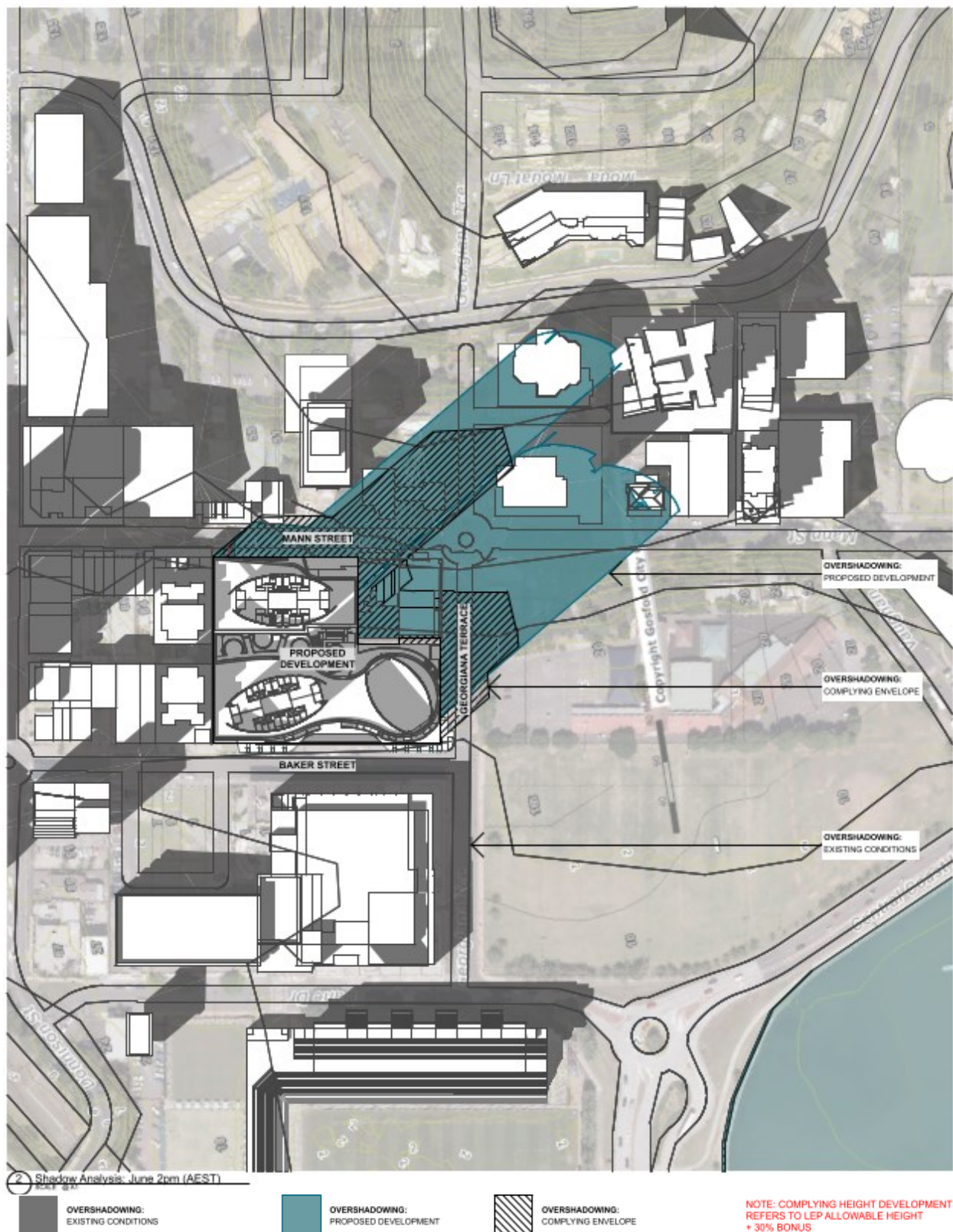
OVERSHADOWING:  
PROPOSED DEVELOPMENT

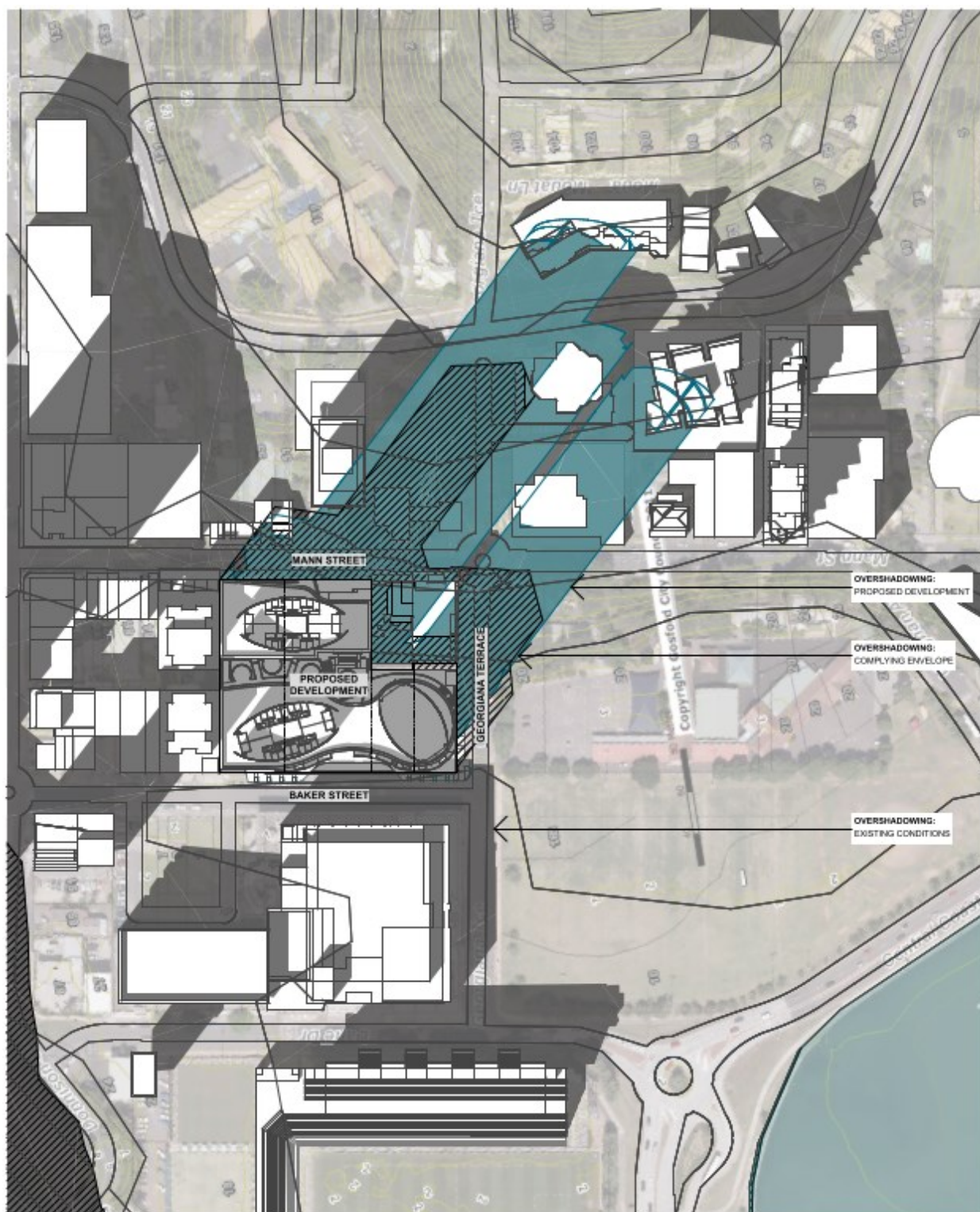
OVERSHADOWING:  
COMPLYING ENVELOPE

NOTE: COMPLYING HEIGHT DEVELOPMENT  
REFERS TO LEP ALLOWABLE HEIGHT  
+ 30% BONUS









1 Shadow Analysis: June 3pm (AEST)

OVERSHADOWING:  
EXISTING CONDITIONS

OVERSHADOWING:  
PROPOSED DEVELOPMENT

OVERSHADOWING:  
COMPLYING ENVELOPE

NOTE: COMPLYING HEIGHT DEVELOPMENT  
REFERS TO LEP ALLOWABLE HEIGHT  
+ 30% BONUS



**Visual / View Loss Considerations**

The application includes a Visual Impact Assessment prepared by Dr Richard Lamb.

The report has considered the visual impact and view loss from a number of locations including Kibble Park, Gosford Waterfront, Point Clare, Brian McGowan Bridge, the approved development on the Union Hotel site, Rumbalara Reserve, Karingah lookout and Presidents Hill.

The report has also taken into consideration the principles from court decisions including, *Pafborn v North Sydney Council* [2005] NSW LEC 444  
*Veloshen v Randwick Council* [2007] NSW LEC 428  
*Davies v Penrith City Council* [2013] NSW LEC 1141  
*Tenacity Consulting v Warringah* [2004] NSW LEC 140

The report 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 development of three towers generates visual effects within the public domain or view losses to the private domain.*

*Despite the potential visibility of the forms, the overall height of the towers 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 buildings 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, in our opinion the increased height proposed above the benchmark height of 63m 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 buildings would be on a site which has provided fortuitous views for nearby residents 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 immediate residential visual catchment however in this case there are no existing residential dwellings immediately adjacent to the subject site and sufficient spatial separation to the closest apartments including the Broadway Apartments and Georgiana Quay buildings located in the south east ensures minor view impacts would occur. In this regard impacts on visual amenity are considered acceptable.*

*The height of the building proposed above the benchmark height does not cause significant increases in view loss from within the public domain. The extra height component would obscure views of sky or in more distant views obscure a small part of a wider horizontal view. 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 ovoid tower footprints and wide separation between them which provide significant view corridors when viewing the proposed development from most directions.*

*I have analysed the extent to which the buildings promote view sharing, above. In my opinion the buildings are successful as regards view sharing by being modelled and located on the site in such a way that they achieve 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."*



Plate 1: Photograph taken from Rumbalara Reserve looking south west, with proposal superimposed.



Plate 2: Photograph taken from Kariang Lookout, zoomed view, looking east, with proposal superimposed

### **Economic & Social Considerations**

A Community Benefits Report has been submitted with the application. The report states the proposal has the following community benefits;

- *The site is positioned at a gateway to the City and will be a recognisable identity for the City Centre.*
- *The design of the development activates the waterfront.*

- *The design of the three towers minimises visual obstructions while minimising on ground impacts such as wind tunnel effects.*
- *The community is engaged into the site via cafes and restaurants at the podium levels.*
- *Housing will provide an affordable alternative to other parts of the region and also Sydney.*
- *Only 4% of people travel to work in the region via public transport and 26% of workers travel outside of the region daily, 72% of which do so by car. Transit-orientated developments near stations, particularly in the Gosford City Centre, would greatly enhance public transport usage and transit choices in the region and support recent investments by government in provision of rail and bus infrastructure.*
- *The proposal aligns land use decisions with transport planning which is consistent with state government planning objectives.*
- *Using density to achieve a compact city with grater vibrancy, social cohesion, and improved connectivity will increase investment value.*
- *Design excellence can be demonstrated.*
- *Potential to reduce the current trend of out-migration by young people via creating a vibrant town centre with job, education and training opportunities.*

It is agreed that the proposal will generate significant employment both during construction and in future retail, cinema and hotel operations.

The provision of 500 apartments will provide accommodation for about 1,400 potential residents to help revitalise the Gosford City Centre and waterfront.

#### **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 does not apply 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. (This period was extended to 1 February 2015)*

*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 application was lodged on 29 January 2015 and therefore a 2% contribution applies.

The 2% contribution required is \$4,687,292.00. In accordance with Part B of Council's Resolution, the reimbursement of the CP required by Council is \$4,687,292.00, and the consent is limited to a two (2) year period.

**(Refer Recommendations F and G and Condition 2.7)**

### **Heritage Assessment**

Council's Heritage Program and Projects Officer advises;

#### "Overview

*Under the Environmental Planning and Assessment Act (1979), local councils are required to identify and manage heritage items in their areas. They do this by means of local heritage studies and heritage schedules within LEPs.*

*Standard heritage provisions in LEPs require that councils must consider heritage issues when assessing development applications to listed items. Development refers to alterations, additions and demolition, damage to, defacement, or moving of heritage items and may also refer to development in the vicinity of a heritage item, and development affecting relics, identified and potential Aboriginal and archaeological deposits, trees and landscape items.*

#### The Proposal

*The proposal is for a mixed use development which includes commercial, residential, a cinema, a hotel and a tavern. The development includes three tall towers across the site as well as a podium level. The three towers are between 81.2m and 102.7 metres in height and include up to 33 storeys.*

*The site is large and encompasses properties fronting Mann and Baker Streets as well as Georgiana Terrace. The Mann Street frontage includes the locally heritage listed former Brisbane Water County Council building (BWCC).*

*The proposal includes the demolition of all structures on the site with the exception of the Mann Street facade and front section of the building, clock tower and the staircase of the heritage listed building.*

*The following are aspects of the proposed development that contribute positively to the heritage significance of the building:*

- *Retention and restoration of the facade and front portion of the original building.*
- *Setback of new development from the Mann Street facade to ensure views and vistas to and from the building are maintained.*
- *Restoration and retention of key elements in the proposed reuse of the building as a cinema complex, and*
- *Maintenance of the forecourt area fronting onto Mann Street.*

*In addition the proposed development has incorporated elements that do reduce the overall impacts on the BWCC. These includes providing some streetscape separation at the Mann Street level, using building setbacks at street level to ensure the prominence of the heritage building, a podium level sympathetic to the height of BWCC building, and the setback of Tower 1 away from the streetscape facade.*

*The clock tower element will also be restored and will be retained as a prominent feature within the Mann Street streetscape.*



However there are potential adverse impacts on the heritage significance of the item as a result of the height of the proposed three towers, especially Tower 1, in relation to the two storey height of the BWCC building. Overall it is considered that Tower 1 is too high in the immediate context of the heritage building.

#### Heritage Significance

The building is currently listed as an item of local significance in Schedule 5 of Gosford City Council LEP 2014. It also has non-statutory listing on the Register of the National Estate (RNE) Australian Heritage Council, the National Trust of Australia (NSW), and the Register of Twentieth Century Buildings of Significance, Royal Australian Institute of Architects.

The acceptability of demolition of part of the building is dependent upon determination of the heritage significance of the subject building based on the criteria specified by the NSW Heritage Office. The Statement of Heritage Significance included within the Clive Lucas Stapleton report prepared for Council in 2014 states that:

*The BWCC building is an accomplished, albeit late, example of the Inter-war Moderne style. Its street façade exhibits a finely proportioned and balanced composition of vertical and horizontal elements, while the main entrance, staircase and foyer are dramatic and potentially attractive spaces.*

*The building is noteworthy for its use of local sandstone as cladding externally and for its prominent clock tower which graphically signals the use of electrical power for modern convenience. Internally elements such as the surviving terrazzo flooring and cantilevered stair treads remain evocative of the era and the former prestige of the building.*

*The building has the potential to make a valuable contribution to the streetscape of Mann Street, Gosford's main street and to the group of other civic buildings in the vicinity due to its careful siting and striking 1950s design.*

*In addition the report identifies the 1950s component of the BWCC to have high significance whilst the 1960s and 1970s additions have a rating of low significance. The proposal is to retain and restore the most significant sections of the 1950s part of the building.*

*The building also has significance for its association with the architect Henry Walter Helman, historical significance due to its evidence of historic growth and transformation of the Gosford area, has likely social significance and is a rare example of the Inter-war Moderne style of architecture in the Gosford area.*

#### Planning Instruments

Below I assess the heritage aspects of the proposal against the criteria in the Gosford LEP 2014 (GLEP) and the DCP 2013 (GDCP).

Control	Assessment	Complies
<b>Section 5.10 Heritage Conservation (GLEP)</b>		
<p>(1) Objectives</p> <p>The objectives of this clause are as follows:</p> <p>(a) To conserve the environmental heritage of Gosford,</p>	<p>While the proposed development is generally acceptable given the retention and restoration of the front part of the building and its architectural features, the overall height of the proposed towers are considered excessive in relation to the BWCC building.</p>	No

(b) To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,	While the proposed development is generally acceptable given the retention and restoration of the front part of the building and its architectural features, the overall height of the proposed towers are considered excessive in relation to the BWCC building.	No
(c) To conserve archaeological sites,		N/A
(d) To conserve Aboriginal objects and Aboriginal places of heritage significance.		N/A
<b>(2) Requirement for Consent</b> Development consent is required for any of the following: (a) Demolishing or moving any of the following or altering the exterior of any of the following (including in the case of a building making changes to its detail, fabric, finish or appearance) (i) A heritage item	Development consent is required because the proposal involves the demolition of part of the heritage item, restoration of part of the BWCC building and construction of new development within the cartilage item as well as in its immediate vicinity.	N/A
(b) Altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item.	Development consent is required because the proposal involves the demolition of part of the heritage item, restoration of part of the BWCC building and construction of new development within the cartilage item as well as in its immediate vicinity.	N/A
(e) Erecting a building on land: (i) On which a heritage item is located or that is within a heritage conservation area,	Development consent is required because the proposal involves the erection of a mixed use commercial and residential development on the site.	N/A
<b>(3) Effect of proposed development on heritage significance</b> The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage	The heritage significance of the item is adversely impacted as a result of the excessive height of the proposed towers within the site. The height of the towers is out of scale with the BWCC building and dominates the building when viewed from both Mann Street and the historic intersection of Mann and Georgiana Terrace. Other aspects of the development are supported however such as the restoration and conservation of the interiors and exteriors of the foyer of the BWCC building.	No

<i>management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause.</i>		
<b>(6) Heritage conservation management plans</b> <i>The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</i>	<i>The Applicant has submitted a heritage impact assessment as part of the DA.</i>	N/A
<b>Section 4.1.7.2 Heritage Items (GDGP)</b>		
<b>Objectives</b> <ul style="list-style-type: none"> <li><i>To facilitate the conservation and protection of heritage items and heritage conservation areas and their settings.</i></li> <li><i>To reinforce the special attributes and qualities of heritage items by ensuring that development has regard to the fabric and prevailing character of the item or special area e.g., scale, proportions, materials and finishes.</i></li> <li><i>To conserve, maintain and enhance existing views and vistas to buildings and places of historic and aesthetic significance.</i></li> </ul>	<i>The proposed development does not conserve or protect the heritage item as a result of the height of the proposed towers.</i>  <i>However, the proposed development does have regard to the fabric of the building with the exterior and most of the significant interiors conserved.</i>  <i>The proposed development does have regard to the prevailing character of the item but the scale and proportions of the new buildings are inappropriate.</i>	No
<b>Conservation Criteria</b> <i>Any new development within this chapter's study area must ensure that the significance of heritage items and their setting are retained and enhanced.</i>	<i>The development does retain and enhances the significance of the heritage item itself with the proposed restoration works. The proposed height of the towers however will have adverse impacts on its setting.</i>	No
<b>(a) Scale</b> <i>The scale and bulk of any new building or work must be in scale with the original building and new development must not obstruct important views or vistas of the item. In the case of infill work in a conservation area, the scale of the new building must be similar to those around it. Where this is not feasible, sufficient curtilage around the heritage item</i>	<i>The scale of the building as it affects the heritage item is not compatible and adversely impacts upon the significance and character of the BWCC building. While the setback of Tower 1 from Mann Street helps, it is not sufficient to prevent this impact.</i>	No

<i>must be included to assist interpretation of its heritage significance. In some circumstances where site depth would allow, a higher building could be erected behind a heritage shopfront.</i>		
<b>(b) Siting.</b> <i>If the existing street façade of the building is sympathetic to the character of the street, then alteration must be avoided. New work is best located to the rear or side of the building.</i>	<i>The existing street facade is a landmark within the Mann Street streetscape and contributes to the townscape of South Mann Street and Gosford's CBD. New work is predominantly located to the side and rear of the BWCC building.</i>	Yes
<b>(c) Architectural form.</b> <i>The basic architectural form of any new work needs to respect what exists. Issues to consider are the roof form, proportion and location of windows and doors.</i>	<i>The basic architectural form of the proposal, with the exception of the height, is generally accepted.</i>	Yes
<b>(d) Architectural detailing.</b> <i>It is important to be aware of the particular era and architectural style of the building or buildings and make sure that any proposed changes are contextual to the period. For example, it is not appropriate to mix Victorian features with a California Bungalow. Overuse of historical architectural features on new work should be avoided, with preference given to uncomplicated interpretive forms and detailing.</i>	<i>There is a clear definition between the existing heritage item and the contemporary architecture of the new works.</i>	Yes
<b>(e) Materials and finishes.</b> <i>Reuse existing materials where possible. New materials and detailing must be compatible with the original and consideration must be given to the colour, texture and type of materials and finishes.</i>	<i>Materials and finishes are generally appropriate.</i>	Yes
<b>(f) Use.</b> <i>The best use for a building is usually the one for which it is built. Where this is not possible, a use sympathetic to the layout of the building and requiring minimal alterations will be more compatible.</i>	<i>The reuse of the heritage significant part of the BWCC building is supported.</i>	Yes
<b>(g) Original fabric.</b> <i>It is important to minimise alterations to the original fabric</i>	<i>The proposed restoration works are acceptable and are a positive attribute of the development application.</i>	Yes

<i>and where possible, repair rather than replace individual elements, such as windows and doors</i>		
<b>(h) The aging process.</b> <i>The patina of age on a building adds much to its character and significance. A worn step for example demonstrates the many years of feet crossing a threshold. Such features add to the uniqueness and character of a place and must be retained wherever this does not present a public safety risk.</i>		Yes

### Conclusion

*The proposed development of the BWCC is;*

- *Acceptable with regard to the demolition of the lesser significant sections at the rear of the property and the retention of the very significant Mann Street facade and foyer area.*
- *The restoration of the significant Mann Street facade and front building is acceptable in terms of heritage conservation practice and the preservation of fabric and building integrity.*
- *The podium level at street level is of an appropriate height in relation to the BWCC building.*
- *The proposed height of the tower elements are not appropriate with regard to their height and scale and to the setting of the heritage item, and will dominate the building."*

### Planning Comment

It is recognised that the proposed height of the towers significantly exceeds that under the current planning controls. However, approval of the proposal will not only provide economic and social benefits to the city, it will ensure the heritage item is retained and upgraded. At the moment the site and the heritage building is in a state of disrepair and the site contains derelict buildings.

**(Refer to Condition 4.20)**

### **External Referrals**

#### **(a) Police**

Gosford Police advise:

- There is no current liquor licence for the premises. It is envisaged a liquor licence application will be made if the proposal proceeds.
- Potential adverse effects may relate to: noise, shortage of car parking, and alcohol related crime.

The Police have recommended conditions be imposed relating to noise emission, security guards, and installation of CCTV, for the operation of licensed premises.

**(Refer Condition 4.9 and 6.12)**

#### **(b) Roads and Maritime Services (RMS)**

No objections to the subject development as it is unlikely the development will have any unacceptable impacts on the classified (State) road network.

## Internal Referrals

### (a) Development Engineer

#### Flooding & Drainage

The adopted Flood Planning Level has not been changed to date and remains at RL 2.45m AHD. The development is in excess of 20m from the sea wall and the effects of wave run-up are likely to be very minimal.

The Applicant has adopted a minimum floor level of habitable areas and a minimum crest level for the driveways of RL 2.45m AHD.

#### Traffic

Council's Traffic Engineer has provided the following information;

*I have reviewed the amended Traffic and Parking Impact Assessment Report by Barker Ryan Stewart dated July 2015. I am satisfied that the report has satisfactorily addressed the traffic management and parking requirements for the development.*

#### Road Works & Access

Car parking is accessible from vehicle crossings located on Baker Street and Georgiana Terrace. The waste and loading bay is located at Basement 1 accessible via Baker Street vehicle crossing through separate entry and exit roller shutter doors.

All car parks, ramps, loading zones, etc shall be designed to comply with AS 2890.

A drop off / taxi zone is proposed within the off Baker Street. This is accessed via vehicle crossings at each end of the zone, with a bus stop located adjacent to Baker Street. The driveway for the drop off zone is to be contained wholly within the site. In addition a pedestrian crossing is to be provided internally to provide pedestrian access across the driveway through the drop off zone from the proposed bus stop to the drop off zone.

The Applicant's Traffic Report also recommends the construction of a pedestrian crossing in Georgiana Terrace near the intersection with Baker Street. This should be located at or in the general location of the redundant children's crossing associated with the former Gosford Public School site.

#### Water & Sewer (and Zone of Influence)

*A Section 307 Certificate is required. The development is located within the Gosford City Centre Developer Services Plan (DSP) Area and shall be subject to GCC DSP water and sewer contributions.*

*Council's Building Over Sewer Condition is required. Engineering plans for protection of Council's sewer main shall be submitted to Council's Water Assessment Team for review. The developer shall be responsible for the full cost of design and relocation of the sewer main within the development site.*

*Sewer connection is required to be maintained to the adjoining site. Both water and sewer are available to the land.*

### (b) Building Surveyor

The development will generally comply with the BCA and is not located in a landslip area.

**(c) Waste Management**

Waste storage and collection is satisfactory. Conditions of Consent provided.

**(d) Architect/SEPP 65 Assessment****“Introduction**

*The application is for a mixed use development including retail and commercial use and three residential towers above a three to five level podium and three levels of underground parking.*

*The application has been assessed in response to the ten SEPP 65 Design Quality Principles and the Residential Flat Design Code (RFDC) and the Gosford City Centre development Control Plan (DCP).*

**Context**

*This is a large and prominent site fronting three streets within the Gosford CBD and close to the waterfront precinct. A taller mixed use development with higher density is appropriate in this location and is supported in principle however the proposed height is almost double the permissible and should be addressed through a planning proposal.*

*The site falls almost two floors from Mann Street to Baker Street. The creation of a clear pedestrian link gradually stepping down the site to connect the central courtyard and two streets complies with the DCP recommendations for a through site link and is supported. A secondary pedestrian access point from Georgiana Terrace further improves site connections and activates the street front.*

*The street fronts are predominantly occupied by retail uses and the hotel entry and reception area. There are also separate entries for each residential tower. The design contributes to an active street front and complies with the objectives for mixed use buildings in the DCP.*

*The retention of the heritage listed Brisbane Waters County Council Building including the foyer and staircase and its use as an integral part of the cinema is strongly supported. This is a significant heritage item and makes an important contribution to the Mann Street streetscape. Though the DCP requires this section of Mann Street have a zero setback, the view of the complete facade including the clock tower has been enhanced by splaying the commercial floors on Mann Street. This also improves the visibility of the entry to the courtyard and through site link.*

*The application proposes a 3 storey podium on Mann Street and an undulating 3 storey podium on Baker Street and Georgiana Terrace creating a street front height of approximately 17 metres. This is consistent with the DCP and creates a suitable scale to define the street and reduce possible wind impacts at street level.*

*The hotel and residential units are located within the three tower buildings set back from the street front and adjoining sites to comply with building separation controls and reduce overshadowing.”*

**Applicants Response**

*“Stairs, terracing and planting added to the north east corner of the site to allow pedestrian access from the footpath. The “wall” effect is eliminated.*

*The ground floor of the building on Mann Street has been pushed back to align with the facade of the Heritage Building. Also, the two commercial levels above have been realigned to allow visual access from the north, and to “point” towards the clock tower.*



*There is car parking now on levels above Baker Street. Providing commercial space on the street side of the upper levels would in this case be impractical due to access and shape of tower which would compromise the use of the area if both parking and commercial were in the same location.*

*The raised car parks have been located to minimise the basement level car parking (water table is 1-2 metres below Baker Street entry level, making construction very expensive).*

*The intention with the facade of these car parks, is to treat similarly to the adjacent Georgiana Street tower podium level. However, the external wall will be designed so that the cars will not be visible from the street or podium level (this will be achieved by a combination of screens and opaque glazing)."*

#### "Scale

*There is significant non-compliance with current height controls. Current controls including the 30% height bonus permit a height of 63 metres and 18 levels. The application proposes a maximum height of 119 metres and 34 levels or an additional 92% above the bonus.*

*The applicant has provided a view catchment analysis (Refer Attachment 5) that clearly indicates the application will have a significant visual impact when viewed from the waterfront towards Mt Mouat and Rumbalara Reserve. The vegetated ridgelines are an important element of Gosford's character and views of these should be maintained from important public spaces such as the waterfront.*

*There is also concern that this will create a precedent for other properties in the CBD and will result in tall buildings that overshadow the street and particularly Kibble Park.*

*It is acknowledged that the panel previously approved the application for the redevelopment of the Union Hotel site on the corner of Mann and Donnison Streets which is similar in height and scale to this application.*

*The north west tower has a 5 metre non-compliance with setback controls but because the building curves away from the boundary there is a relatively small area of non-compliance and is considered to have little impact on the adjoining building.*

*In other respects the scale is acceptable. The 3-4 level podium is consistent with the DCP. The towers are relatively slim and use variation in their design to disguise their visual bulk."*

#### Applicants Response

*"The proposed building heights are in excess of current DCP guidelines. The towers have been designed in line with Council's adopted Strategic Intent, which is the incorporation of taller, slender towers to allow a lower podium impact.*

*An Economic Strategy report has been prepared for council viewing, to explain the feasibility basis for the development."*

#### "Built Form

*"The built form is generally acceptable but consideration should be given to introducing more gradual changes in levels. It is acknowledged that there is a large fall across the site however a series of short staircases with generous landings provides a better visual and physical connection than a single long flight.*

**Density**

*Significant non-compliance with current density and height controls has a detrimental impact on views from important public spaces. Refer to comments under scale.*

**Resource, Energy and Water Efficiency**

*Complies with BASIX. indicating compliance with sustainability requirements.*

**Landscape**

*The landscaping shown on the Ground Floor plan next to the staircase is below the Level 2 roof and therefore unlikely to thrive.*

*The majority of landscaping is located on the slab. It is essential that there is adequate soil volume for the selected species.*

*All proposed landscaping must be in accordance with the Gosford City Centre Streetscape Design Guidelines.*

**Amenity**

*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.*

**Safety and Security**

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

*Lift lobbies can be clearly seen from the entry and have no hiding spaces.*

**Social Dimensions**

*The application provides a mix of 2, 3 and 4 bedroom units and also adaptable units for different needs of occupants.*

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

**Aesthetics**

*Refer to recommendations made under Context, Scale, Built Form and Landscape.*

*Subject to the issues raised under Scale and Landscape, the aesthetics are acceptable. The curving tower facades and recessed balconies contribute to a well balanced and proportioned building."*

Planning Comment

It is recognised that the height and FSR significantly exceeds the development standards. However this is in accordance with the Statement of Strategic Intent (SOSI). The variations have been considered under Clause 4.6 of the Gosford LEP 2014 and are supported.

The concerns raised regarding the extent of blank wall in Mann Street, the visibility of the above ground car parking levels, and soil volume to sustain landscaping have been addressed in Condition 2.8. This condition requires amended plans prior to the issue of a Construction Certificate.

**(e) Environmental Officer**

Consideration should be given to potential acid sulphate soils and ground water depths. The application has been amended which reduces the extent of excavation required. Nevertheless this can be addressed as a condition of consent  
**(Refer Condition 2.9)**

**(f) Health**

No objections or conditions.

**(g) Food Surveillance**

Conditions provided.

**(h) Tree Assessment Officer**

The proposed tree and shrub plantings may not address all the recommendations of the 'Pedestrian Wind Environment Study by Windtech Consultants 24/7/15.

The street tree planting will need to address *Gosford City Centre – Streetscape Design Guidelines, Sept 2011*. Some tree species on the Landscape Plans (plant schedule) were found, however some others are not listed in the Guideline (p32) and will need to be amended prior to the issue of a Construction Certificate.

Conditions have been provided to ensure the project's Landscape Architect rectifies and verifies plans prior to issue of a Construction Certificate  
**(Refer Condition 2.5)**

**Public Notification**

Under Clause 7.3.13 of Chapter 7.3 of DCP 2013, amended plans do not require advertisement or notification, if in the opinion of Council, the amendments are minor or will result in no additional impacts.

The amended plans lodged reduce the height and floor space of the proposed development. The amendments result in less impact and therefore did not require advertisement or notification.

**Public Submissions**

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

Issue	Submission	Comment
Height and FSR	Exceeds bonus	Clause 4.6 submission is supported
Car Parking	Inadequate/shortage	Adequate car parking provided
Traffic	Congestion on roads	Road system adequate
Views	Loss from existing units	View loss not unreasonable
Support	Economic and employment	Proposed has economic, social, and

	benefits/revitalisation of Gosford	community benefits which will help revitalise Gosford.
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## Conclusion

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

In this instance, it is considered that the proposal is consistent with the stated objectives of the B4 Zone, and the SOSI, and approval is in the public interest for the following reasons:

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

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

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

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

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.

The proposal is supported subject to conditions.

- Attachments:**
1. Public Submissions
  2. Plans
  3. Clause 4.6 Submission
  4. Statement of Strategic Intent (SOSI)
  5. View Impact Assessment
  6. Shadow Diagrams

## 7. SEPP 65 Compliance Statement

### Tabled Items:

### 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 47046/2015 for the proposed Mixed Use Development including Commercial, Residential (Shop Top Housing), Cinema, Hotel and Tavern on Lot 1 DP 433839, Lot 1 DP 511513, Lot 1 DP 219637, Lot 3 DP 219637 No 50-70 Mann Street and No 114 Georgiana Terrace GOSFORD, subject to the conditions attached.
- C The applicant be advised of Joint Regional Planning Panel decision and of their right to appeal in the Land and Environmental Court under Section 97 of the Environmental Planning and Assessment Act 1979 six (6) months after the date on which the applicant receives notice in respect to the Panel's decision.
- D The objectors are notified of Joint Regional Planning Panel's decision.
- E The External Authorities be notified of the Joint Regional Planning Panel's decision.
- F The consent be limited to two (2) years.
- G Council's Section 94 Officer be advised that the amount to be reimbursed to CP94A is \$4,687,292.00

### 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 Architecture

Drawing	Description	Sheets	Issue	Date
A-001	Cover Sheet	1	-	24/7/15
A-002	Project Outline	1	F	14/8/2015
A-003	Planning Strategy	1	F	14/8/2015
A-011	Site Plan	1	F	14/8/2015
A-101	Car Park Level 09/10	1	G	14/8/2015
A-102	Car Park Level 07/08	1	G	14/8/2015
A-103	Baker St Car Park Level 05/06	1	H	14/8/2015

A-110	Car Park 03/04	1	G	14/8/2015
A-111	Mann St Car Park 02	1	G	14/8/2015
A-112	Commercial Car Park 01	1	G	14/8/2015
A-113	Hotel/Commercial 05	1	G	14/8/2015
A-114	Typical Tower Low Rise	1	G	14/8/2015
A-115	Typical Tower Mid Rise	1	G	14/8/2015
A-116	Typical Tower High Rise	1	G	14/8/2015
A-121	Apartment Plans - Mann Street Tower - 8 Unit	1	D	14/8/2015
A-122	Apartment Plans - Mann Street Tower - 6 Unit	1	G	14/8/2015
A-123	Apartment Plans - Mann Street Tower - Penthouses	1	D	14/8/2015
A-124	Apartment Plans - Baker Street Tower – 8 Unit	1	B	14/8/2015
A-125	Apartment Plans - Baker Street Tower – 6 Units	1	B	14/8/2015
A-126	Apartment Plans - Baker Street Tower – Penthouses	1	B	14/8/2015
A-127	Apartment Plans - Georgiana Terrace Tower	1	G	14/8/2015
A-128	Apartment Plans - Georgiana Terrace Tower - Penthouses	1	C	14/8/2015
A-131	Roof Plan	1	D	14/8/2015
A-201	North Elevation	1	F	14/8/2015
A-202	East Elevation (Mann St)	1	F	14/8/2015
A-203	South Elevation (Georgiana Tce)	1	F	14/8/2015
A-204	West Elevation (Baker St)	1	F	14/8/2015
A-301	Section A	1	F	14/8/2015
A-302	Section B	1	F	14/8/2015
A-303	Section C	1	F	14/8/2015
A-401	Apartment Schedule/FSR	1	F	14/8/2015
A-402	SEPP 65 Compliance June 21	1	F	14/8/2015
A-403	SEPP 65 Compliance Equinox	1	F	14/8/2015
A-404	External Finishes Schedule	1	D	24/7/2015
A-421	View Study Locations	1	C	14/8/2015
A-422	View Study	1	C	14/8/2015
A-423	View Study	1	C	14/8/2015
A-424	View Study	1	C	14/8/2015
A-425	View Study	1	C	14/8/2015
A-426	View Study	1	C	14/8/2015
A-431A	Shadow Analysis March EDST	1	D	26/8/2015
A-431B	Shadow Analysis March EDST	1	D	26/8/2015
A-432A	Shadow Analysis June AEST	1	D	26/8/2015
A-432B	Shadow Analysis June AEST	1	D	26/8/2015
A-432C	Shadow Analysis June AEST	1	D	26/8/2015
A-432D	Shadow Analysis June AEST	1	D	26/8/2015
A-433A	Shadow Analysis December EDST	1	D	26/8/2015
A-433B	Shadow Analysis December EDST	1	D	26/8/2015
A-434	Shadow Diagrams	1	F	14/8/2015
A-435	Shadow Diagrams Compliant Height	1	F	14/8/2015

### Landscape Plan by Xeriscapes

Drawing	Description	Sheets	Issue	Date
104	Landscape Plan Mann Street	1	C	22/08/2015

### Supporting Documentation

Author	Title	Date
ADW Johnson Pty Ltd	Statement of Environmental Effects	July 2015
Barker Ryan Stewart	Traffic & Parking Impact Assessment Report	July 2015
Richard Lamb & Associates	Visual Impact Assessment	17/7/2015
Windtech	Pedestrian Wind Environment Study	24/7/2015
Douglas Partners	Stage 1 Environmental Site Assessment	March 2004
Douglas Partners	Stage 2 Environmental Site Assessment	September 2004
Cardno	Concept Watercycle Management Report	29/1/2015
Chapman Environmental Services Pty Ltd	Basic Certificate 603836M	28/1/2015
CKDS Architecture	SEPP 65 Compliance Statement	-
Philip Chun	BCA and Disability Assessment	29/1/2015
James Marshall & Co	Community Benefits Report	-
Barker Ryan Stewart	Waste Management Plan	August 2015
Barker Ryan Stewart	Waste & Loading Dock Management Plan	August 2015
Barker Ryan Stewart	Heritage Impact Assessment	August 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. A dilapidation report is to be prepared by a practising structural engineer at no cost to Council or adjoining property owners, detailing the structural adequacy of adjoining properties, including Council's property, and their ability to withstand the proposed excavation. This report must include any measures required to be incorporated to ensure that no damage will occur during the course of works. The report must be submitted to Council and relevant adjoining property owners prior to the issue of any construction certificate.
- 2.3. All plumbing work to be carried out by a licenced plumber who has a current licence registered with NSW Office of Fair Trading. The work must be inspected by Council's plumbing inspector and the inspection fee to be paid to Council's Customer Service Section before an inspection can be carried out.



Also the licence plumber must submit a notice of work for plumbing and drainage application 2 days prior to Council before an inspection can be carried out. This falls under the Plumbing Code of Australia from 1 January 2013

- 2.4. This development must comply with Council's backflow Prevention Policy WS.04.
- 2.5. In regard to street tree and vegetation planting within the site, the project's Landscape Architect is to verify &/or amend Landscape Plans to ensure requirements of the 'Pedestrian Wind Environment Study 24/7/15', and Gosford City Centre - Streetscape Design Guidelines Sept 2011, have been addressed prior to issue of Construction Certificate.
- 2.6. The fitout of the food premises is to comply with the Food Act 2003, Food Regulation 2010, Food Standards Code and the Australian Standard AS4674 for the Design, Construction and Fitout of Food Premises. Details of compliance are to be included in the plans and specifications for the Construction Certificate to the satisfaction of the certifying authority.
- 2.7. The payment to Council of a Contribution \$4,687,292.00 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/customer/document/gallery/contribution\\_plans](http://www.gosford.nsw.gov.au/customer/document/gallery/contribution_plans)

- 2.8. 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) The preparation and approval by the Principal Certifying Authority of an amended landscape plan to provide tree planting/street tree/ deep soil planting.
- b) A minimum of 50 studio/one bedroom units.
- c) The amendment of landscape & development plans to provide;
  - i. The inclusion of densely foliating trees along ground level footpaths on Mann Street, Georgiana Terrace and Baker Street frontages of the site. The densely foliating trees are to be capable of growing at least 3m tall with a 2m wide canopy.

- ii. The inclusion of densely foliating trees within the through site link between the Mann Street and Baker Street. The densely foliating trees are to be capable of growing to at least 3m tall with a 2m wide canopy.
  - iii. The inclusion of a 3m high awning spanning across the Mann Street pedestrian footpath and wrapping around the south-eastern corner of the Mann Street commercial building.
  - iv. The inclusion of densely foliating shrubs capable of growing to a height of 1.5m along the Mann Street cafe seating areas.
  - v. The inclusion of densely foliating trees around the south-western area of the through site link to ameliorate strong southerly winds. The densely foliating trees, capable of growing to at least 3m tall with a 2m wide canopy.
  - vi. The inclusion of a 1.8m high impermeable screen along the south-western edge of the lower podium along Baker Street to reduce south-westerly winds side streaming across the through site link.
  - vii. The inclusion of densely foliating trees and hedge planning within and around the hotel courtyard. The densely foliating trees, capable of growing to at least 3m tall with a 2m wide canopy and/or densely foliating hedges capable of growing to at least 2m tall.
  - viii. The inclusion of 1.85m high impermeable screen along the eastern and western edges of the hotel courtyard to reduce strong winds funnelling through the towers.
  - ix. The inclusion of a pergola over the hotel courtyard to reduce undesirable wind effects if the area is intended to be used to longer duration activities.
  - x. If the rooftop area on Mann Street podium is to be trafficable by pedestrians, then landscaping and 1.8m high impermeable screens around the edges of the podium are to be installed. The landscaping may be in the form of a densely foliating trees or hedges, capable of growing to 3m high.
  - xi. The inclusion of an impermeable balustrade for western facing balconies on the Mann Street tower.
  - xii. Landscaping to have sufficient depth and volume to support 15% deep soil planting.
- d) A reduction in the height of the solid blank wall on Mann Street to a maximum height of 1.5m and over no more than 20% of the Mann Street frontage, unless the height above 1.5m is of glazed and/or transparent material.
  - e) The external finishes and materials on Baker Street must be sufficiently opaque to disguise the three (3) levels of above ground car parking.

2.9. Prepare an Acid Sulfate Soil Management Plan prior to the issue of any Construction Certificate and approved by the Principal Certifying Authority.

2.10. Details of any proposed mechanical ventilation systems, detailing compliance with the relevant requirements of Clause F4.12 of the Building Code of Australia (BCA) and Australian Standards AS1668 Parts 1 & 2 (including exhaust air quantities and discharge location points are to be submitted to and approved by the PCA prior to a Construction Certificate being issued for the subject works.

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

2.11. 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) Full width upgrade of the footway across the full frontages of the site in Mann Street, Georgiana Terrace & Baker Street in accordance with the Gosford City Centre “Streetscape Design Guidelines” prepared by Oculus dated September 2011.
- b) Kerb and gutter across the full frontage of the site in Baker Street (with the exception of the vehicle crossing locations).
- c) Reconstruction of the kerb and gutter across the full frontage of the site in Georgiana Terrace (with the exception of the vehicle crossing location).
- d) Construction of the kerb return and reconstruction of the pram ramp at the intersection of Baker Street and Georgiana Terrace.
- e) Tapered heavy-duty vehicle crossing in Baker Street that has a width of 13m behind the heavy-duty gutter crossing and 12m at the property boundary, constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.
- f) Splayed heavy-duty vehicle crossings to the drop off / taxi zone, which have a width of 8m behind the heavy-duty gutter crossings and 5m at the boundary, constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom. The northern crossing shall be splayed to the north and the southern crossing splayed to the south.
- g) Heavy-duty vehicle crossing in Georgiana Terrace that has a width of 6m and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.
- h) Heavy-duty gutter crossings to suit the widths of the heavy-duty vehicle crossings, constructed with a minimum of 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom. NB the heavy-duty gutter crossing associated with the Baker Street car park entrance shall be constructed as an extension of the heavy-duty gutter crossing associated with the neighbouring northern property.
- i) All redundant dish crossings and/or damaged kerb and gutter are to be removed and replaced with new kerb and gutter.
- j) All redundant vehicular crossings to be removed.
- k) Construction of a pedestrian crossing in Georgiana Terrace in the general location of the redundant children’s crossing associated with the former Gosford Public School site.
- l) The piping of stormwater from within the site to Council’s drainage system located in Baker Street / Georgiana Terrace.
- m) Bus stop and shelter on Baker Street located between the two vehicle crossings associated with the drop off / taxi zone.
- n) Signage and line marking. The signage and line marking plan shall be approved by the Council Traffic Committee.

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

- 2.12. 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.
- 2.13. A security deposit of \$100,000 must be paid into Council’s trust fund prior to the issue of any Construction Certificate. The payment of the security deposit is required to cover the cost of repairing damage to Council’s assets that may be caused as a result of the

development. The security deposit will be refunded upon the completion of the project if no damage was caused to Council's assets as a result of the development.

- 2.14. 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.
- 2.15. 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.

- 2.16. 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) Pedestrian crossing linking the bus stop in Baker Street with the drop off / taxi zone.
  - c) On-site stormwater retention measures must be designed in accordance with Council's DCP Chapter 6.7 - Water Cycle Management. A report detailing the method of stormwater harvesting, sizing of retention tanks for re-use on the site and an operation and maintenance plan shall accompany the design.
  - d) Nutrient/pollution control measures must be designed in accordance with Council's DCP Chapter 6.7 - Water Cycle Management. A nutrient/pollution control report including an operation and maintenance plan shall accompany the design.
  - e) Piping of all stormwater from impervious areas within the site to Council's drainage system located in Baker Street / Georgiana Terrace.
  - f) The minimum floor level of all habitable rooms in the development must be RL 2.45m AHD.
  - g) All building materials used or located below RL 2.45m AHD must be of a type that is able to withstand the effects of immersion.
  - h) Waterproofing of the structure below RL 2.45m AHD.
  - i) Drop off / taxi zone. The driveway pavement for the drop off / taxi zone shall be contained completely within the development site, and shall not encroach into the Baker Street road reserve.

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

- 2.17. 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.

2.18. A vertical ceiling height of 4.0m must be provided in areas serviced by waste trucks.

### 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. A suitable hoarding or fence is to be erected 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. The Structural Engineer's details are to be certified that they have been prepared in accordance with the details and recommendations of the Review of Geotechnical Aspects Project No. 75928 dated 19 March 2015 prepared by Douglas Partners.
- 3.9. Submission of an application for approval to discharge liquid trade waste into Council's sewerage system. The application and details of the proposed method of treatment, together with the required fee is to be submitted to Council prior to the commencement of works.
- 3.10. A Construction Traffic Management Plan (CTMP) shall be prepared including a Vehicle Movement Plan and Traffic Control Plan. The CTMP shall be prepared with the intention of causing minimal impact to the operation of the road network during construction of development.
- 3.11. 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.
- 3.12. No demolition work involving the BWCC building can be carried out unless it immediately precedes restoration works. This is to eliminate the site remaining empty for an unreasonable period or the unnecessary demolition of the building.

#### 4.. DURING WORKS

- 4.1. Clearing of land, excavation, and/or earthworks, building works, and the delivery of building materials shall be carried out between the following hours:

Mondays to Fridays - 7:00am to 6:00pm

Saturdays - 8:00am to 4:00pm except as noted in Clause 'b'

- a) No work is permitted on Sundays and Public Holidays
- b) No work is permitted on:
  - Saturdays when a public holiday is adjacent to that weekend.
  - Construction industry awarded rostered days off.
  - Construction industry shutdown long weekends.

Clause b does not apply to works of a domestic residential nature as below:

- i Minor renovation or refurbishments to single dwelling construction.
  - ii Owner occupied renovations or refurbishments to single dwelling construction.
  - iii Owner builder construction of single dwelling construction; and/or
  - iv Any cottage constructions, single dwellings or housing estates consisting of predominantly unoccupied single dwellings.
- 4.2. Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Erosion Sedimentation Control Policy D6.46.
- 4.3. Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.
- 4.4. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made is responsible to notify the neighbour and responsible for the protection and preservation of the adjoining allotment of land.

- 4.5. Buildings are to be demolished in a safe and systematic manner in accordance with the requirements of Australian Standard *AS 2601-2001 – Demolition of Structures*, and disposed of in an approved manner.
- 4.6. All recommendations of the geotechnical report must be implemented during works. This includes, but is not limited to, the carrying out of all inspections as required by the geotechnical engineering report with a view to the geotechnical engineer providing written certification to the Principal Certifying Authority's satisfaction that all works have been carried out on site in accordance with the recommendations contained within the geotechnical engineers report.
- 4.7. A report prepared by a registered Surveyor is to be submitted 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.
- 4.8. Should any Aboriginal objects or artefacts be uncovered during works on the site, all works shall cease. The Office of Environment and Heritage shall be contacted immediately and any directions or requirements complied with.
- 4.9. To minimize the opportunity for crime, the development must incorporate the following:
- Adequate lighting to AS1158 is to be provided to common areas.
  - The ceiling of the car park must be painted white.
  - Landscaping adjacent to mailboxes and footpaths must not provide for the concealment opportunities for criminal activity.
  - The development must be designed to avoid foot holes or natural ladders so as to minimize unlawful access to the premises.
  - Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- 4.10. The refrigerated/cooling/freezing chamber, which is of sufficient size for a person to enter, must have-
- a door which is capable of being opened by hand from the inside without a key; and
  - internal lighting controlled only by a switch is located adjacent to the entrance doorway inside the chamber; and
  - an indicator lamp positioned outside the chamber which is illuminated when the interior light is switched on; and
  - an alarm that is-
    - located outside but controlled only from within the chamber; and
    - able to achieve a sound pressure level outside the chamber of 90db(A) when measured 3m from the sounding device.
- The door required by (a) above must have a doorway with a clear width of not less than 600mm and a clear height of not less than 1.5m.
- 4.11. There shall be no obstructions to the wheel out of the waste bins including grills, speed humps, barrier kerbs etc.
- 4.12. Construction of the waste truck servicing grade at 3% or less for the following areas:
- Within the enclosure
  - For bulk bin roll out pads
  - Within the 13m bulk bin and truck service area



- 4.13. Construct garbage chutes in accordance with Appendix F, Chapter 7.2 – Waste Management of Gosford DCP 2013 and BCA requirements.
- 4.14. The internal road strength used by the waste trucks must be sufficiently strong enough to withstand a truck loading of 22.5 tonnes.
- 4.15. Compliance with all commitments as detailed in the Waste Management Plan Ref: CC140157, Revision 4, dated 14 August 2015 signed by C. Manyweathers.
- 4.16. Waste storage enclosures to be constructed in accordance with Chapter 7.2 - Waste Management of Gosford DCP 2013 and the BCA.
- 4.17. 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'.
- 4.18. The location of all electrical fixtures and/or gas outlets are to be at a minimum height of RL 2.45m AHD.
- 4.19. 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.
- 4.20. Elements of the heritage building that must be retained and conserved are;
  - Sandstone facing and facade
  - Original timber framed glazing on the facade must be retained and conserved.
  - The granite foundation stone must be retained and conserved.
  - Mosaic tiled and terrazzo flooring and finishes to all areas such as the foyer, stair hall and showroom must be retained and conserved.
  - Retention and conservation of the main stair including its metal balustrade and Queensland Maple handrails.
  - Retention and conservation of the maple front doors.
  - Retention and conservation of the sandstone bas relief.
  - Retention and conservation of the clock tower
  - Retention and conservation of original landscape features on the Mann Street frontage of the site.

## 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. Impervious surface areas including pathways and driveways are to be graded and drained to prevent water run-off affecting adjoining properties.
- 5.4. Prior to the issue of any Occupation Certificate a geotechnical engineer shall provide written certification to the Principal Certifying Authority's satisfaction that all works have been carried out on site in accordance with the submitted geotechnical report recommendations.

- 5.5. Lots 1 DP433839, 1 DP511513, 1 DP219637 and 3 DP219637 must be consolidated into a single allotment under one Certificate of Title prior to the issue of any Occupation Certificate.
- 5.6. The driveway, vehicle manoeuvring area and 638 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.
- 5.7. The street number is to be at least 100mm high and be clearly visible from the street frontage.
- 5.8. 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.
- 5.9. The 128 retail/commercial car parking spaces are to be marked as such and not strata titled or allocated to any residential unit.
- 5.10. Completion of all landscaping, street tree planning and paving in accordance with the approved landscape and development plans.
- 5.11. Council is to be notified upon completion of work and following the issue of the Occupational Certificate, prior to trading commencing to enable the premises to be inspected by Council's Environmental Health Officer and for the premises to be registered with the Council as a food premises.
- 5.12. Install vacant car parking space electronic indicators within each car parking level at the car parking entry to indicate the location of vacant parking spaces within the site.
- 5.13. Submit an indemnity to Council against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from an on-site collection service prior to the issue of any Occupational Certificate together with the creation of a S88B instrument under the Conveyancing Act to this effect at the applicant's cost.
- 5.14. 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'.

- 5.15. 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.
- 5.16. 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.
- 5.17. 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 retention system and/or a nutrient/pollution facility} restricting any alteration to such 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 retention 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.

- 5.18. 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.

## 6.. ONGOING OPERATION

- 6.1. The floor of the vehicle carwashing area is to be graded and drained to a floor waste connected to silt arrestor pit or an oily water separator. The silt arrestor pit or oily separator is to be connected to the sewer in accordance with the requirements of Council's Trade Waste Section.
- 6.2. A dry basket arrestor is to be installed within the food preparation area.
- 6.3. Sink strainers are to be installed within the kitchen sink waste outlet.
- 6.4. A commercial grease arrestor is to be installed in association with the food premises.
- 6.5. To ensure the survival and establishment of the landscaping, all works associated with the approved Landscape Plans are to be maintained for a period of 12 months from the date of the issue of an Occupation Certificate.
- 6.6. At the completion of the landscaping maintenance period any areas of lawn and plantings, including adjoining road reserve areas that are in a state of decline, damage or missing are to be replaced or restored to a healthy and vigorous condition and compliant with the approved detailed Landscape Plans and Development Consent Conditions.
- 6.7. No materials, waste matter or products shall be stored outside the building or the approved waste storage area, at any time.

6.8. 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.

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

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

6.10. Prohibition of light weight furniture on high rise balconies/decks unless fixed to the building structure.

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

6.12. For licensed premises;

- a) There is to be no live entertainment or amplified music after 12:00 midnight.
- b) Whenever the licensed premises trade after 8:00pm Friday, Saturday or Sunday, uniformed security guards are to continually patrol the vicinity of the premises to ensure that patrons do not loiter or linger in the area or cause nuisance or annoyance to the neighbourhood. Such patrols are to continue until the last patron has left the premises and vicinity of the premises. Security guards are to be employed at a ratio of 1 per 100 patrons or part thereof.
- c) The LA 10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence. The LA 10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence. Notwithstanding compliance with the above, the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.
- d) The licensee shall maintain a CCTV system that meets the following minimum requirements:

A camera must be located at each entrance to the licensed premises, positioned to record any person entering or exiting through this entrance. In addition a camera must be located outside each door to record any person standing within five (5) metres of each door. The CCTV recordings of this camera must be sufficient to enable the identity of an individual to be established beyond reasonable doubt when:

- (a) the person represents 100% of screen height, and
- (b) there is an unobstructed view of the persons face

Recording should be retained for a period of 30 days before being reused or destroyed.

Immediate access to the CCTV system and the ability to review recordings on the system is to be granted to NSW Police, OLGR Inspectors or other regulatory officer upon request.

When the venues are trading, at least one person shall be at the venues who is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.

The CCTV system shall be able to reproduce a copy of the recordings on CD, DVD or USB memory stick and must be provided within 1 working day to NSW Police, OLGR Inspector or other regulatory officer upon request.

- e) The licensee must ensure that, immediately after the licensee or a staff member or agent becomes aware of an incident involving an act of violence causing an injury to a person on the licensed premises or in the immediate vicinity,
  - (a) All reasonable steps are taken to preserve and keep intact the area where the incident occurred, and that any implement or other thing associated with the act of violence is retained in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police Force; and
  - (b) The Brisbane Water Local Area Commander or his/her delegate, is advised by the licensee or a staff member or agent of the incident as soon as practicable; and
  - (c) The licensee or staff member complies with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

In this condition, "staff member" means any person employed by or acting on behalf of the licensee of the licensed premises and it includes any person who is employed to carry on the security activities on or about the premises.

- 6.13. Compliance with all Operational requirements as detailed within the Waste Management Plan Ref: CC140157, Revision 4, dated 14 August 2015 signed by C. Manyweathers.
- 6.14. Compliance with all Operational requirements as detailed within the Waste and Loading Dock Management Plan Ref: CC140157, dated 14 August 2015 by BarkerRyanStewart and revised Appendix A attachment - Waste Collection and Loading Bay Swept Path received by Council on 19 August 2015.
- 6.15. No recyclable waste to be disposed of via garbage chutes ie. mixed waste only permitted. Prominent signage to be installed adjacent to garbage chutes and interim recyclables storage locations to ensure appropriate sorting of residential waste into mixed and recyclable waste streams.
- 6.16. Commercial waste servicing and Commercial deliveries to be managed to provide adequate storage/servicing to support the conflicting commercial uses.
- 6.17. All waste transfer from Commercial/Retail tenancies to be managed wholly within the footprint of the development.
- 6.18. Commercial waste servicing and Commercial deliveries to the Loading Bay area to be undertaken at times that do not conflict with Residential waste servicing.
- 6.19. Parking restriction signage, permanent pavement cross-hatching to be provided in all waste vehicle manoeuvring areas to ensure access to the residential waste storage enclosure is available for waste servicing.
- 6.20. Waste storage to be as indicated on Dwg No. A-103, Issue H, dated 14 August 2015 by CKDS Architecture.

## 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](http://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](http://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).

Where the Office of Environment and Heritage external noise criteria would not feasibly or reasonably be met Roads and Maritime recommends that Council apply internal noise objectives for all habitable rooms under ventilated conditions that comply with the Building Code of Australia.

## 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

Twenty-seven (27) 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 blatantly exceeds the height and FSR limits even with the 30% bonus. This combined with the visual impact will destroy views, cast long shadows, dominate the skyline, and create parking and traffic congestion problems.**

Comment

The proposal exceeds the height and FSR even with the 30% bonus. The applicant has submitted a submission under Clause 4.6 to vary the height and FSR which is supported.

- 2. The piecemeal approach to development is undesirable. No community consultation has been carried out.**

Comment

The proposed was advertised and 27 public submissions received, both for and against the proposal.

- 3. The proposal is supported to improve economic growth in the city, and boom to local businesses and employment.**

**The town is rundown and needs rejuvenation.**

Comment

The proposal will provide economic and social benefits both during construction and operation. The proposed will encourage other developments as a result of increased population and economic activity.

- 4. The proposal may impact the amenity of existing and future nearby residents.**

Comment

The increase in commercial, retail and entertainment facilities will generate increased activity and opportunities. A vibrant and active city centre is expected to generate increased noise.

- 5. It is better to have tall slender buildings rather than low bulky buildings.**

Comment

The proposal provides 3 towers. The amended plans have reduced the height and resultant impacts.

- 6. The increased height is not needed to offset the cost of car parking. Reducing the height and floor space will reduce the need for car parking.**

Comment

The amended plans have reduced the height and floor space which reduces the demand for car parking. Adequate car parking has been provided on site.

- 7. The towers will result in the loss of views from other sites to the north, particularly from units in Watt Street and Mann Street. The towers should be lowered.**

Comment

The amended plans have reduced the height of the towers. Views from units in Watt Street could not reasonably be expected to be retained. View loss is minor and from a distance.

- 8. The increase in traffic and lack of parking required will create safety issues. A Traffic Study is needed.**

Comment

A Traffic Report has been submitted. The road system can cater for the additional traffic and there are no identified safety issues.

- 9. The proposal is an overdevelopment of the site.**

Comment

The proposal exceeds the height and FSR permitted under the 30% bonus. However the variations comply with the objectives of the zone and standard, as well as the objective to revitalise the city centre.

- 10. The extent of variation to the LEP will leave residents without any confidence in the future direction and planning for the rest of Gosford. Council must develop a new comprehensive plan, not act in a piecemeal/ad hoc manner.**

Comment

The proposal is in accordance with the SOSI. Council does not propose to expand the controls across the local government area, or even across the whole city centre. Such variations will be restricted to certain key large sites which can cater for high heights and floor space.

- 11. Clause 4.6 Variations are to be used to provide flexibility, not change the standards. Such variations may lead to allegations of corruption as happened in other Council areas.**

Comment

The Clause 4.6 variations are considered against the relevant planning controls and are supported.

**<<Insert Attachment Link/s Here >>**