

JOINT REGIONAL PLANNING PANEL (Hunter and Central Coast)

Assessment Report and Recommendation Cover Sheet

JRPP No	
DA Number	47372/2015
Local Government Area	Gosford City Council
Proposed Development	Section 96 - Additional Level for New Twenty Bed Orthopaedic Ward (JRPP)
Street Address	LOT: 1 DP: 1064130, 9 Burrabil Avenue NORTH GOSFORD
Applicant Name	Doug Sneddon Planning Pty Ltd
Owner Name	Healthe Care Properties Pty Ltd
No Submissions	One (1) submission
Regional Development Criteria (Schedule 4A of the Act)	<p>Health Services Facility over \$5M Capital Investment Value Schedule 4A clause 6(a) of the EP&A Act 1979.</p> <p>Modification to regional development under Section 96(2) of the EPA Act 1979 Clause 21(1b) SEPP (State and Regional Development) 2011</p>
List of All Relevant s79C(1)(a) Matters	<ol style="list-style-type: none"> 1. Environmental Planning & Assessment Act 1979 - Section 79C, 91, 96(2) and Schedule 4A 2. Rural Fires Act 1997 – S100B 3. Local Government Act 1993 - Section 89 4. Gosford Local Environmental Plan 2014 5. Gosford Development Control Plan 2013 6. State Environmental Planning Policy (SEPP) No 71 - Coastal Protection 7. State Environmental Planning Policy (SEPP) State and Regional Development 2011 – cl 21 (1)(b) 8. State Environmental Planning Policy (SEPP) Infrastructure 2007 9. State Environmental Planning Policy (SEPP) No 19 Urban Bushland <p>Relevant Regulations: s79C(1)(a)(iv) e.g. Regs 92, 93, 94, 94A, 288</p> <ol style="list-style-type: none"> 10. Rural Fires Regulation 2013 11. Environmental Planning and Assessment Regulation 2000 12. Fire Safety Provisions 13. Building Code of Australia: buildings to be upgraded may require the existing building to be brought into total or partial conformity with the Building Code of Australia <p>Coastal zone management plan: s79C(1)(a)(v)</p> <ol style="list-style-type: none"> 14. Government Coastal Policy (seaward part)

(contd)

List all documents submitted with this report for the panel's consideration

DRAWING LIST	
DA-000	DRAWING SCHEDULE
DA-010	EXISTING SITE/ROOF PLAN
DA-011	EXISTING DEMOLITION GROUND FLOOR PLAN
DA-012	EXISTING AND DEMOLITION LEVEL 1
DA-013	EXISTING AND DEMOLITION LEVEL 2
DA-014	EXISTING AND DEMOLITION LEVEL 3
DA-020	PROPOSED SITE PLAN
DA-021	PROPOSED GROUND FLOOR PLAN
DA-022	PROPOSED LEVEL 1 PLAN
DA-023	PROPOSED LEVEL 2 PLAN
DA-024	PROPOSED LEVEL 3 PLAN
DA-025	PROPOSED CSSD EXPANSION
DA-026	PROPOSED ROOF PLAN
DA-035	PROPOSED ELEVATIONS
DA-036	PROPOSED SECTIONS
DA-050	SHADOW DIAGRAMS
DA-060	PROPOSED BUILDING HEIGHT VARIATION DIAGRAM

Recommendation

Approval - subject to conditions

Report by

D Spithill



Title: Development Application No. 47372/2015 Part 2, Proposed Section 96 (2) Amendment to Development Consent 47372/2015 - Additional Level for New Twenty Bed Orthopaedic Ward (JRPP) on LOT: 1 DP: 1064130, 9 Burrabil Avenue NORTH GOSFORD

Department: Governance and Planning

Report Purpose:

To enable the determination of a development application.

Applicant	Doug Sneddon Planning Pty Ltd
Owner	Healthe Care Properties Pty Ltd
Application Number	47372/2015 Part 2
Description of Land	LOT: 1 DP: 1064130, 9 Burrabil Avenue NORTH GOSFORD
Proposed Development	Section 96(2) - Additional Level for New Twenty Bed Orthopaedic Ward (JRPP) to North Gosford Private Hospital
Zoning	SP2 Infrastructure
Site Area	23990m ²
Existing Use	Hospital
Value of Works	\$7,500,000.00 (original)

Summary:

The proposal is to modify Development Consent 47372 for approved additions and internal alterations to an existing private hospital under the provisions of Section 96(2) of the Environmental Planning and Assessment Act 1979. The purpose of the proposed modification is to provide an additional medical floor level (+ 900m²) above the originally approved development in order to provide for a 20 bed orthopaedic ward and to permit a minor expansion of the CSSD area (Central Sterile Services Department) located at the rear (southern elevation) of the existing hospital.

The approved "health services facility", will have a capital investment value of \$7.5m and is regional development under Schedule 4A clause 6(a) of the EP&A Act 1979. Regional panels determine modifications under Section 96(2) of the EP&A Act 1979 in accordance with Clause 21(1)(b) of SEPP (State and Regional Development) 2011.

The proposal is integrated development as the subject site is identified as "bushfire prone land" and a hospital is classified as a "special fire protection purpose" under section 100B(6)(c) of the Rural Fires Act 1997 and separate approval (i.e. Bush Fire Safety Authority-BFSA) is required from the NSW Rural Fire Service (RFS). The RFS have provided general terms of approval for the granting of a BFSA for the original development.

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.

Application Type	Development Application
Application Lodged	12/02/2016
Delegation level Reason for delegation level	Joint Regional Planning Panel Health care facility over \$7.5M Schedule 4A of EP&A Act 1979 section 96(2) modification to regional development 21(1)(b) of SEPP (State and Regional Development)

Critical Issues	Resolution
Whether the proposal is substantially the same development as previously approved by JRPP	The s96 (2) amendment seeks approval for an additional floor level for use as a 20 bed orthopaedic ward.
Car Parking	No additional parking is provided

Advertised and Notified / Notified Only	Exhibition period closed on 22/04/2016
Submissions	One (1) related to car parking provision
Disclosure of Political Donations & Gifts	No

Recommendation:

- A Council as consent authority approve the Section 96 (2) Part 2 application to modify Development Consent No 47372/2015 to the approved Alterations and Additions to North Gosford Private Hospital on LOT: 1 DP: 1064130, 9 Burrabil Avenue North Gosford. The Development Consent No 47372/2015 be modified as follows;

i Replacement of condition 1.1 to reflect the amended plan set as follows:

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 Health Science

Landscape Plans by Moir Landscape Architecture

Drawing	Description	Sheets	Issue	Date
40-4066 DA-000	Drawing Schedule	0	2	04.02.2016
DA-010	Existing Site/Roof Plan	10	2	04.02.2016
DA-011	Existing Demolition Ground Floor Plan	11	2	04.02.2016
DA-012	Existing and Demolition Level 1	12	2	04.02.2016
DA-013	Existing and Demolition Level 2	13	2	04.02.2016
DA-014	Existing and Demolition Level 3	14	2	04.02.2016
DA-020	Proposed Site Plan	20	2	09.02.2016
DA-021	Proposed Ground Floor Plan	21	2	04.02.2016
DA-022	Proposed Level 1 Plan	22	2	04.02.2016
DA-023	Proposed Level 2 Plan	23	2	04.02.2016
DA-024	Proposed Level 3 Plan	24	2	04.02.2016
DA-025	Proposed CSSD Expansion	25	1	06.03.2015
DA-026	Proposed Roof Plan	26	2	04.02.2016
DA-035	Proposed Elevations	35	2	04.02.2016
DA-036	Proposed Sections	36	2	04.02.2016
DA-050	Shadow Diagrams	50	2	04.02.2016
DA-060	Proposed Building Height Variation	60	2	04.02.2016
LP01	Landscape Cover Sheet & Location Plan	1	A	30.03.2015
LP02	Landscape Plan	2	A	30.03.2015
LP03	Tree Removal Plan	3	A	30.03.2015
LP04	Landscape Theming, Plant Schedule and Section	4	A	30.03.2015

Supporting Documentation

Document	Title	Date
	Concept Stormwater Management Report (Northrop)	26.03.2015
	Arboricultural Impact Assessment (Moir Landscape Architecture)	27.03.2015
DA-050	Shadow Diagrams	06.03.2015
	Waste Management Plan (D. Sneddon)	01.04.2015
REF:16/008	Traffic and Car Parking Assessment (Intersect Traffic) and Supplementary Traffic Parking Impact Assessment Impact (Intersect Traffic)	30.03.2015 and 02.02.2016
	Bushfire Hazard Assessment (Environmental and Land Management Consultants)	
NL150106 C01 to C03	Sediment and Erosion Control Plans, Concept Stormwater and Management Plans	26.03.2015
C04 to Co5	Concept Stormwater and Management Plans and Civil Details	26.03.2015

ii Replacement of condition 2.2 to amend required section 94 development contributions based on additional floor area created as follows:

- 2.2 The payment to Council of a total contribution amount of **\$324,185.00** in accordance with the relevant Council Contribution Plans No. 164 – **Gosford Regional Centre**

The contributions are calculated from Councils adopted Section 94 Contributions Plans No. 164 – **Gosford Regional Centre** and the applicable amounts are as follows:

Recreation Facilities - Embellishment	A	(Key No 851)	\$88,894.00
Roadworks - Capital	A	(Key No 850)	\$125,273.00
Community Facilities - Capital	A	(Key No 852)	\$73,052.00
Environmental Protection	A	(Key No 853)	\$36,966.00
TOTAL AMOUNT			\$324,185.00

The total 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 94 Contributions Plans No. 164 – **Gosford Regional Centre**. 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 contributions plan.

The total contribution amount is to be paid prior to the issue of any Construction Certificate.

Any 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 Contribution Plan may be inspected at the office of Gosford City Council, 49 Mann Street Gosford or on Council's website

www.gosford.nsw.gov.au/building-and-development/planning-guidelines-and-forms/contributions-plan

The original development consent is therefore replicated incorporating amendment/s and/or deletion/s.

- C The applicant be advised that the approved amendment does not extend the terms of the original consent.
- D The objector be notified of Council's decision.
- E The NSW Rural Fire Service be notified of Council's decision.

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.

Summary of Non Compliance:

Policy	Details
Gosford LEP 2014	Exceeds maximum building height development standard under clause 4.3
Gosford DCP 2013	Car parking shortfall (9 Spaces)

Background:

Development Consent 47372/2015 was granted consent on 6 August 2015 by the Joint Regional Planning Panel for alterations and additions to North Gosford Private Hospital. The approved development was for the construction of a new three level building addition to the north eastern corner of the existing North Gosford Private Hospital. Proposed works comprised the following:

- Construction of basement car parking (21 spaces), expansion of day surgery reception/theatre on level 1 and an empty shell for a future cancer care unit on Level 2;
- Revised driveway entries/exit in Burrabil Avenue providing vehicular access to the hospital; and
- Minor internal alterations /refurbishment of the existing hospital levels 1 to 3 day surgery (Level 1), maternity ward (Level 2), and medical ward (Level 3) areas.

Details of the future Cancer Care Unit (CCU) on level 2 were not provided in the original application, only the building shell was indicated. The gross floor area of this level was however included in the overall floor area calculations. The fitout of the future CCU on Level 2 will therefore be subject to a separate development application to ensure compliance with BCA requirements, determine whether any additional staff will be employed in connection with use and whether any additional car parking or section 94 contributions are generated by the proposed future addition.

Site & Surrounds:

North Gosford Private Hospital is located on Lot 1 DP 1064130, No. 9 Burrabil Avenue, North Gosford, having an area of 2.39ha. The location of the hospital is shown in Figure 1 and the location of the proposed development site is indicated in Figure 2.

The hospital site is bound by Henry Parry Drive to the west, Burrabil Avenue to the north, Jarrett Street to the east and Etna Street to the south and multi dwelling housing and residential development to the south and east. A school is located directly opposite the development site in Burrabil Avenue. The principal vehicular/pedestrian access to the hospital is via Burrabil Avenue, with a secondary access from Jarrett Street.

The proposed development site contains an existing overland flow path detention basin. Vegetation within the proposed development site consists of landscaped gardens and parkland, with five mature trees located along the Burrabil Avenue street frontage, refer Figure 2.



Figure 1: Aerial photograph showing the location of the hospital



Figure 2: Aerial photograph showing the location of the development site

The Proposal:

The applicant is seeking to modify Development Consent 47372/2015 for approved additions and internal alterations to Gosford Private Hospital, on Lot 1 DP 1064139, No. 9 Burrabil Avenue, North Gosford, under the provisions of section 96 (2) of the EP&A Act by:

- providing an additional medical floor level (+ 900m²) above the originally approved development in order to provide for a 20 bed orthopaedic ward
- minor expansion of the CSSD area (Central Sterile Services Department) located at the rear (southern elevation) of the existing hospital
- amendment to consent conditions to reflect revised plan set and section 94 contributions to reflect additional floor area.

The Statement of Environmental Effects provides the following revised site calculations for the original and proposed development as modified:

Site Calculations	
Site area (Lot 1 DP 787109)	2.39 ha
Floor Area	
Existing Hospital GFA	13,855m ²
Original Consent No. 47372/2015 GFA	3,305m ²
Proposed S.96 Modification GFA	+ 900m ²
Total Hospital GFA as modified 47372/2015	18,060m ²
Floor Space Ratio	
Existing FSR	0.57:1
Proposed FSR	0.75:1
Bed Numbers	
Existing bed numbers	143 beds
Proposed new beds	25 beds
Proposed lost beds	4 beds
Proposed total beds (existing/lost/new)	164 beds
Car Parking	
Existing car spaces	217 spaces
Proposed new car spaces	21 spaces
Total car spaces with additions	238 spaces

Applicable Planning Controls:

The following planning policies and control documents are relevant to the development and were considered as part of the assessment.

1. Environmental Planning & Assessment Act 1979 - Section 79C , 96(2), 91 and Schedule 4A
2. Rural Fires Act 1997 – S100B
3. State Environmental Planning Policy (SEPP) No 71 - Coastal Protection
4. State Environmental Planning Policy (SEPP) State and Regional Development 2011
5. State Environmental Planning Policy (SEPP) Infrastructure 2007
6. State Environmental Planning Policy (SEPP) No 19 Urban Bushland
7. Local Government Act 1993 - Section 89

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8. Gosford Local Environmental Plan 2014
 9. Gosford Development Control Plan 2013

Assessment under Section 96(2)

Section 96(2) of the Environmental Planning and Assessment Act 1979 provides that a consent authority may, on application being made by the applicant, modify a development consent if it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted.

The Land and Environment Court (LEC) consistently describes the section 96 modification provision as “beneficial and facultative”. It is designed to assist the modification process rather than to act as an impediment to it; *“It is to be construed and applied in a way that is favourable to those who seek to benefit from the provision” (North Sydney Council v Michael Standley & Associates Pty Limited [1998])*. Therefore, the modification power is there for a reason, namely, to avoid the full DA process that is always otherwise available.

Nevertheless there are legal tests that need to be satisfied before a modification application can be considered on its merits

Firstly, a proposal can only be regarded a modification if it involves *“alteration without radical transformation”* (Sydney City Council v Ilenace Pty Ltd [1984]). So if the proposed changes result in a “radical transformation”, they will need to be dealt with as a new development application, rather than a modification application. The term “radical transformation” is a very broad term, leaving much scope to change a development consent via s.96.

Secondly, the consent authority must also be “satisfied” that the modified development will be “substantially the same development” as authorised by the original development consent.

A threshold exercise requirement that the consent authority be satisfied as to a subjective matter before it proceeds further with its merit assessment is to compare the proposed modified development against the development as it was originally approved.

In addition, the environmental impacts of the proposed modification are relevant to the legal question of whether it is “substantially the same development”. This means it is possible for some issues that might be characterised as “merit” issues, to also arise in addressing the “substantially the same” test.

In the case *Moto Projects (No 2) Pty Ltd v North Sydney Council* 1999, the LEC said that any comparison exercise cannot be undertaken in a sterile vacuum. Rather, the comparison involves consideration of quantitative and qualitative elements of the development. These elements must be considered in their proper contexts – which include the circumstances in which the development consent was granted (i.e. all of the changes to the consent should be considered, not just changes to plans.)

A qualitative and quantitative analysis between the development as originally consented to and the proposed modification is required, and the modification must render the altered development “essentially” or “materially” the same.

The table below indicates the following quantitative (key numerical differences) , qualitative changes (i.e. non numerical factors including visual impact, traffic impact and changed land uses) and changes to material and essential feature for the approved and amended proposal (Section 96 application):

Item	Original	S96 Amendment	% Change
Quantitative			
No. of hospital beds	17 beds	20 additional beds	117%
Building Height	11.5m	16.75m (+5.25m)	45.65%
Floor Area	3305m ²	+900m ²	27%
Floor Space Ratio	Hospital 0.71:1	0.756:1	6.47%
Car Parking	21 spaces added overall for hospital 232 required	No additional parking provided	No change
Staff employed	16 CCU	10 CCU reduced by 6 compared to original proposal + Orthopaedic ward 10 additional staff	4 additional staff
Qualitative			
Traffic Impact	No significant change		
Visual Impact / External Appearance	Acceptable within context of site, despite increase in height		
Material and essential Features	Fundamental characteristics and essence of the hospital building would remain essentially the same.		

Applicant's Submission

The applicant has provided the following information to support the section 96 application to demonstrate that the proposal is substantially the same development as previously approved by the JRPP.

"The accompanying Statement of Environmental Effects demonstrates that the proposed consent modifications, including the proposed additional ward level, are of minimal environmental impact:

- *the proposed consent modifications have no adverse impact on bushland adjoining –re subject land (SEPP 19 - Urban Bushland);*
- *the proposed consent modifications have no adverse impact on a 'classified road' (SEPP Infrastructure 2011);*
- *the proposed consent modifications are consistent with the aims and relevant provisions of SEPP 71;*
- *the proposed consent modifications are consistent with the objectives of the SP2 Infrastructure (Health Services Facility) zone applying to the subject land;*
- *the accompanying Clause 4.6 request for exception to the 11.5m maximum permissible building height development standard demonstrates that the proposed consent modifications do not have any adverse amenity impacts on neighbouring buildings; the public domain generally; or any public open space; and*

-
- *the maximum height of the proposed modified development is of similar height to the existing Gosford Private Hospital and Jarrett Street Medical Centre.*

Substantially the same development:

The development to which the proposed consent modifications relate is substantially the same development as that originally approved under Consent No.4737212015, for the following reasons:

- *the proposed additional Orthopedic Ward Level is the same category of development as that approved under Consent No. 4737212015 (i.e. 'Additions and internal alterations to existing private hospital'); and*
- *the proposed variation to the built form of the approved development (i.e. one additional medical floor level) within the context of the established hospital/medical precinct is not so great as to be reasonably considered to be radically different to the approved development and can therefore be considered to be 'substantially' the same development.*

Consequently, as the proposed consent modifications are of minimal environmental impact and the development to which the modifications relate is substantially the same development for which consent was originally granted."

Assessment Comment

The consent authority's power to modify consent is a power "to alter without radical transformation". It is considered that the proposal does not constitute a radical transformation to the existing hospital building.

Despite the proposed modification representing an additional floor/ storey (i.e. 900m²) for the purpose of a 20 bed orthopaedic ward and other floor area changes, the proposal is still considered to fall within the provisions of Section 96 (2) of the EP&A Act 1979 for the following reasons:

- The proposed consent modifications detailed are of minimal environmental impact as they are contained within the existing building footprint.
- Within the context of an existing hospital setting the additional height of the building does not pose any significant amenity or additional visual impacts which would detract from the existing streetscape or public domain.
- Although additional car parking is generated by the proposal, it is considered that existing on site car parking is adequate to service the development for the reasons identified in the report.
- The external appearance of the building did not appreciably change, despite the increase in height.
- the modified design within the context of its setting does not give rise to amenity impacts on adjoining development that may warrant refusal of the application

-
- fundamental characteristics and essence of the hospital building would remain essentially the same.

While the additional height/additional storey represent an increase which is significant in quantitative terms, the qualitative impacts of the additional storey support the conclusion that the modification is substantially the same, as the additional height does not result or give rise to unacceptable impact on adjoining development or existing streetscape.

Accordingly, the proposal as amended is considered to be substantially the same development as previously approved and does not warrant a new development application.

Draft Environmental Planning Instruments:

No draft Environmental Planning Instruments apply to this application.

Gosford Local Environmental Plan 2014

Permissibility:

The land is zoned SP2 Infrastructure (Health Services Facility) under Gosford Local Environmental Plan 2014. The proposal is defined as a "health services facility" and is permissible within the zone.

Zone Objectives:

The objectives of the zone are:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To ensure that development is compatible with the desired future character of the zone.

In this instance, it is considered that the proposal is consistent with the stated objectives of the zone and future character, provides health related infrastructure which is compatible with the desired future character of the zone. The proposal is also consistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act 1993.

Principal Development Standards

- (a) Maximum Permissible Building Height: Clause 4.3 (2) of Gosford LEP 2014 stipulates a maximum building height of 11.5m on the subject land. The approved development complied, having a maximum parapet building height of 11.5m. However the proposed amendment involves adding an additional floor area resulting in an overall maximum height of 16.75m (topmost point of internal stairwell north east corner of building) for the hospital extension.

The Building Height Variations Diagrams provided in the Statement of Environmental Effects (SEE) show that the proposed development exceeds the maximum permitted building height by up to 5.25m (45.65%) at the highest point of the internal stairwell located at the north-eastern corner of the building. The roof parapet at the northern elevation (Burrabil Avenue) exceeds the 11.5m maximum building height development standard by 3.5m (30.43%), refer to Figure 3.

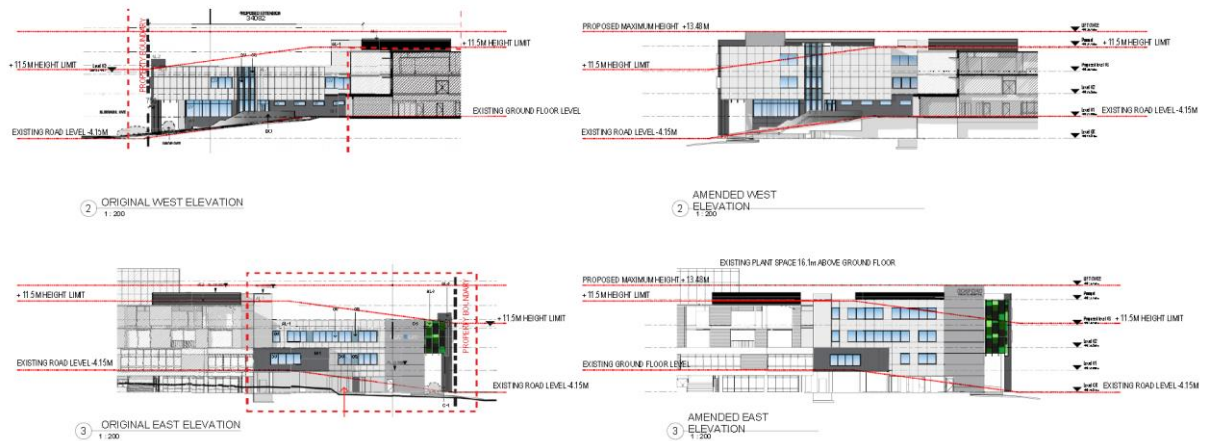


Figure 3: Proposed Building Height Variation Diagram (Source: Statement of Environmental Effects Doug Sneddon)

Maximum Height Variation

Section 96 is a broad power to approve, subject to its own stand-alone tests (such as the "substantially the same" test, and a requirement to consider all relevant s.79C matters). Section 96 does not rely upon having any SEPP 1 objection or clause 4.6 variation in order to enliven that power to approve.

Although Clause 4.6 is not applicable to a section 96 modification (i.e. they only arise at DA stage), the application is accompanied by a Clause 4.6 variation to the maximum height development standard, refer Attachment B. Such submission however provides a basis for assessment of the variation to the maximum height requirements in accordance with relevant s79C matters and consideration as to whether the proposed development as a result of the additional height satisfies the "substantially the same" test.

The objectives of the maximum permissible building height development standard (Clause 4.3 (1) of Gosford Local Environmental Plan 2014) are:

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

Variation to the maximum height development standard is supported for the following reasons:

Despite non-compliance with the maximum height development standard as stipulated in as in Clause 4.3 (1) of GLEP 2014, the amended proposal remains consistent with the stated objectives of such controls.

The request for variation contained within the Statement of Environmental effects (SEE) has adequately demonstrated that the amended proposal is consistent with the objectives of the maximum building height development standard. In this regard the following points are made:

- The height of existing hospital development effectively establishes maximum height limits for buildings on the subject land rather than the 11.5m numerical standard of GLEP 2014, which is actually less than the established building height.
 - The proposed modified development has a height that is commensurate with the existing height of Gosford Private Hospital and the neighbouring medical centre located at No. 12 Jarrett Street.
 - Within the context of existing hospital and medical centre development within this 'health services institutional precinct', the proposed modified development provides for an appropriate built form and land use intensity which is suitably integrated into the architectural design of the existing hospital.
 - Amenity impacts on adjoining developments are considered acceptable. Shadows resulting from the proposed additional level do not have any impact on neighbouring medical centres, or the public domain. The proposed modified development does not impact upon any view corridor.
 - The amended proposal is compatible with the statements of desired future character of the locality and the zone. The proposed development is suitably integrated with, and compatible with the bulk and scale of the existing hospital, will not be visually dominant and does not have adverse scenic/visual impacts on either the public domain or neighbouring buildings.
 - The proposal is in the public interest as the proposed amendments are intended to facilitate the provision of additional health services for the community.
 - The proposed consent modifications are consistent with the objectives for development within the SP2 Infrastructure (Health Services Facility) zone under Gosford Local Environmental Plan 2014.
 - The circumstances relating to the subject land and the proposed modified development are unique to this application and will not lead to similar development applications which would cumulatively undermine the planning objectives for the locality.
 - There is no public benefit to be derived in requiring the proposed consent modifications to strictly comply with the maximum 11.5m building height development standard applicable to the subject land.
- (b) Maximum Permissible Floor Space Ratio: Clause 4.4 (2) of LEP 2014 stipulates a maximum floor space ratio of 2:1 for the subject land.

The existing hospital has GFA of 13,855m² and a floor space ratio of 0.57:1. Adding the approved development (+ 3,305m² floor space) the hospital will have a GFA of 17,160m² and a FSR of 0.71:1.

The section 96 application proposes a further medical floor level having an area of 900m² bringing the total floor area of the hospital to 18,060m² (i.e. 17,160m² + 900m²=18,060m²) with an FSR of 0.756:1. The proposed development as amended therefore complies.

5.5 Development within the coastal zone

The provisions of Clause 5.5 Gosford Local Environmental Plan 2014 require Council to consider matters in relation to the Coastal Zone. The Coastal Zone is an area defined on maps issued by the NSW Department of Planning & Environment and the subject property falls within this zone. The relevant matters have been considered in the assessment of this application and are considered consistent with the stated aims and objectives.

7.2 Flood planning

The land is identified as being affected by Review of Narara Creek Flood Study and Council's Flood Management Policy.

This land has been classified as being under a "flood planning level" but is not 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.

State Environmental Planning Policies:

State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)

SEPP 2007 provides that development for the purpose of health services (including hospitals) may be carried out with consent on land in a prescribed zone. The subject land is zoned *SP2 Infrastructure (Health Services Facility)* under Gosford Local Environmental Plan 2014. The proposal is permissible with consent under the SEPP.

Consideration of Clause 101

(i) "Clause 101 – Development with frontage to classified road" seeks to ensure that new development does not compromise the effective and ongoing operation and function of classified roads. The subject land has a frontage to Henry Parry Drive which is a State Road and relevant matters for consideration under clause 101 are addressed in the SEE. The proposal is consistent with such requirements for the following reasons:

- Vehicular access to the existing hospital and the proposed development is provided from Burrabil Avenue and Jarrett Street. No vehicle driveway access is proposed to Henry Parry Drive.
- The accompanying supplementary Traffic Assessment Report, prepared by Intersect Traffic Pty Ltd demonstrates that the proposed development will not adversely affect the safety, efficiency and ongoing operation of Henry Parry Drive.
- The proposed development is not sensitive to traffic noise or vehicle emissions.
- The proposed development is not of a size or capacity identified in Schedule 3, requiring referral to the RTA.

State Environmental Planning Policy (State and Regional Development) 2011 (SEPP 2011)

The proposed development (health care facility) has a capital value of \$7.5m and is identified under Schedule 4A of the EPA Act as Regional Development for the purposes of the Policy. The Hunter and Central Coast Joint Regional Planning Panel is therefore the determining authority for a Section 96 (2) application under CI 21(1b) of the SEPP.

State Environmental Planning Policy No. 19 – Urban Bushland (SEPP 19)

The subject land adjoins bushland zoned *RE1 Public Recreation* and consequently SEPP 19 requires council to consider a number of matters when determining a development application in relation to the subject land.

The general aim (Clause 2(1)) of SEPP 19 is to protect and preserve bushland within urban areas of the City of Gosford. As it is proposed to confine the impacts of the proposed development (including required asset protection zones) entirely within the subject land, which is zoned *SP2 Infrastructure (Health Services Facility)*, the proposed development will have no adverse impact on the adjoining public reserve zoned *RE1 Public Recreation*.

State Environmental Planning Policy No 71 – Coastal Protection

The provisions of State Environmental Planning Policy (SEPP) No 71 - Coastal Protection require Council consider the Aims and Objectives of the SEPP together with the matters for consideration listed in Clause 8 of the SEPP when determining an application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the NSW Department of Planning & Environment and the subject property falls within this zone.

The relevant matters have been considered in the assessment of this application. The application is considered consistent with the stated aims and objectives. As the proposed consent modifications do not result in any significant change to the physical form of the approved development and raise no additional matters

Gosford Development Control Plan 2013

Chapter 2.1 - Character.

Chapter 2.1 - Character, requires development applications to demonstrate consistency or compatibility with development objectives contained within the relevant "Statements of Desired Character". The subject land is located within character place "*North Gosford 7 – Community Centres and Schools*". The proposal as amended despite the increase in height, is considered to be consistent with the statement of desired character as demonstrated in the Statement of Environmental Effects and will not detract from the existing streetscape.

Chapter 6.7 - Water Cycle Management.

The original application was accompanied by a Concept Stormwater Management Report addressing the requirements of DCP – Chapter 6.7, prepared by Northrop. The report indicates that based on the concept designs, the proposed development can adequately manage and address all issues relating to stormwater runoff. The proposal as amended does not alter stormwater arrangements.

Chapter 6.3 - Erosion and Sedimentation Control.

The original application was accompanied by a Sediment and Erosion Control Plan, prepared by Northrop which adequately addresses relevant requirements of Chapter 6.3. The amended proposal does not involve ground disturbance or an increase in the site's impervious area as it is located within the existing building within the footprint

Chapter 7.2 – Waste Management.

A Waste Management Plan has been prepared to indicate how waste products will be managed, treated and collected for disposal in accordance with Council's waste management guidelines.

Chapter 7.1 – Car Parking

Clause 7.1.3.2 of DCP 2013 requires on-site car parking to be provided at the following rate:

- 1 space per 2 beds and 1 space per 2 employees (hospital) and
- 3 car spaces per surgery or consulting room, plus 1 space for each professional practitioner and other staff present at any one time.

The traffic report included with the original application (DA 47372/2015) provided the following table showing car parking requirement for the completed development:

Table 1 - Gosford DCP (2013) Parking requirements

Land Use Type	Item	Existing Development		Proposed Development	
		Quantity	Spaces	Quantity	Spaces
Hospital Beds	beds	143	71.5	144	72
Employees	persons	150	75	150	75
Medical Centre - Radiology Unit	staff	6	6	6	6
Medical Centre - Pathology Unit	staff	20	20	20	20
Medical Centre - Professional Suites	suites	8	24	8	24
Medical Centre - Professional Suites	staff	16	16	16	16
Theatre Expansion	staff			6	3
CCU- Hospital Beds	beds			16	8
CCU- staff	persons			16	8
Subtotal Spaces			212.5		
Projected Total Spaces					232

The entire hospital/medical centre precinct currently generates a total car parking requirement under the existing development scenario of 213 car spaces and a total of 232 spaces for the existing and proposed development.

The available number of existing/proposed on-site car spaces (235 spaces) exceeds the DCP 2013 minimum car parking requirement (232 spaces) by 3 spaces for the approved development.

The proposed modified development does not involve any change to the vehicular access and car parking arrangements approved under the original development consent. However, the proposed additional 20 bed orthopaedic ward will generate additional traffic and parking demand at Gosford Private Hospital.

A supplementary Traffic and Parking Impact Assessment, prepared by Intersect Traffic Pty Ltd accompanies the S.96 application which concludes:

- on the basis of the completion of the works proposed in the modified development, the total on-site hospital parking required under DCP 2013 (231 spaces) will be satisfied by the available 235 on-site car spaces; and
- the proposed Level 2 'empty shell' fit-out will be the subject of a future development application, at which time a suitable strategy to address visitor/staff parking will have to be developed to accommodate parking demand associated with the future use of Level 2. Presently, this level does not generate a demand for car parking.

Level 2 was previously included in the car parking calculation for the original application as this level will eventually be fitted out as a Cancer Care Unit (CCU) with a total car parking requirement of 16 car spaces. Under the current section 96 application, the additional orthopaedic ward will provide an additional 20 beds and 10 on-site staff (at shift changes) and that the latest advice from the hospital is that the proposed CCU ward in the approved development is likely to result only in additional 10 on-site staff not 16 onsite staff as included in the original traffic and parking assessment (Intersect Traffic March 2015)

The following table provides car parking requirements for the amended proposal:

Table 1 - Gosford DCP (2013) Parking requirements

Land Use Type	Item	Existing Development		Approved Development		Proposed Development	
		Quantity	Spaces	Quantity	Spaces	Quantity	Spaces
Hospital Beds	beds	143	71.5	144	72	144	72
Employees	staff	150	75	150	75	150	75
Medical Centre - Radiology Unit	staff	6	6	6	6	6	6
Medical Centre - Pathology Unit	staff	20	20	20	20	20	20
Medical Centre - Professional Suites	suites	8	24	8	24	8	24
Medical Centre - Professional Suites	staff	16	16	16	16	16	16
Theatre Expansion	staff			6	3	6	3
CCU - Hospital Beds	beds			16	8	16	8
CCU - staff	staff			16	8	10*	5
Orthopaedic Ward - beds	beds					20	10
Orthopaedic Ward - staff	staff					10	5
Subtotal Spaces			212.5		232		
Projected Total Spaces							244

* Latest estimate from client (amended from approved application).

The table indicates a total of 244 spaces are required for the development. As 235 spaces are provided this represents a shortfall of 9 car spaces.

The supplementary traffic and parking report contends that:

"The new proposal for the Gosford Private Hospital with the Stage 4B alterations and additions included, is required to provide a total of 244 car parks under the current Gosford DCP 2013. On completion of these Stage 4B alterations and additions however, the hospital will only provide a total of 235 car spaces and therefore represents a 9 car space deficiency on the DCP requirements (2.5 % deficiency).

It is noted however that at this stage the level 2 CCU fit-out is not included within the current development application and as such will require a future development application. The CCU area, which is to be left as a shell and not operating, will for the purposes of this application not generate additional traffic or an on-site car parking demand. Therefore on completion of the Stage 4B works as proposed in the current development application the on-site parking supply required would only be 231 car parks

(244 - 13 spaces) and thus effectively comply with the DCP requirement as 238 on-site car parks are being provided.

It would then mean that Healthe Care would have some time to look at further increasing the on-site car parking supply on the site to be considered at the development application stage for the CCU fit-out or look at measures such as Green Travel Plans or off-site shuttles to reduce the required site parking supply. A suitable strategy would need to be included within the future fit-out development application for the CCU.

Overall it is concluded the Gosford Private Hospital site will have sufficient and suitable onsite car parking supply to cater for the expected peak parking demand following completion of the Stage 4B alterations and additions as proposed within the current application"

Vehicle Access and Traffic Impact

The proposed additional level (20 bed orthopaedic ward) to the Gosford Private Hospital Stage 4B alterations and additions does not alter or change any of the other traffic related issues previously discussed within *Intersect Traffic's Traffic and Parking Assessment Report (March 2015)* i.e. alternate transport modes and access. The supplementary traffic and parking report advises that the additional traffic generated by the proposed modified development is estimated to be an additional 14 vtpd, a minor increase which will result in no noticeable impact on average delay or queuing/congestion on the local road network and concludes that:

"the proposed additional building level can be supported from a traffic perspective as it will not adversely impact on the local and state road network and complies with all relevant Gosford City Council, Australian Standard and NSW Roads and Maritime Services requirements".

It is considered that the proposal as amended will raise no significant additional traffic issues.

Streetscape and Visual Impact

The proposed hospital building additions are located within the existing hospital grounds and will be partially screened by the existing hospital/medical centre buildings and remnant vegetation within the bushland located on the northern side of Burrabil Avenue and proposed site landscaping will assist in softening the development at the frontage of the site.

Despite the increase in the height of the approved building, the amended proposal will not have a significant visual impact on the locality or streetscape of Burrabil Avenue and will be compatible with the existing character of the hospital and school precinct, refer figure 4.

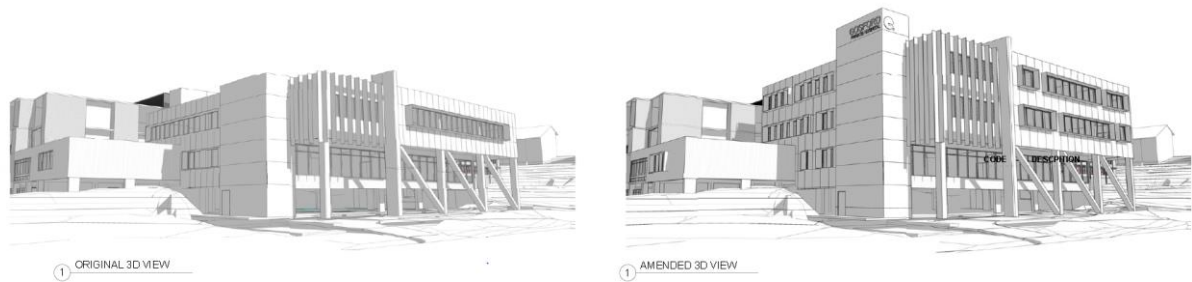


Figure 4: Original and Proposed 3D Elevations showing Change to Building Height (Source: Statement of Environmental Effects Doug Sneddon)

Amenity Impacts

The proposed development has no proximity or visual exposure to any residential property in the immediate vicinity and consequently does not result in any amenity impacts on residential properties.

Bush Fire Protection / Integrated Development (NSW Rural Fire Service)

The subject land is identified on the council's bushfire hazard maps as being "bushfire prone land" and the proposal is classified as a "special fire protection purpose" development under Section 100B of the Rural Fires Act 1997.

The original proposal was assessed in accordance with the relevant provisions of *Planning for Bushfire Protection (RFS 2006)*. A Bushfire Hazard Assessment Report was prepared by Conacher Environmental Group, which concluded that the overall aims and objectives of Planning for Bushfire Protection (2006) could be achieved by the development.

The original development was integrated development under Section 91 of the EP&A Act 1997, requiring separate approval (i.e. a Bush Fire Safety Authority) from the NSW Rural Fire Service (RFS) under Section 100B of the Rural Fires Act 1997. The RFS by letter, dated 9 June 2015, provided general terms of approval for the granting of a Bush Fire Safety Authority. **(Refer Condition Nos. 7.1 and 7.2 of the original consent)**

The section 96 application was referred to the NSW Rural Fire Service who by letter dated 1 July 2016, advised that the RFS have no objections to the proposal, subject to the previous general terms of approval issued with the original consent.

Planning Agreements:

The proposed development is not subject to a planning agreement / draft planning agreement.

Development Contribution Plan:

The land is zoned SP2 Infrastructure and is subject to Section 94 contribution plan No 164 – Gosford Regional Centre. For the purpose of the plan, commercial floor space includes activities such as health and other community services. A workforce density rate of 1 worker per 20m² is assumed under the plan. The original application indicated an additional floor area of 3305m². The proposal as amended will result in an additional 900m² of floor area resulting in an overall floor area of 4,205m² (i.e. 900m² + 3305m² = 4,205m²). Accordingly, a

revised contribution of \$324,185.00 has been levied for the development based on a total floor area of 4,205m². **(Refer Amended Condition No 2.2)**

Referrals:

Internal Referral Body	Comments
Engineer	Supported, without conditions
Building	Council's interpretation of the classification of buildings and structures in accordance with Part A3 of the BCA is: Class 7a and 9a. The building is capable of complying with the relevant performance requirements of the Building Code of Australia, to protect persons using the building and to facilitate their egress from the building in the event of fire and to restrict the spread of fire.

External Referral Body	Comments
NSW Rural Fire Service	No Objection

Political Donations:

No political donations were declared by the applicant.

Public Submissions:

The development has been notified in accordance with the provisions of Gosford Development Control Plan 2013.

One (1) public submission was received in relation to the application. Those issues associated with 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 below.

1. On Site Car Parking Provision

Parking is already very difficult within and around Burrabil Avenue and Jarrett Street so additional parking should be included in any amendments to this DA.

Comment - Agreed, a high level of on street visitor/staff parking, generated by the hospital use is evident in close proximity to the hospital and surrounding streets. The proposed modified development does not involve any change to the vehicular access and car parking arrangements approved under the original development consent. However, the proposed additional 20 bed orthopaedic ward will generate additional traffic and parking demand at Gosford Private Hospital (i.e. a car parking requirement for 9 additional spaces if the floor area/beds of the Cancer Care Unit (CCU) on Level 2 is included). The applicant has sought to

defer the provision of car parking required for the CCU which is to remain as a shell until such time as a separate application is submitted for the fitout of this level, refer car parking assessment. A condition of consent has previously been imposed on the original application requiring a separate development application (or section 96 application) for the fitout of the CCU, refer condition 8.9.

On this basis, the car parking provided on site complies with the requirements of Chapter 7.1 Car Parking of Gosford Development Control Plan 2013, until such time as the CCU is developed.

Financial Impact:

The recommendation does not impact on Council's financial position.

Conclusion

The proposal seeks to amend Development Consent 47372/2015 for approved additions and internal alterations to Gosford Private Hospital, on Lot 1 DP 1064139, No. 9 Burrabil Avenue, North Gosford, in order to provide an additional storey to contain a 20 bed orthopaedic medical ward.

All relevant matters under Section 79C of the Environment Planning and Assessment Act, Section 89 of the Local Government Act, the objectives of the zone and the principles of ecologically sustainable development have been considered.

The proposal is considered to have minimal environmental impact being located within existing hospital grounds and the subject land is considered to be suitable for the proposed development. In this regard, the site is well located in terms of accessibility by private and public transport and all utility services are available to the proposed development.

The proposed modifications will not result in adverse amenity impacts on the adjoining properties and the streetscape, despite non-compliance with the maximum height requirements under Clause 4.3 of Gosford Local Environmental Plan 2013. Variation to such requirements is supported for reasons identified in the report.

One (1) public submission was received in relation to the application during the notification period relating to insufficient car parking provision. Such issue has been considered in the assessment of the application to be satisfactory.

The site is identified as bushfire prone land and the proposal is classified as a special fire protection purpose. The NSW Rural Fire Service has previously provided general terms of approval for the issue of a bushfire safety authority under Section 100B of the Rural Fires Act 1997 for the original development. The current section 96 application was referred to the NSW Rural Fire Service, who have raised no objections or additional requirements in relation to the proposed amendment.

The development to which the proposed modification relates is considered to be substantially the same development for which consent was originally granted by the Joint Regional Planning Panel, pursuant to the provisions of section 96 (2) of the Environmental Planning and Assessment Act 1979.

The proposed development will contribute to improving the city's health care infrastructure and local community's health care requirements and no objection is raised to the proposal subject to compliance with the conditions contained within the recommendation.

As such, in accordance with Section 80(1)(a) of the Environmental Planning and Assessment Act 1979, the Section 96(2) for modification is recommended for **APPROVAL**.

Recommendation:	Approval, subject to conditions
Assessing Officer	D Spithill
Recommendation Reviewed by:	A. Predergast - Coordinator Development & Assessment

Plans for Stamping

Amended Plans ECM Doc No 22163048

No Electronic Stamping

Supporting Documents for Binding with consent

Nil

Attachments:

- A Amended Plan Set ECM DOC NO. 22163048
- B Applicant's variation to maximum height development standard clause 4.3 of Gosford LEP 2014 (Statement of Environmental Effects)

Proposed Conditions of Consent Part 2:

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 Health Science~~

~~Landscape Plans by Moir Landscape Architecture~~

Drawing	Description	Sheets	Issue	Date
40-4066 DA-000	Drawing Schedule	0	1	06.03.2015
DA-010	Existing Site/Roof Plan	1	1	06.03.2015
DA-011	Existing Demolition Ground Floor Plan		1	06.03.2015
DA-012	Existing and Demolition Level 1		1	06.03.2015
DA-013	Existing and Demolition Level 2		1	06.03.2015
DA-014	Existing and Demolition Level 3		1	06.03.2015
DA-020	Proposed Site Plan		1	06.03.2015
DA-021	Proposed Ground Floor Plan		1	06.03.2015
DA-022	Proposed Level 1 Plan		1	06.03.2015
DA-023	Proposed Level 2 Plan		1	06.03.2015
DA-024	Proposed Level 3 Plan		1	06.03.2015
DA-035	Proposed Elevations		1	06.03.2015
DA-036	Proposed Sections		1	06.03.2015
DA-050	Shadow Diagrams		1	06.03.2015
LP01	Landscape Cover Sheet & Location Plan		A	30.03.2015
LP02	Landscape Plan		A	30.03.2015
LP03	Tree Removal Plan		A	30.03.2015
LP04	Landscape Theming, Plant Schedule and Section		A	30.03.2015

~~Supporting Documentation~~

Document	Title	Date
	Concept Stormwater Management Report (Northrop)	26.03.2015
	Arboricultural Impact Assessment (Moir Landscape Architecture)	27.03.2015
DA-050	Shadow Diagrams	06.03.2015
	Waste Management Plan (D.Sneddon)	01.04.2015
	Traffic and Car Parking Assessment (Intersect Traffic)	30.03.2015

	Bushfire Hazard Assessment (Environmental and Land Management Consultants)	
NL150106 C01 to C03	Sediment and Erosion Control Plans, Concept Stormwater and Management Plans	26.03.2015
C04 to C05	Concept Stormwater and Management Plans and Civil Details	26.03.2015

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 Health Science Landscape Plans by Moir Landscape Architecture

Drawing	Description	Sheets	Issue	Date
40-4066 DA-000	Drawing Schedule	0	2	04.02.2016
DA-010	Existing Site/Roof Plan	10	2	04.02.2016
DA-011	Existing Demolition Ground Floor Plan	11	2	04.02.2016
DA-012	Existing and Demolition Level 1	12	2	04.02.2016
DA-013	Existing and Demolition Level 2	13	2	04.02.2016
DA-014	Existing and Demolition Level 3	14	2	04.02.2016
DA-020	Proposed Site Plan	20	2	09.02.2016
DA-021	Proposed Ground Floor Plan	21	2	04.02.2016
DA-022	Proposed Level 1 Plan	22	2	04.02.2016
DA-023	Proposed Level 2 Plan	23	2	04.02.2016
DA-024	Proposed Level 3 Plan	24	2	04.02.2016
DA-025	Proposed CSSD Expansion	25	1	06.03.2015
DA-026	Proposed Roof Plan	26	2	04.02.2016
DA-035	Proposed Elevations	35	2	04.02.2016
DA-036	Proposed Sections	36	2	04.02.2016
DA-050	Shadow Diagrams	50	2	04.02.2016
DA-060	Proposed Building Height Variation	60	2	04.02.2016
LP01	Landscape Cover Sheet & Location Plan	1	A	30.03.2015
LP02	Landscape Plan	2	A	30.03.2015
LP03	Tree Removal Plan	3	A	30.03.2015
LP04	Landscape Theming, Plant Schedule and Section	4	A	30.03.2015

Supporting Documentation

Document	Title	Date
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	Concept Stormwater Management Report (Northrop)	26.03.2015
	Arboricultural Impact Assessment (Moir Landscape Architecture)	27.03.2015
DA-050	Shadow Diagrams	06.03.2015
	Waste Management Plan (D.Sneddon)	01.04.2015
REF:16/008	Traffic and Car Parking Assessment (Intersect Traffic) and Supplementary Traffic Parking Impact Assessment (Intersect Traffic)	30.03.2015 and 02.02.2016
	Bushfire Hazard Assessment (Environmental and Land Management Consultants)	
NL150106 C01 to C03	Sediment and Erosion Control Plans, Concept Stormwater and Management Plans	26.03.2015
C04 to C05	Concept Stormwater and Management Plans and Civil Details	26.03.2015

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. The payment to Council of a total contribution amount of **\$251,518.00** in accordance with the relevant Council Contribution Plans No. 164 – **Gosford Regional Centre**~~

~~The contributions are calculated from Councils adopted Section 94 Contributions Plans No. 164 – **Gosford Regional Centre** and the applicable amounts are as follows:~~

Recreation Facilities – Embellishment	A	(Key No 851)	\$68,968.00
Roadworks – Capital	A	(Key No 850)	\$97,193.00
Community Facilities – Capital	A	(Key No 852)	\$56,677.00
Environmental Protection	A	(Key No 853)	\$28,680.00
TOTAL AMOUNT			\$251,518.00

~~The total 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 94 Contributions Plans No. 164 – **Gosford Regional Centre**. 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 contributions plan.~~

~~The total contribution amount is to be paid prior to the issue of any Construction Certificate.~~

~~Any 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 Contribution Plan may be inspected at the office of Gosford City Council, 49 Mann Street Gosford or on Council's website~~

~~www.gosford.nsw.gov.au/building-and-development/planning-guidelines-and-forms/contributions-plan~~

- 2.2 The payment to Council of a total contribution amount of **\$324,185.00** in accordance with the relevant Council Contribution Plans No. 164 – **Gosford Regional Centre**

The contributions are calculated from Councils adopted Section 94 Contributions Plans No. 164 – **Gosford Regional Centre** and the applicable amounts are as follows:

Recreation Facilities - Embellishment	A	(Key No 851)	\$88,894.00
Roadworks - Capital	A	(Key No 850)	\$125,273.00
Community Facilities - Capital	A	(Key No 852)	\$73,052.00
Environmental Protection	A	(Key No 853)	\$36,966.00
TOTAL AMOUNT			\$324,185.00

The total 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 94 Contributions Plans No. 164 – **Gosford Regional Centre**. 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 contributions plan.

The total contribution amount is to be paid prior to the issue of any Construction Certificate.

Any 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 Contribution Plan may be inspected at the office of Gosford City Council, 49 Mann Street Gosford or on Council's website

www.gosford.nsw.gov.au/building-and-development/planning-guidelines-and-forms/contributions-plan

- 2.3. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional, in accordance with Council's "Civil Construction Specification", "GCC Design Specification for Survey, Road and Drainage Works" and "Policy 'D6.46 Erosion Sedimentation Control".

The required works to be designed are as follows:

- a. Heavy-duty vehicle crossing in Burrabil Avenue, that has a minimum width of 4m and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.
- b. All redundant vehicular crossings to be removed and the footway formation reinstated with turf and a 1.2m wide reinforced (SL72 steel fabric, 100mm thick) concrete footpath in an approved location.
- c. The piping of stormwater from within the site to Council's drainage system located in Burrabil Avenue.
- d. Stormwater drainage works in Burrabil Avenue generally in accordance with Northrop's "Concept Stormwater Management Plan" Ref NL150106, drawing C04 revision A and dated 26.03.15.

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

- 2.4. A dilapidation report must be submitted to Council prior to issue of any Construction Certificate and/or approval of engineering plans under the Roads Act. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development.
- 2.5. A security deposit of \$15,000 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.
- 2.6. Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000, must be obtained from the Water Authority (Council) prior to the

issue of any Construction Certificate. Contributions may be applicable to the Section 307 Certificate.

2.7. Design of the following engineering works within private property:

- a Driveways/ramps and car parking areas must be designed according to the requirements of the current Australian Standard AS2890 for the geometric designs, and industry Standards for pavement designs.
- b A stormwater detention system must be designed in accordance with Council's DCP Chapter 6.7 - Water Cycle Management and Council's 'GCC Design Specification for Survey, Road and Drainage Works'. The stormwater detention system shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1%AEP storm event. A runoff routing method is to be used. An on-site stormwater detention report including an operation and maintenance plan shall accompany the design. On-site stormwater detention is not permitted within private courtyards, drainage easements, and/or secondary flowpaths.
- c 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.
- d Piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system located in Burrabil Avenue.

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

2.8. Preparation of a Construction Traffic Management Plan (CTMP) including a Vehicle Movement Plan and Traffic Control Plan. The CTMC shall be prepared with the intention of causing minimal impact on the operation of the road network during construction of the development. The Construction Traffic Management Plan (CTMP) shall be prepared and approved by the Principal Certifying Authority and provide for:

- Delivery and storage of materials
- Worker's parking and amenities
- Hours of construction
- Noise and dust mitigation
- Process of handling complaints
- Crane permits (crane location plan) if required

2.9. Submission of a revised waste management plan (signed and dated), prepared in accordance with the Gosford City Council Development Application Guide and Chapter 7.2 - Waste Management of Gosford DCP 2013 for all site preparation, demolition, construction, use of premises and on-going management of waste. Such plan to be submitted to Council, prior to the issue of a construction certificate, to the satisfaction of Council's Waste Management Officer.

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. 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.

- 3.6. 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.

-
- 3.7. The Principal Certifying Authority must ensure that all parties/trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.
- 3.8. Tree Protection measures are to be undertaken in accordance with the recommendations of the Arboricultural Impact Assessment, prepared by Moir, dated March 2015.

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. This development is subject to DCP 2013 Chapter 7.2 – Waste Management. The Waste Management Plan submitted in accordance with condition 2.9 of this development consent is required to be implemented during all stages of demolition and construction.
- 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. 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'.

- 4.7. 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.
- 4.8. Public Tree Removal - Any tree located on Council managed land that requires removal due to works approved by a Development Application must be undertaken at the full cost and responsibility of the developer/owner using a Pre-qualified Tree Contractor.
- 4.9. Trees to be removed shown on the approved plan must be removed in a manner so as to prevent damage to those trees that are to be retained.

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. A concrete kerb, or alternative of similar standard, must be provided to the driveways and around areas of landscaping to prevent encroachment of vehicles.
- 5.4. The driveway, vehicle manoeuvring area and car parking spaces as shown on the approved plan must be properly constructed, graded, drained, sealed and line marked including directional arrows with impervious paving material, in accordance with Australian Standard 2890.1-2004 Off Street Parking.
- 5.5. Prior to the issue of any Occupation Certificate an instrument under the Conveyancing Act 1919 must be created on the Certificate of Title establishing a restrictive covenant detailing the areas to be maintained as a Asset Protection Zone in accordance with the Bushfire Report prepared by Conacher consulting and condition 8.1 of this consent. The restriction shall ensure the owner continually maintains the Asset Protection Zone in accordance with the recommendation and findings detailed in the Bushfire Report. The restriction is to be created at the applicants cost with the Council having the sole authority to release or modify.
- 5.6. A material or device is to be installed to prevent the build up of flammable material (such as leaf matter) within the roof gutters. The material or device must have a flammability index of not greater than 5 when tested in accordance with AS1530.2.
- 5.7. 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'.

- 5.8. 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.
- 5.9. 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.
- 5.10. Prior to the issue of any Occupation Certificate the Deposited Plan (DP) must be amended to:
- Include an Instrument under the Conveyancing Act 1919 for the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants shall be defined by bearings and distances shown on the plan.
 - a To create a 'Restriction as to User' over all lots containing an on-site stormwater detention system and/or a nutrient/pollution facility restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.

And,

- Include an instrument under the Conveyancing Act 1919 for the following positive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Contact Council for wording of the covenant(s).
 - a To ensure on any lot containing on-site stormwater detention system and/or a nutrient/pollution facility that:
 - (i) The facility will remain in place and fully operational.
 - (ii) The facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner
 - (iii) Council's officers are permitted to enter the land to inspect and repair the facility at the owners cost.
 - (iv) Council is indemnified against all claims of compensation caused by the facility.

Registered title documents showing the restrictive and positive covenants must be submitted to and approved by the Principal Certifying Authority prior to the issue of any occupation certificate.

6.. ONGOING OPERATION

-
- 6.1. No materials, waste matter or products shall be stored outside the building or the approved waste storage area, at any time.
 - 6.2. Provision must be made for illumination of the common areas in the front of the site, throughout the hours of darkness.
 - 6.3. 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.
 - 6.4. All car parking areas and spaces required by this consent are to be maintained and periodically reline-marked. Such spaces are to be made available to all users of the site at all times during hours of operation.
 - 6.5. The operation of all mechanical plant equipment and machinery (i.e. air conditioning unit and/or heat pump) shall not give rise to offensive noise as defined in the Protection of the Environment Operation Act 1997.
 - 6.6. Maintenance of the on-site stormwater detention facility in accordance with the operation & maintenance plan.
 - 6.7. Maintenance of the nutrient/pollution control facilities in accordance with the operation & maintenance plan.
 - 6.8. 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.
 - 6.9. 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.

7.. OTHER APPROVALS

RFS Integrated Approval for the issue of a Bush Fire Safety Authority under Section 100B of the Rural Fires Act 1997

- 7.1. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

-
- 7.2. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

8.. ADVICE

- 8.1. 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.

- 8.2. Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

- 8.3. All work carried out under this Consent should be done in accordance with WorkCover requirements including the Occupational Health and Safety Act 2000 No 40 and

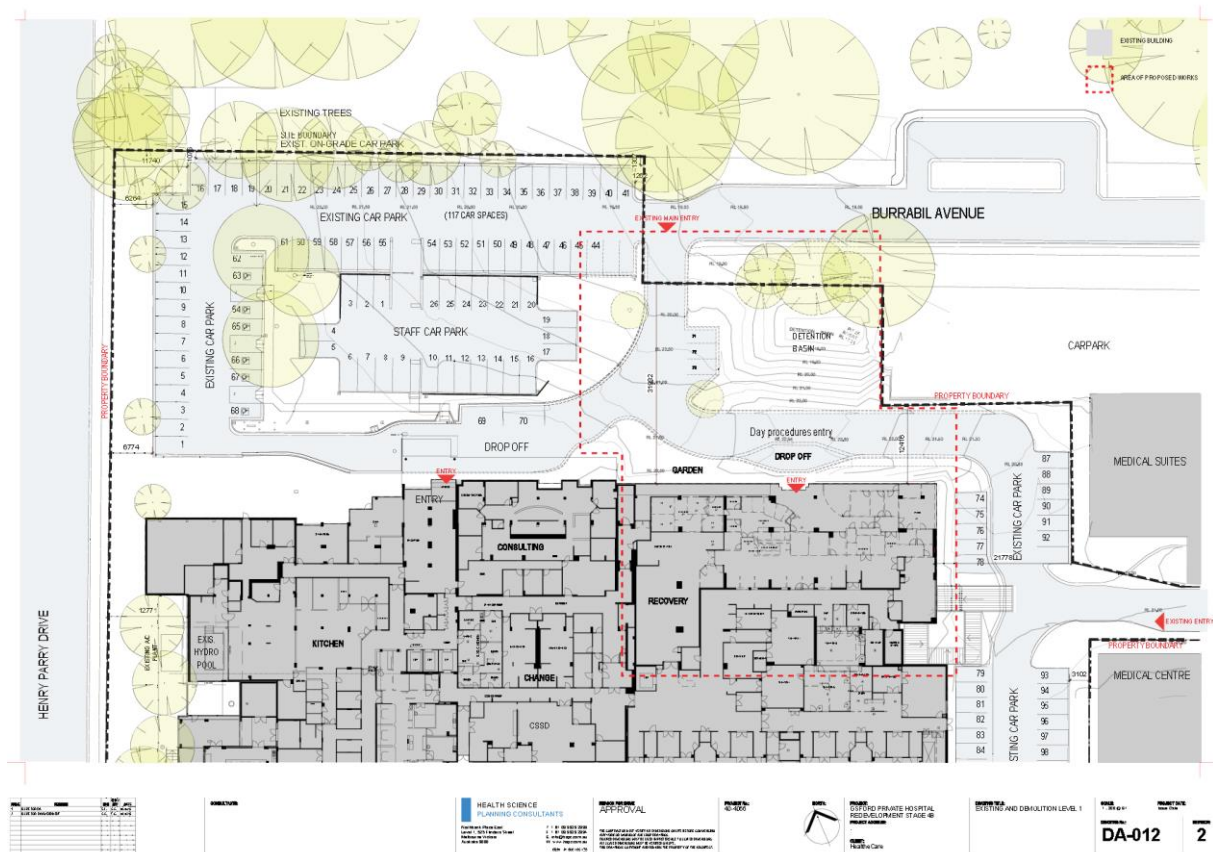
subordinate regulations, codes of practice and guidelines that control and regulate the development industry.

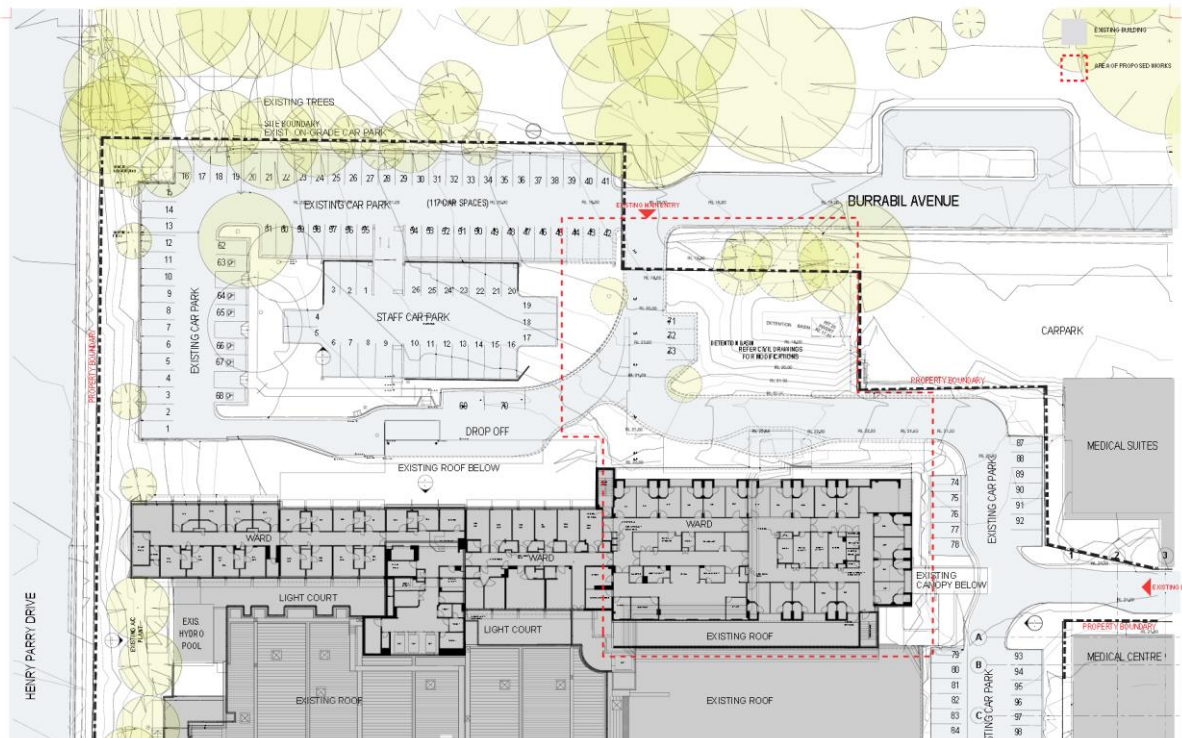
- 8.4. Separate application being made for connection to Council's sewerage system.
- 8.5. It is the sole responsibility of the owner, builder and developer, to ensure that the proposed building or works complies with the requirements of the *Disability Discrimination Act*.
NOTE: The *Disability Discrimination 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.
- 8.6. 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.
- 8.7. The inspection fee for works associated with approvals under the Roads Act is calculated in accordance with Council's current fees and charges policy.
- 8.8. Developers should make early application for a Section 307 Certificate under the Water Management Act 2000 from the Water Authority (Council). For a copy of the application form 'Application for Certificate under Section 305' contact Customer Service on (02) 4325 8200 or visit Council's web site www.gosford.nsw.gov.au to download a form from the Water & Sewerage forms index.
- 8.9. The internal fitout and use of the hospital building addition for the purpose of a future Cancer Care Unit (CCU) on Level 2 is not subject of this consent. Such use and proposed future building works may require further development consent, unless such works are classified as exempt development. Details of staff to be employed in connection with the proposed use and cost of construction will be required to determine whether any additional car parking or section 94 contribution is generated by the proposed future addition.

9.. 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:





NO.	REVISION	DATE	BY	CHKD
1	ISSUED FOR TENDERS	10/12/2018

DATE: 10/12/2018

HEALTH SCIENCE
PLANNING CONSULTANTS

APPROVAL

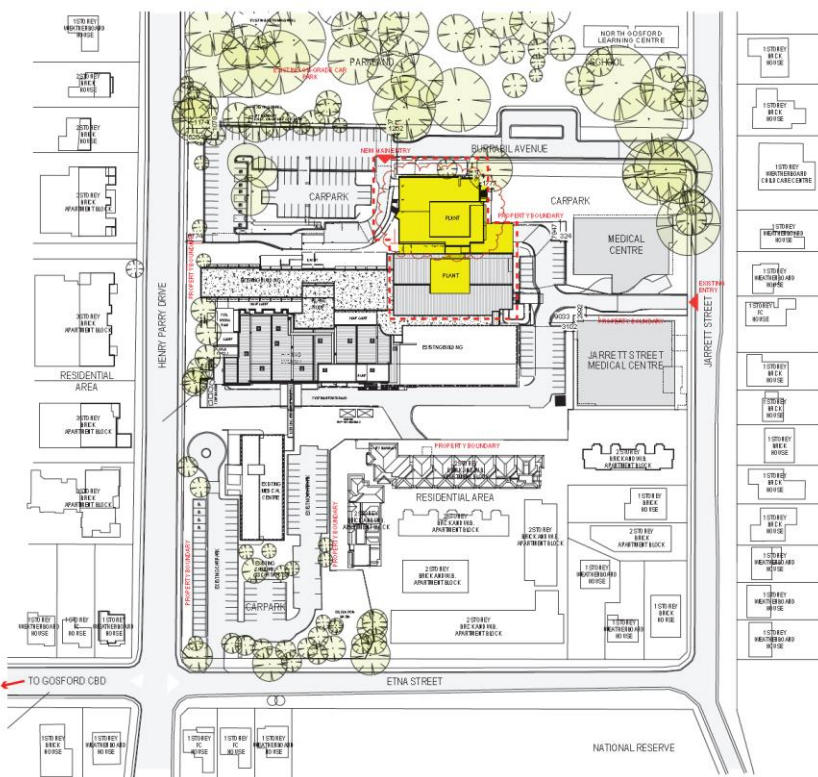
DATE: 10/12/2018



GOSSFORD PRIVATE HOSPITAL
REDEVELOPMENT STAGE-4B

EXISTING AND OBLIGATION LEVEL 3

DA-014 2



PROPOSED NEW GFA - 3305m²
PROPOSED TOTAL GFA - 17160m²
PROP. SITE COVERAGE - 38%
NEW BED # - 25 BEDS
LOST BED # - 4 BEDS
PROPOSED TOTAL BED - 164 BEDS
PROP. NEW CARS - 21 SPACES
PROP. TOTAL CARS - 238 SPACES

NO.	REVISION	DATE	BY	CHKD
1	ISSUED FOR TENDERS	10/12/2018

DATE: 10/12/2018

HEALTH SCIENCE
PLANNING CONSULTANTS

APPROVAL

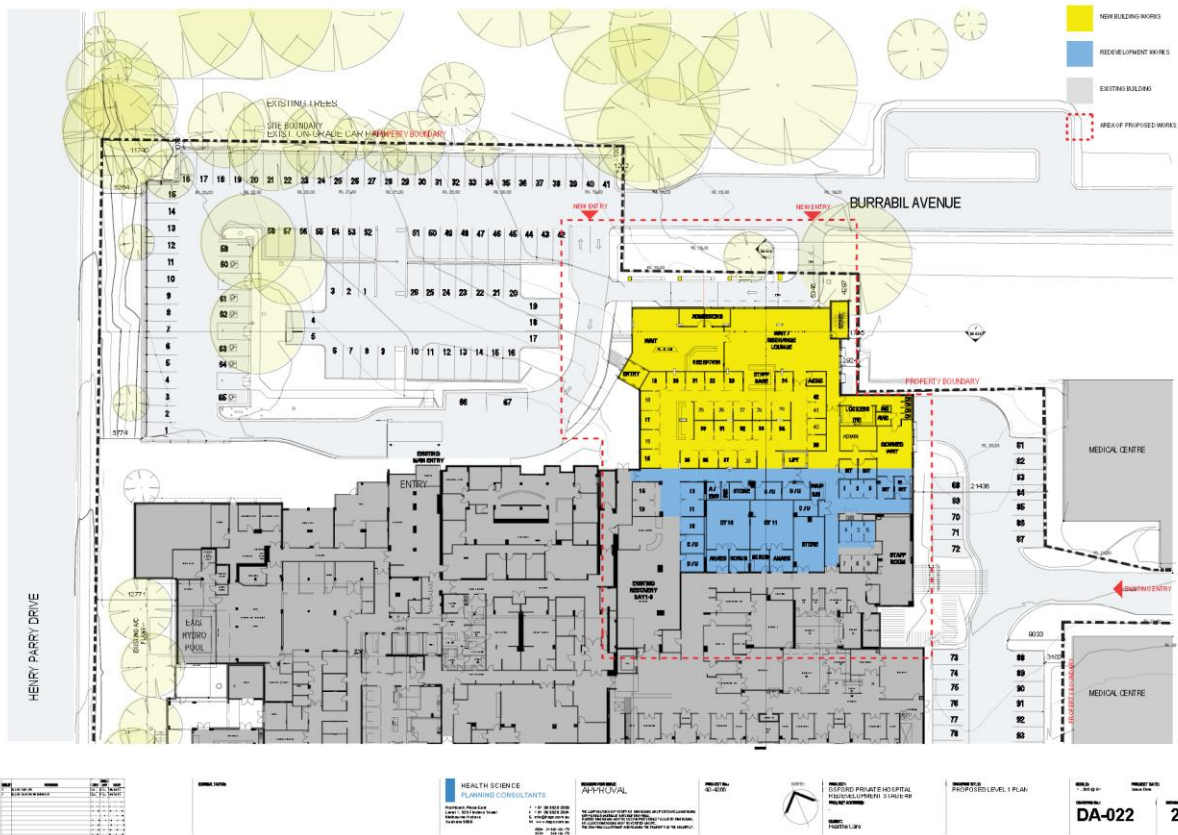
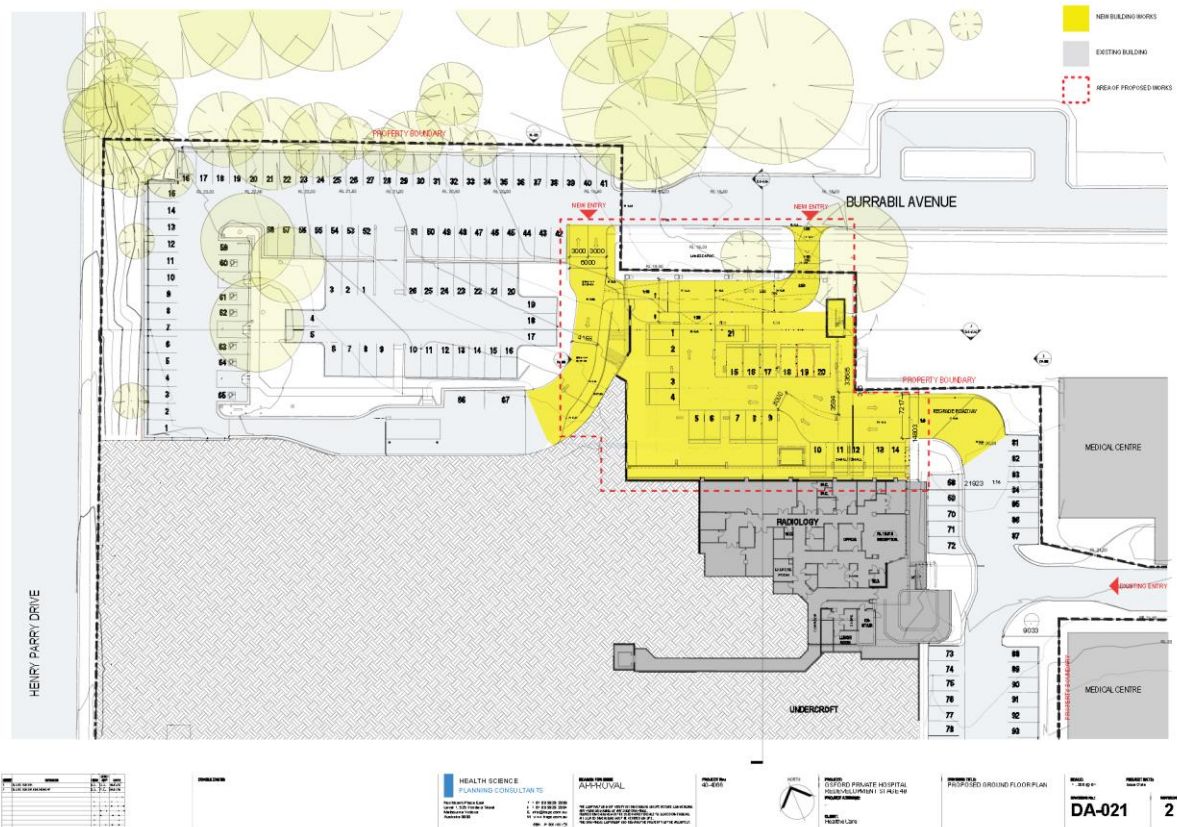
DATE: 10/12/2018

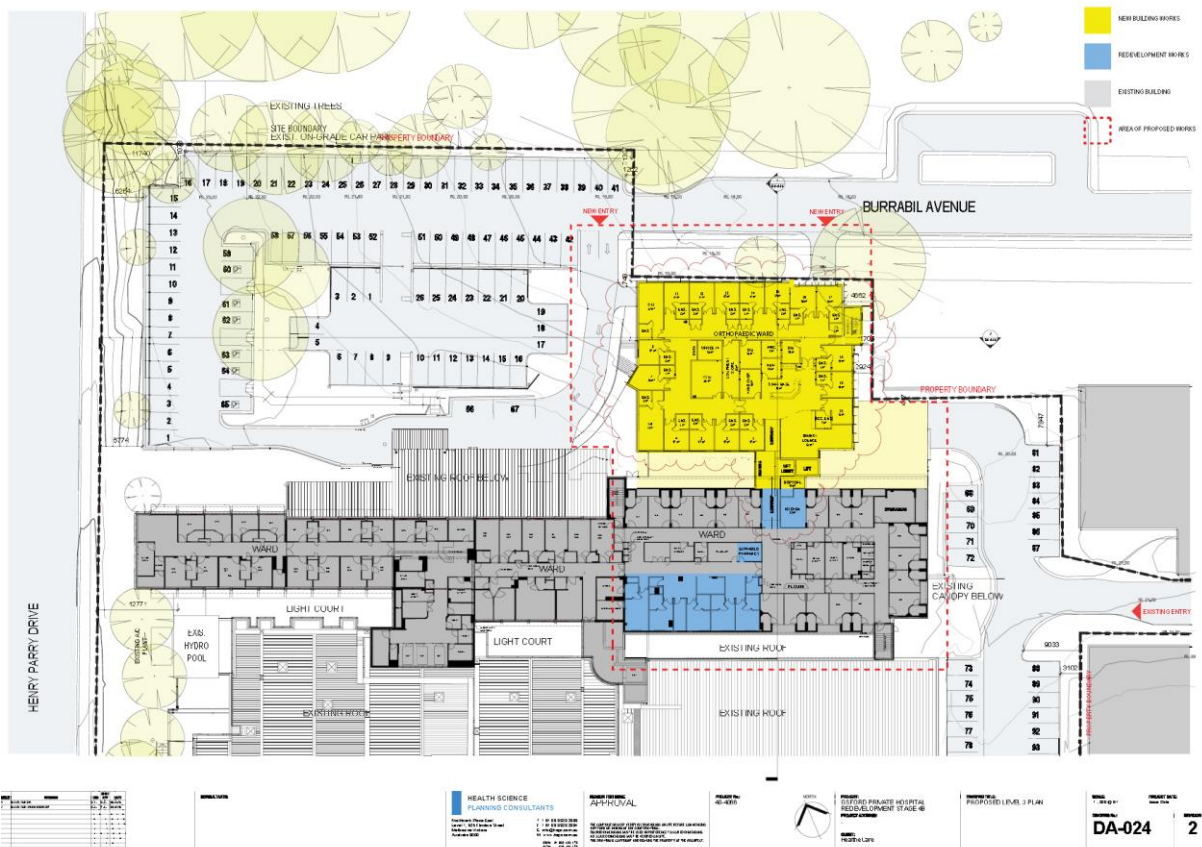
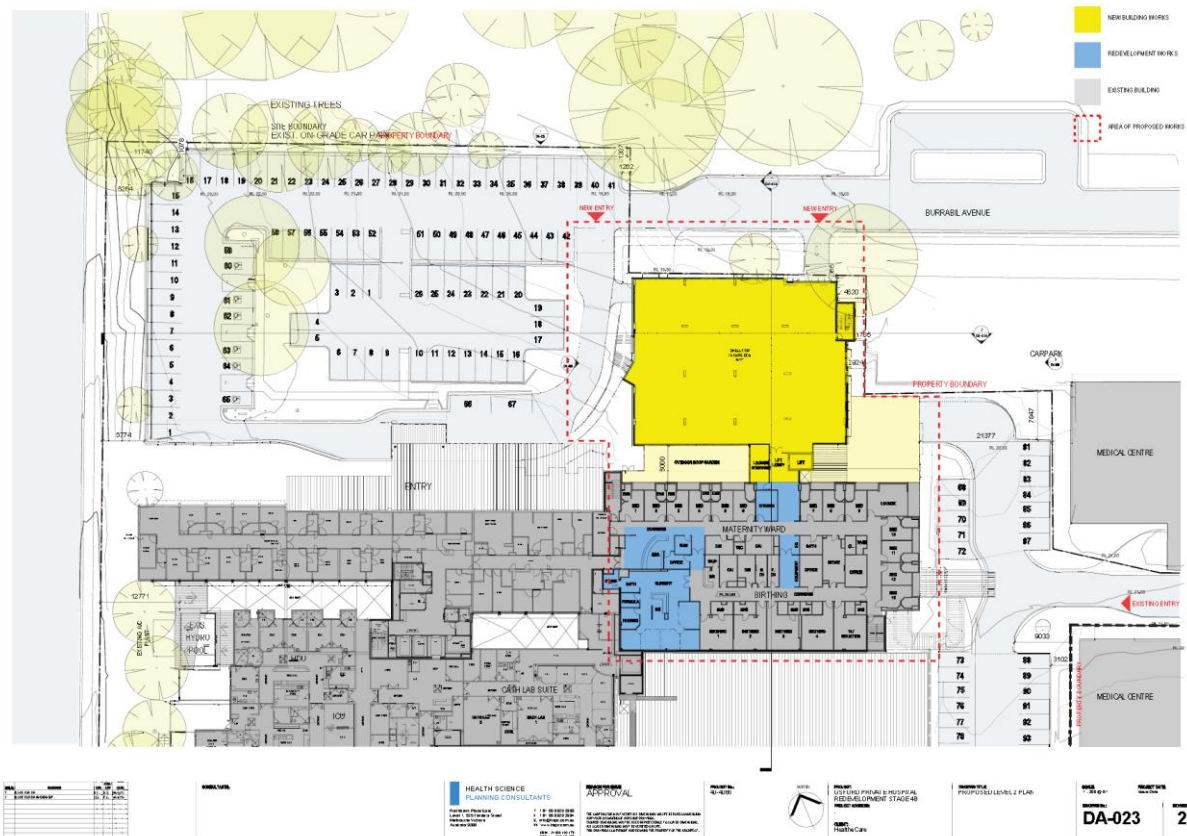


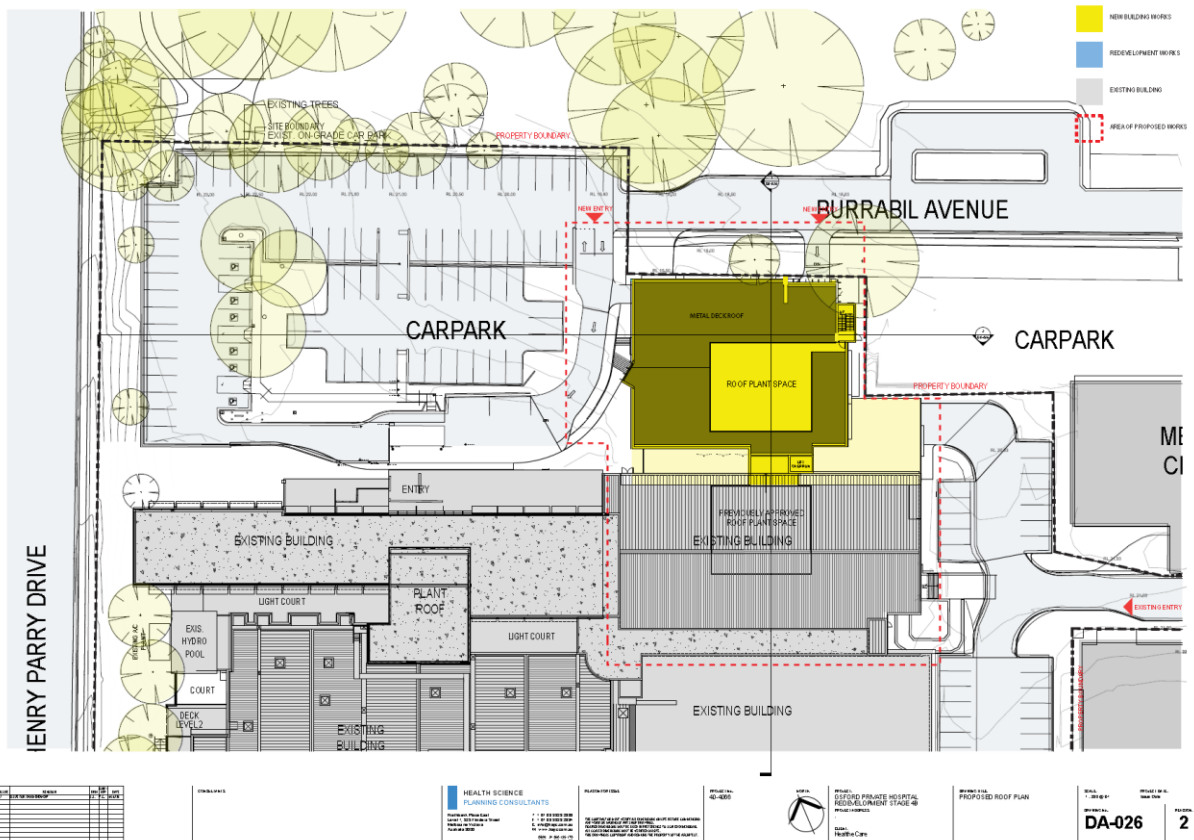
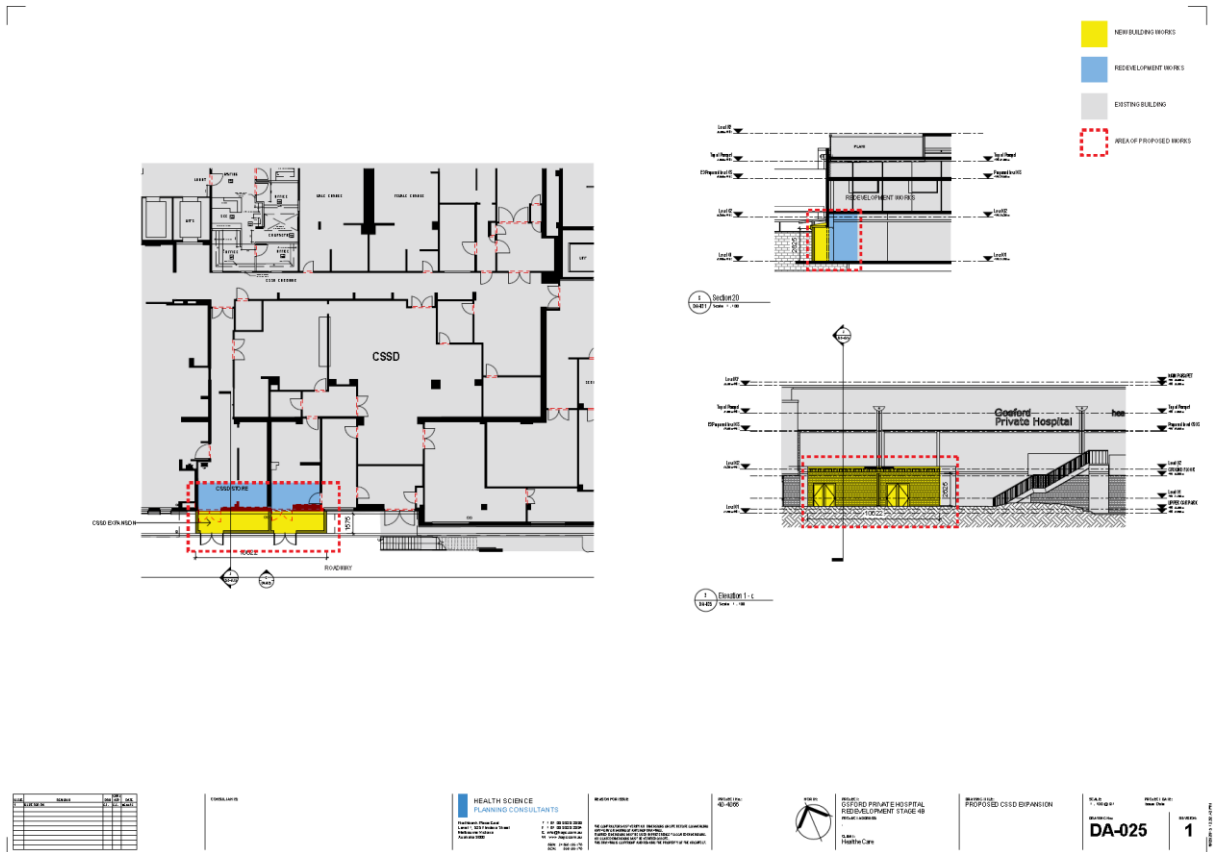
GOSSFORD PRIVATE HOSPITAL
REDEVELOPMENT STAGE-4B

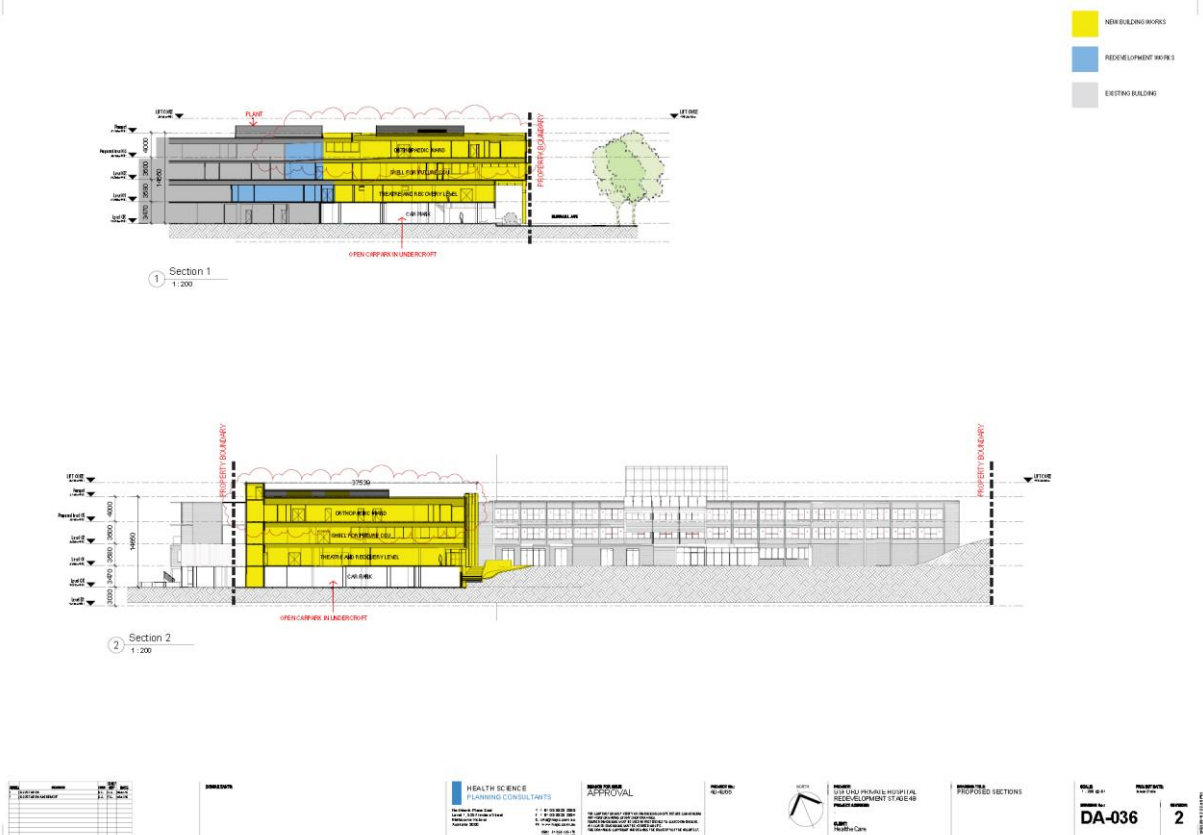
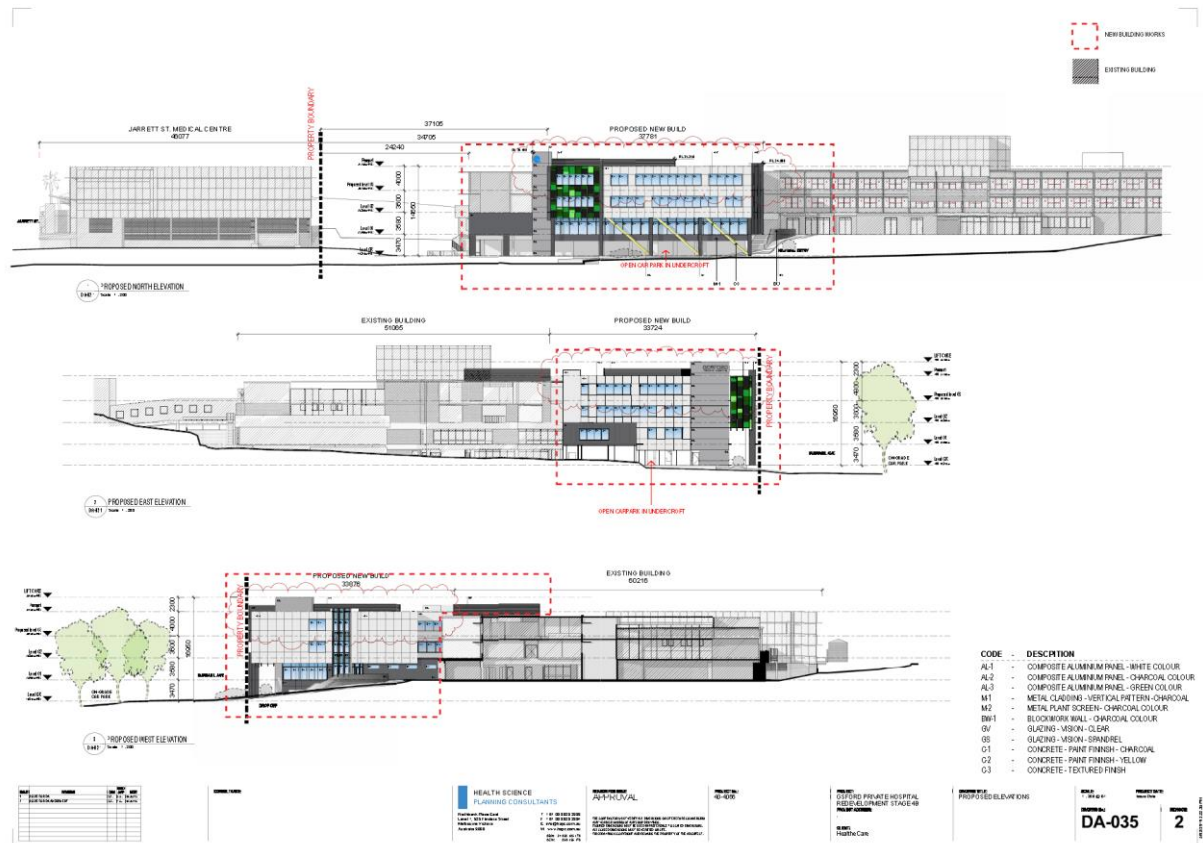
PROPOSED SITE PLAN

DA-020 2









ATTACHMENT B

CLAUSE 4.6 (LEP 2014) - REQUEST FOR EXCEPTION TO THE MAXIMUM 11.5M PERMISSIBLE BUILDING HEIGHT DEVELOPMENT STANDARD.

1. INTRODUCTION.

Clause 4.6 (2) of Gosford Local Environmental Plan 2014 provides for flexibility in the application of planning controls operating by virtue of development standards, in circumstances where strict compliance with those standards would in a particular case be unreasonable or unnecessary and where there are sufficient environmental planning grounds to justify contravening the development standard.

This objection demonstrates that the proposed modification of Development Consent No. 47372/2015 - Part 1 for additions and internal alterations to Gosford Private Hospital, located on Lot 1 DP 1064130, No. 9 Burrabil Avenue, North Gosford, in order to provide an additional storey to contain a future medical ward in a manner which contravenes the 11.5m maximum permissible building height development standard, is justified having regard to the circumstances of the case.

2. SUBJECT LAND & PROPOSED CONSENT MODIFICATION.

2.1 Subject Land: The land the subject of this request comprises Lot 1 DP 1064130, No. 9 Burrabil Avenue, North Gosford, having an area of 2.39ha and upon which is erected Gosford Private Hospital.

The hospital site has frontages to Henry Parry Drive, Burrabil Avenue, Jarrett Street and Etna Street. The principal vehicular/pedestrian access to the hospital is via Burrabil Avenue, with a secondary access from Jarrett Street.

2.1 Development Consent No. 47372/2015 – Part 1: On the 6th August 2015 the Hunter and Central Coast Joint Regional Planning Panel granted Development Consent 47372/2015 – Part 1 for additions and internal alterations to Gosford Private Hospital on the subject land comprising:

- a new three storey addition to the north-eastern corner of the existing hospital building, comprising a basement car park (21 spaces); Level 1 day surgery reception/theatre expansion; a Level 2 empty shell for a future CCU (Cancer Care Unit); and revised driveway entries/exit in Burrabil Avenue providing vehicular access to the hospital and the proposed new day surgery Level 1 patient admission area;
- minor internal alterations/refurbishment of the existing hospital day surgery (Level 1); maternity ward (Level 2); and medical ward (Level 3) areas; and
- site landscaping.

2.3 Proposed Modifications to Consent No. 47372/2015 – Part 1: Application is made to Gosford City Council pursuant to Section 96 (2) of the EPA Act 1979 to modify Consent No. 47372/2015 – Part 1 so as to provide an additional storey to contain a future medical ward, in the manner indicated in Figures 5 – 20 of the accompanying Statement of Environmental Effects.

3. DEVELOPMENT STANDARD TO BE VARIED (11.5m MAXIMUM PERMISSIBLE BUILDING HEIGHT).

Clause 4.3 (2) of LEP 2014 provides that development on the subject land shall not exceed the 11.5m maximum building height shown on "Height of Buildings Map" HOB_ 015CA.

The Building Height Variations Diagrams provided in Annexure A show that the proposed development exceeds the maximum permitted building height by up to 5.25m at the topmost point of the internal stairwell located at the north-eastern corner of the building and 3.5m at the Burrabil Avenue façade roof parapet.

The degree of exceedence of the proposed modified development from the 11.5m maximum permissible building height is indicated in the Proposed Building Height Variation Diagram provided in Annexure A.

4. CONSIDERATION AS TO WHETHER NON COMPLIANCE WITH THE MAXIMUM PERMISSIBLE BUILDING HEIGHT STANDARD OF CLAUSE 4.3 (2) OF GOSFORD LEP 2014 IS REASONABLE UNDER THE CIRCUMSTANCES OF THE CASE.

4.1 "Is the planning control in question a development standard"?

The 11.5m maximum permissible building height requirement of Clause 4.3 (2) of Gosford LEP 2014 is a development standard for the purposes of Clause 4.6 (Exceptions to development standards) and may therefore be varied by the consent authority pursuant to the provisions of Clauses 4.6 (2) - (4) of LEP 2014.

4.2 "What are the underlying objectives or purpose of the development standard"?

The underlying objective or purpose of the maximum permissible building height development standard is expressed in the objectives to Clause 4.3 (Height of Buildings) of Gosford Local Environmental Plan 2014.

The following assessment demonstrates that the proposed consent modifications are consistent with the objectives of the maximum building height development standard as expressed in Clause 4.3 (1) of LEP 2014:

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

Response: As indicated in the Building Height Variation Diagram in Annexure A, the existing hospital development exceeds the 11.5m maximum permissible building height development standard applicable to the subject land. The height of existing hospital development effectively establishes maximum height limits for buildings on the subject land rather than the 11.5m numerical standard of LEP 2014, which is actually less than the established building height.

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

Response: The proposed modified development is of high quality architectural design, suitably integrated with, and compatible with the bulk and scale of the existing hospital.

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

Response: As indicated in the Shadow Diagrams provided in Figure 20 of the accompanying Statement of Environmental Effects, the shadows resulting from the proposed additional level do not have any impact on neighbouring medical centres, or the public domain generally.

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

Response: As indicated in the Proposed Elevations drawings provided in Figure 18 of the accompanying Statement of Environmental Effects and the Building Height Variation Diagram provided in Annexure A, the proposed modified development has a height that is commensurate with the existing height of Gosford Private Hospital and the neighbouring medical centre located at No. 12 Jarrett Street.

Within the context of existing hospital and medical centre development within this 'health services institutional precinct', the proposed modified development provides for an appropriate built form and land use intensity.

"(e) To ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,"

Response: The proposed modified development does not impact upon any view corridor.

As the proposed modified building height is commensurate with the existing height of Gosford Private Hospital, it will not be visually dominant.

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

Response: The proposed modified development does not overshadow any public open space and does not obstruct any views of natural topographical features from any public open space.

4.3 "What are the objectives for development within the subject zone".

The subject land is zoned *SP2 Infrastructure (Health Services Facility)* under Gosford Local Environmental Plan 2014.

The following assessment demonstrates that the proposed consent modifications are consistent with the objectives of the zone provided under Gosford LEP 2014:

-
- ***"To provide for infrastructure and related uses".***

Consistent: The proposed consent modifications are intended to facilitate the provision of additional health services to the community.

- ***"To prevent development that is not compatible with or that may detract from the provision of infrastructure".***

Consistent: The proposed consent modifications are compatible with the provision of health services from the existing Gosford Private Hospital.

- ***"To ensure that development is compatible with the desired future character of the zone".***

Consistent: As demonstrated in the accompanying Statement of Environmental Effects, the proposed consent modifications are compatible with the statements of desired future character of the locality and the zone.

4.4 "Matters of Consideration by the Director-General".

Clause 4.6 (4) (b) of Gosford LEP 2014 requires the concurrence of the Director-General to be obtained for development that contravenes a development standard.

Under Clause 4.6 (5), the Director -General is required to consider the following matters in deciding whether to grant concurrence.

4.4.1 "Whether contravention of the developments standard raises any matter of significance for State or regional environmental planning".

It is demonstrated in the accompanying Statement of Environmental Effects and in this objection, that the proposed consent modifications are consistent with State and regional planning policies/strategic directions applicable to the locality.

Council's approval of the proposed consent modifications would not raise any matter of significance for State or regional planning.

4.4.2 "The public benefit of maintaining the development standard".

The circumstances relating to the subject land and the proposed development are unique to this application to modify Consent No. 47372/2015 - Part 1.

The accompanying Statement of Environmental Effects demonstrates that the proposed consent modifications do not have adverse scenic/visual impacts or amenity impacts on either the public domain, or neighbouring buildings.

As the proposed consent modifications are intended to facilitate the provision of additional health services to the community, it is considered that there is no public benefit to be derived

in requiring the proposed consent modifications to strictly comply with the maximum 11.5m building height development standard applicable to the subject land.

4.4.3 "Any other matters required to be taken into consideration by the Director-General before granting concurrence."

There are no other matters currently specified to be taken into consideration by the Director-General before granting concurrence.

5. CONCLUSION.

It is considered that any requirement for the proposed modification of Consent No. 47372/2015 - Part 1 for additions and internal alterations to Gosford Private Hospital, located on Lot 1 DP 1064130, No. 9 Burrabil Avenue, North Gosford, in order to provide an additional storey to contain a future medical ward in a manner which contravenes the 11.5m maximum permissible building height development standard of Clause 4.3 (1) of Gosford Local Environmental Plan 2014, is unreasonable or unnecessary in the circumstances of this case:

- the proposed consent modifications are in the public interest as they are intended to facilitate the provision of additional health services for the community;
- the proposed consent modifications are consistent with the objectives for development within the *SP2 Infrastructure (Health Services Facility)* zone under Gosford Local Environmental Plan 2014;
- the proposed consent modifications are consistent with the applicable objectives of the maximum building height development standard as expressed in Clause 4.3 (1) of LEP 2014;
- there are sufficient environmental planning grounds to justify contravening the development standard as the maximum height of the proposed modified development is of similar height to the existing Gosford Private Hospital and Jarrett Street Medical Centre as shown in the Proposed Elevations drawings provided in Figure 18 of the accompanying Statement of Environmental Effects and the Building Height Variation Diagram provided in Annexure A; it is suitably integrated into the architectural design of the existing hospital; it does not have any amenity impacts on neighbouring buildings; and does not adversely impact the public domain, or any public open space;
- the circumstances relating to the subject land and the proposed modified development are unique to this application and will not lead to similar development applications which would cumulatively undermine the planning objectives for the locality. There is no public benefit to be derived in requiring the proposed consent modifications to strictly comply with the maximum 11.5m building height development standard applicable to the subject land;

-
- the proposed consent modifications raise no matters of significance for State and regional environmental planning; and
 - no planning purpose would be served by strictly applying the 11.5m maximum permissible building height development standard in this case.

Gosford City Council is therefore requested to modify Development Consent No. 47372/2015 - Part 1 for additions and internal alterations to Gosford Private Hospital, located on Lot 1 DP 1064130, No. 9 Burrabil Avenue, North Gosford, in order to provide an additional storey to contain a future medical ward in the manner indicated in Figures 5 - 21 of the accompanying Statement of Environmental Effects, thereby contravening the 11.5m maximum permissible building height applying to development on the subject land..