

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING PANEL

DATE OF DETERMINATION	24 August 2017
PANEL MEMBERS	Jason Perica (Chair), Kara Krason, Stuart McDonald, Ken Greenwald
APOLOGIES	Bob Ward
DECLARATIONS OF INTEREST	Michael Leavey declared a conflict on this application as he was previously engaged as a contractor to Central Coast Council (Gosford branch) during the assessment of this application and had some initial involvement in the assessment of this application.

Briefing held at Erina Centre, 620 Terrigal Drive, Erina on Thursday, 24 August 2017. The applicant was invited to answer questions from the Panel between 2.30pm and this closed at 3.05pm (this followed a prior briefing by Council staff). Following this, the Panel deliberated on the matter (not involving the applicant) and made its determination.

MATTER DETERMINED

2015HCC003 - Central Coast Council - DA47044/2015 at 70 John Whiteway Drive, Gosford (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at Item 6, the material listed at Item 7 and the material presented at meetings and the matters observed at site inspections listed at Item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The decision was 2:2 in favour, with Stuart McDonald and Jason Perica in favour, and Jason Perica using his casting vote as Chair for approval. Against the decision were Kara Krason and Ken Greenwald.

REASONS FOR THE DECISION

The Panel generally agreed with the balancing of the assessment of environmental considerations as outlined in the council staff supplementary reports.

The Panel had regard to the applicants' Clause 4.6 variation request regarding the maximum height limit within Clause 4.3 of the Gosford Local Environmental Plan 2014 ('the LEP'). Given there is an existing and commenced development consent for the site, the Panel was of the view that it was reasonable to have regard to the form and scale of the previously approved development, as well as associated impacts of both the previously approved development and the subject development. The Panel formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6 of the LEP and it was considered compliance with the height limit was unnecessary and unreasonable in this case. The amendments made to the proposal to reduce its overshadowing impacts and improve its streetscape relationship were noted.

In regard to geotechnical matters, Mr Perica and McDonald were satisfied that the geotechnical reports and updated information provided suitable certainty that geotechnical issues were able to be adequately mitigated and addressed through further analysis, reporting and detail. This view helped form an additional detail condition.

Kara Krason and Ken Greenwald agreed with the overall merits of the proposal and Clause 4.6 Variation to height, although did not believe adequate certainty existed regarding the geotechnical conditions to support the proposal. In this specific regard, they were not willing to support approval of the proposed development.

CONDITIONS

The development application was approved subject to the conditions in the supplementary Council Assessment Report dated 23 August 2017 with the following amendments.

A new condition be inserted to state:

Prior to the issue of a Construction Certificate, a further detailed geotechnical report shall be prepared by a qualified and experienced geotechnical engineer. The geotechnical report shall:

- *Be prepared in consultation with an experienced and qualified structural engineer, as may be necessary to ascertain loads and construction etc;*
- *Carry out further investigation of the site following clearing, preliminary earthworks and survey layout;*
- *Examine and report on existing rock anchors & shot-crete retaining walls and the stability of existing structures and rock;*
- *Determine whether the existing and recommended geotechnical measures (to date) are adequate and determine the need for new measures to ensure stability of the site and surrounds during and after construction;*
- *Ensure there is no impact on neighbouring properties, public assets and future buildings from geotechnical considerations;*
- *Provide a process and timing of monitoring of work during construction and inform when a qualified Geotech engineer is required on site; and*
- *Be certified by both the Geotechnical and Structural Engineer.*

A copy of the final Geotechnical report shall be provided to the PCA and Council and the recommendations and details shall inform the plans and supporting details with the Construction Certificate.

PANEL MEMBERS	
 Jason Perica (Chair)	 Kara Krason
 Stuart McDonald	 Ken Greenwald

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2015HCC003 - Central Coast Council - DA47044/2015
2	PROPOSED DEVELOPMENT	Residential Flat Building (67 Units)
3	STREET ADDRESS	LOT: 100 DP: 1066540, 70 John Whiteway Drive Gosford
4	APPLICANT: OWNER:	DEM Aust Pty Ltd O Satici & V N Hoang & A Satici
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments/Acts: - Environmental Planning & Assessment Act 1979 - Section 79C and associated Regulation - Local Government Act 1993 - Section 89 - State Environmental Planning Policy (SEPP) No 19 – Urban Bushland - State Environmental Planning Policy (SEPP) No 65 – Design Quality of Residential Flat Buildings - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - Gosford Local Environmental Plan 2014 - Draft environmental planning instruments: Nil - Development control plans: - Gosford Development Control Plan 2013 - Chapter 4.1 Gosford City Centre - Chapter 6.1 Acid Sulphate Soils - Chapter 6.3 Erosion Sedimentation Control - Chapter 6.4 Geotechnical Requirements - Chapter 6.6 Preservation of Trees or Vegetation - Chapter 6.7 Water Cycle Management - Chapter 7.1 Car Parking - Chapter 7.2 Waste Management - Chapter 7.3 Public Notification of Development Applications - Planning agreements: Nil - The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality - The suitability of the site for the development - Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or Regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Council assessment report: 30 March 2017 - Supplementary Council assessment report: June 2017, 23 August 2017 - Written submissions during public exhibition: Nine (9)
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing meeting on 4 August 2016 - Site visit and briefing meeting on 30 March 2017 - Final briefing meetings 24 August 2017
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report and supplementary reports